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Statelessness in Iraq

Country Position Paper
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European
Network on
Statelessness



Institute on
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Inclusion

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This document provides information on the profiles of stateless individuals and persons who may be at risk of statelessness due to nationality or civil documentation problems in Iraq. It should not be taken to be comprehensive, and there may be other situations in which statelessness arises in the country, or other specificities, that differ from the information given here. The analysis presented here is based on a desk review of relevant sources, conducted between April 2019 to September 2019, supplemented by input and feedback from experts consulted in October 2019. The research was informed by and draws from the previous work of the Institute on Statelessness and Inclusion in collaborating with partners (academics, community members and human right activists) to monitor developments relating to statelessness in Iraq. A full bibliography of the resources used can be found at the end of this document.



SUMMARY OF MAIN ISSUES

- Iraq has a population of 40.4 million people and UNHCR estimates is home to 47,515 stateless people. Iraq has historically been home to large stateless populations, in particular, Faili Kurds stripped of their nationality in 1980, Palestinian Refugees from Iraq, and Bidoon from Kuwait.
- While the Iraqi Constitution of 2005 does not contain any gender discriminatory provisions regarding the acquisition of Iraqi nationality, the Nationality Law contains various other gaps and flaws that could lead to statelessness or increase the risk of statelessness.
- The Iraqi Constitution states that an Iraqi citizen by birth may not have their nationality withdrawn for any reason. However, the Iraqi authorities have significant discretion to deprive a naturalised Iraqi of their nationality, including in situations where the person planned or committed an act against State security or safety.
- Access to civil registration can be problematic, especially for Internally Displaced Persons (IDPs) and marginalised populations. Civil registration procedures differ between different governorates. One of the most significant obstacles to access is lacking other documents that prove identity and the difficulties with seeking replacements. As a result, many families, specifically IDPs, are unable to access civil registration procedures. Minority groups report not having access to identity documents at significantly higher rates than others.
- Tens of thousands of Faili Kurds were left stateless by legislative decree in 1980, with many of those affected also expelled from the country (mostly to Iran). Although some have since had their nationality reinstated, not all have been able to access or complete this procedure. There is no accurate data on the number of Faili Kurds that benefited from reforms to Iraq's Nationality Law.
- Numbers are unknown, but many individuals from the Dom (Roma) community have been unable to access Iraqi nationality or renew their nationality documents. Dom are among the most stigmatised and marginalised communities in Iraq, with women and children being particularly vulnerable.
- Approximately 8000 stateless Palestinian Refugees from Iraq reside throughout the country, with no opportunity to access Iraqi nationality. The treatment and situation of Palestinian Refugees from Iraq has deteriorated significantly in recent years (in part) due to their identification as Sunni Muslim and perceived preferential treatment from Saddam Hussein.
- Stateless Bidoon, most of whom were deported from Kuwait following the Gulf War, live on the margins of society and many remain stateless with limited access to essential services and unable to obtain civil documentation. Stateless individuals from Syria, predominantly Kurds now reside in the Kurdistan region of Iraq.
- There are a wide range of potential protection risks associated with statelessness for those affected both inside and outside Iraq. Civil documentation is vital to enable freedom of movement, enrol in school, access essential services and to reduce the risk of statelessness.



1. RELEVANT POPULATION DATA

Official Languages:	Arabic, Kurdish
Estimated Population:	40.4 million ¹
Estimated number of stateless persons:	47,515 ²
Estimated number of refugees hosted by Iraq (non-Palestinian):	298,309 ³
Estimated number of Internally Displaced Persons (IDPs):	1,774,980 ⁴
Estimated number of Palestinian Refugees:	8,324 ⁵
Estimated number of refugees from Iraq in MENA region:	259,000 ⁶

“Stateless persons [in Iraq] faced discrimination in employment and access to education. Many stateless persons were not able to register for identity cards, which prevented them from enrolling in public school, registering marriages, and gaining access to some government services. Stateless individuals also faced difficulty obtaining public-sector employment and lacked job security”.⁷

¹ United Nations Population Fund, *World Population Dashboard – Iraq*, 2019, available at: <https://www.unfpa.org/data/world-population/IQ>

² According to UNHCR data for the end of 2018. See UNHCR, *Fact Sheet – Iraq*, April 2019, available at: <http://reporting.unhcr.org/sites/default/files/UNHCR%20Iraq%20Factsheet%20-%20April%202019.pdf>. Please note that UNHCR indicates this figure to be an estimate only, pending a more accurate study of statelessness in Iraq. It is unclear whether this estimate accounts for all of the different groups affected by statelessness in Iraq and separate data for the number of Bidoon, Fali Kurds and Dom affected by statelessness are not available. It is possible that the true figure for the number of stateless persons in Iraq is considerably higher.

³ This includes 253,672 registered refugees from Syria (as of 31 March 2019) and 44,637 from other countries. UNHCR, *Fact Sheet – Iraq*, April 2019, available at: <http://reporting.unhcr.org/sites/default/files/UNHCR%20Iraq%20Factsheet%20-%20April%202019.pdf>. How many of the refugees from Syria in Iraq are stateless is unknown.

⁴ UNHCR, *Fact Sheet – Iraq*, April 2019, available at: <http://reporting.unhcr.org/sites/default/files/UNHCR%20Iraq%20Factsheet%20-%20April%202019.pdf>. However, IOM estimates the number of IDPs in Iraq as of April 2019 to be 1,665,108, see: IOM, *Displacement Tracking Matrix – DTM Round 109*, April 2019, available at: <http://iraqdtm.iom.int/Downloads/DTM%202019/April%202019/DTM%20109%20Report%20English.pdf>.

⁵ This includes 205 Palestinian Refugees from Syria and a further 8,119 Palestinian refugees. UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019, at 109, available at: <https://www.refworld.org/docid/5cc9b20c4.html>; 3RP, *Iraq Country Chapter – 2019/2020*, 29 April 2019, at 5, available at: <https://data2.unhcr.org/en/documents/details/69209>

⁶ UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019, at 25, available at: <https://www.refworld.org/docid/5cc9b20c4.html>

⁷ US Department of State, *Human Rights Report – Iraq 2018*, 13 March 2019, at 41, available at: <https://www.state.gov/wp-content/uploads/2019/03/IRAQ-2018.pdf>



2. IRAQ'S NATIONALITY LAW

The Iraqi Constitution of 2005 sets the basic rules for the acquisition of nationality. Article 18(1) recognises nationality as a right for every Iraqi. The Iraqi Nationality Law of 2006 (the Nationality Law) further regulates acquisition and loss of citizenship.⁸ In cases arising from the application of the provisions of this law, administrative courts consider claims⁹ and the Federal Court hears appeals of Administrative court decisions.¹⁰ The following summary discusses key provisions of the Iraqi nationality Law.

2.1 Gender Discrimination – Children Born Abroad

The Iraqi Constitution of 2005 does not discriminate on the basis of gender with regards to the acquisition of nationality.¹¹ Article 18(2) of the Iraqi Constitution of 2005 states that everyone born to an Iraqi father or an Iraqi mother is an Iraqi. This rule is re-stated in Article 3(a) of the Nationality Law. However, the Nationality Law is internally inconsistent and contains a separate provision for situations where children are born abroad to an Iraqi *mother and unknown or stateless father*, thereby retaining an element of gender discrimination. Pursuant to Article 4 of the Nationality Law, nationality is not conferred automatically in such cases but is subject to further conditions and the completion of an application procedure.

Article 4 of the Nationality Law:

“The Minister [for Interior] may consider Iraqi any person born outside Iraq to an Iraqi mother and an unknown or stateless father, if he [the individual born outside Iraq] chooses the Iraqi nationality, within one year from coming of age (reaching the age of maturity), unless he fails to do so, due to difficult circumstances, provided that he is residing within Iraq at the time of application for the Iraqi nationality.”¹²

The combination of article 3a and article 4 of the Nationality Law mean that two different routes exist in parallel for a child born outside Iraq to an Iraqi mother to acquire nationality via *jus sanguinis*. Neither is automatic, in contrast with the system for children of male citizens born abroad,¹³ and there is a risk of statelessness.¹⁴ Where the father is ‘known’ – his identity and his filiation to the child are established – and holds a foreign nationality, then article 3a applies, but administrative steps must still be completed *inside* Iraq for conferral of nationality by descent from the Iraqi mother.¹⁵ If the father is ‘unknown’ or if it is established that he is stateless, then article 4 applies

⁸ Iraqi Nationality Law [Iraq], Law 26 of 2006, 7 March 2006, available at: <https://www.refworld.org/docid/4b1e364c2.html>

⁹ Article 19 of the Nationality Law: “Administrative courts shall have the competence to hear lawsuits arising from the application of the provisions of this law.”

¹⁰ Article 20 of the Nationality Law: “Both applicants for naturalisation and the minister, in addition to their respective capacities, shall have the right to contest a decision passed by administrative courts before the Federal Court.”

¹¹ Constitution of the Republic of Iraq [Iraq], 15 October 2005, available at: <https://www.refworld.org/docid/454f50804.html>

¹² Iraqi Nationality Law [Iraq], Law 26 of 2006, 7 March 2006, available at: <https://www.refworld.org/docid/4b1e364c2.html>

¹³ Even in the case of ‘automatic’ acquisition of nationality by descent from an Iraqi father, however, challenges may arise in practice in proving the father’s identity and filiation to the child that result in the child’s Iraqi nationality not being recognised. UNHCR, *Acquisition of Iraqi Nationality by a Child Born Outside Iraq*, May 2019, available at: <https://www.ecoi.net/en/file/local/2007917/5cd198ad7.pdf>

¹⁴ UNHCR, *Background Note on Gender Equality, Nationality Laws and Statelessness* 2018, 8 March 2018, at 7, available at: <https://www.refworld.org/pdfid/5aa10fd94.pdf>

¹⁵ UNHCR, *Acquisition of Iraqi Nationality by a Child Born Outside Iraq*, May 2019, available at:



instead. In these cases, the child applying for nationality has to be resident in Iraq at the time of the application and must apply within one year of reaching maturity.¹⁶ Moreover, the final decision as to whether nationality is granted is subject to the Iraqi Minister of Interior's discretion.¹⁷ These administrative steps are overly burdensome and contradict Article 14 of the Iraqi Constitution, which provides, *"Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, colour, religion, sect, belief or opinion or economic or social status."*¹⁸ The United Nations High Commissioner for Refugees (UNHCR) described the procedural requirements as *"strict and may be difficult to fulfil in practice"* and that *"...even if all legal requirements have been established to the satisfaction of the government, it retains the discretion power to deny applications for Iraqi nationality."*¹⁹

2.2 Stateless Children Born in Iraq

Iraq's Nationality Law is based on the *jus sanguinis* doctrine, with nationality passed on from parent to child as set out above. A child born in Iraq does not automatically acquire Iraqi nationality. There is also no provision for acquisition of nationality through birth on the territory for a child who would otherwise be stateless (e.g. born to stateless parents or to parents who cannot confer nationality). As such, statelessness is an intergenerational issue in Iraq. Moreover, Article 6(II) of the Nationality Law explicitly states that nationality shall not be granted to Palestinians, so they do not lose their right to return. Under Article 3(b) of the Nationality Law, a child born in Iraq to *unknown* parents is granted Iraqi nationality.²⁰ In the case of a foundling, the law provides that unless there is evidence to the contrary, the foundling shall be considered as born in Iraq and will therefore acquire Iraqi nationality. Article 5 of the Nationality Law also provides for an application under which nationality may be requested for a child born in Iraq of a non-Iraqi father, providing that the father was also born in Iraq and remained a resident there. The conferral of nationality under this procedure is at the discretion of the Minister and is also gender discriminatory in nature.

2.3 Deprivation and Reinstatement of Nationality

Article 18(3)(A) of the Iraqi Constitution provides that, *"an Iraqi citizen by birth may not have his citizenship withdrawn for any reason. Any person who has had his citizenship withdrawn shall have the right to demand its reinstatement."* Under article 18(3)(B) of the Iraqi Constitution, however, *"Iraqi citizenship shall be withdrawn from naturalised citizens in cases regulated by law"*. Article 15 of the Nationality Law specifies in this regard that after a final court judgment has proven that the person in question has planned or committed an act against State security or safety, the Minister of Interior can withdraw nationality. Article 15 of the Nationality Law states, *"The Minister may, following a final court judgment, withdraw Iraqi nationality from a naturalised non-Iraqi if he...has provided wrong information of himself or his family upon submitting the application."* This is a very broad definition and many people may be captured by this provision by providing 'wrong information' through no fault of

<https://www.ecoi.net/en/file/local/2007917/5cd198ad7.pdf>

¹⁶ Article 1(c) of the Nationality Law states that the age of maturity is 18 years.

¹⁷ UNHCR, *Acquisition of Iraqi Nationality by a Child Born Outside Iraq*, May 2019, available at:

<https://www.ecoi.net/en/file/local/2007917/5cd198ad7.pdf>

¹⁸ Constitution of the Republic of Iraq [Iraq], 15 October 2005, available at: <https://www.refworld.org/docid/454f50804.html>

¹⁹ UNHCR, *Acquisition of Iraqi Nationality by a Child Born Outside Iraq*, May 2019, available at:

<https://www.ecoi.net/en/file/local/2007917/5cd198ad7.pdf>

²⁰ According to an expert consulted in 2019, in practice in their work on the ground with Yazidi survivors of ISIS captivity, 'unknown parents' is understood to mean 'unknown father' and the law is subsequently applied in this way.



their own or through circumstance.²¹ The Nationality Law does not define what constitutes ‘wrong information’. The deprivation of nationality under these clauses in the law can lead to statelessness if the person in question holds only Iraqi nationality.

Article 14(2) of the Nationality Law states that if an Iraqi loses Iraqi nationality, their minor children will also lose Iraqi nationality, but the minor may have their nationality restored by applying again and residing in Iraq for at least one year. This may also lead to statelessness as there is no condition that the child has another nationality. However, the provision contains an exception that the child can restore Iraqi nationality if they: make a request, return to Iraq and reside in Iraq.²² The provision creates a high threshold for minor children to return to and reside in Iraq, possibly without their parents, in order to reinstate their nationality.

The Iraqi Constitution also states that any person previously deprived of their nationality may demand reinstatement. One of the stated purposes of the 2006 Nationality Law was in fact to, “[e]nable an Iraqi who had been arbitrarily deprived of his nationality to duly restore it.”²³ Article 17 of the Nationality Law contains a provision specifically designed to address the denaturalisation of those who had their nationality revoked by the 1980 Resolution. Article 18 establishes a more general right to restoration of nationality for those denaturalised on “political, religious, racist or sectarian grounds”. However, there have been some difficulties in implementation of these clauses for reinstatement of nationality (see 4.1 below).

2.4 Naturalisation

Article 6(1) of Iraq’s Nationality Law grants discretionary powers to the Minister of Interior to naturalise persons as Iraqi citizens, provided that the person concerned has:

- Reached the legal age according to Iraqi law,
- Legitimately entered Iraq and resided within Iraq at the time of applying for naturalisation,
- Legitimately resided within Iraq for ten consecutive years prior to applying for naturalisation,²⁴
- Good character (is of “good conduct and reputation”) and has not been convicted of an offence or dishonourable misdemeanour,
- “Conspicuous means of livelihood”, and
- No communicable diseases.²⁵

²¹ For example, if a child is born outside Iraq to an Iraqi mother and unknown father and subsequently is naturalised as an Iraqi citizen after turning 18 years old (see Article 4 of the Nationality Law), they may have their Iraqi nationality withdrawn if the identity of the father was known and the Iraqi authorities deem that the child provided “wrong information” about their family.

²² The provision states the minor child will be considered as an Iraqi national for one year from the date of return (presumably until a decision is made on their request to reinstate their nationality). Article 14(2) states, “If an Iraqi loses Iraqi nationality, his minor children shall consequently lose that nationality. Notwithstanding, they may restore Iraqi nationality upon their request if they return to and reside in Iraq. They shall be considered Iraqis for one year effective from the date of return.”

²³ Iraqi Nationality Law [Iraq], Law 26 of 2006, 7 March 2006, available at: <https://www.refworld.org/docid/4b1e364c2.html>

²⁴ In the case of a non-Iraqi man married to an Iraqi woman, this residency requirement may be reduced to five years if: the Minister of Interior uses their discretionary powers; and there is “continued wedlock” between the couple [see Article 7, Iraqi Nationality Law [Iraq], Law 26 of 2006, 7 March 2006, available at: <https://www.refworld.org/docid/4b1e364c2.html>].

²⁵ Article 6(1)(a)-(f), Iraqi Nationality Law [Iraq], Law 26 of 2006, 7 March 2006, available at: <https://www.refworld.org/docid/4b1e364c2.html>.



Recent attempts to amend these naturalisation provisions to lower the residency threshold received popular backlash and were rejected by the Parliament Security and Defence Committee.²⁶ The proposed amendments included allowing individuals to apply for Iraqi citizenship after two years of residence in Iraq (and in some cases one year of residence).²⁷

2.5 Dual Nationality

Dual or multiple nationality was prohibited prior to the Iraqi Constitution of 2005 coming into effect. Under the 2005 Constitution, Article 18(4) expressly states that Iraqis are now permitted multiple nationalities. The only exception is where an individual holds a “sovereign or high-level security position”²⁸ in Iraq, in which case the individual must relinquish any other nationality.

Upon acquisition of another nationality, Iraqi nationality shall be retained unless renounced in writing (Article 10(1) of the Nationality Law). A renounced nationality can be re-acquired if the person returns to Iraq for at least one year according to Article 10(3) of the Nationality Law. This provision can only be invoked once.

3. CIVIL DOCUMENTATION

3.1 Barriers to Accessing Civil Documentation

A substantial number of Iraqis lack registration of vital civil status events, and there are significant challenges in accessing or renewing marriage and birth certificates. In addition, many Iraqis have missing or damaged civil documentation. For example, in April 2019 the Norwegian Refugee Council (NRC) estimated, “80,000 households across conflict affected areas in Iraq have family members that are missing at least one form of civil documentation.”²⁹ Minority groups who have been displaced report lack of access to identity documents at significantly higher rates than others.³⁰ The accuracy and reliability of identity documents are also of concern, “[p]rocedures for issuing documentation are antiquated. Records are kept manually, and most types of documentation do not have adequate security features.”³¹

²⁶ Iraqi Parliament Council, *Press statement on Iraqi Nationality Law*, 19 March 2019, available at:

<http://en.parliament.iq/2019/03/19/press-statement-on-iraqi-nationality-law/>

²⁷ See: Middle East Monitor, *Iraq parliament rejects proposed change to Nationality Law*, 27 March 2019, available at:

<https://www.middleeastmonitor.com/20190327-iraq-parliament-rejects-proposed-change-to-nationality-law/>; Asia Monitor, *Iraq weighs easing path to citizenship*, 19 March 2019, available at: <https://www.asiatimes.com/2019/03/article/iraq-weighs-easing-path-to-citizenship/>;

The Baghdad Post, *Iraqis warn against planned amendments to nationality law*, 19 March 2019, available at:

<https://www.thebaghdadpost.com/en/Story/37432/Iraqis-warn-against-planned-amendments-to-nationality-law>; The Baghdad Post, *Nationality draft law need amendments due to defects: Legal MP*, 14 May 2019, available at:

<https://www.thebaghdadpost.com/en/Story/39527/Nationality-draft-law-need-amendments-due-to-defects-Legal-MP>; The Jerusalem Post, *Law amendment would open Iran to Iranian influence, say opponents*, 23 March 2019, available at: <https://www.jpost.com/Middle-East/Law-amendment-would-open-Iraq-to-Iranian-influence-say-opponents-584337>.

²⁹ Norwegian Refugee Council, *Barriers from birth: Undocumented children in Iraq sentenced to a life on the margins*, April 2019, at 7, available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/barriers-from-birth---report.pdf>.

³⁰ International Organization for Migration, *A Preliminary Assessment of Housing, Land and Property Right Issues Caused by the Current Displacement Crisis in Iraq*, September 2015, at 28-29 available at: https://www.iom.int/sites/default/files/our_work/DOE/LPR/A-Preliminary-Assessment-of-Housing-Land-and-Property-Right-Issues-Caused-by-the-Current-Displacement-Crisis-in-Iraq.pdf. Also see US Aid, *Iraq Access to Justice Program – Final Report*, December 2015, at 5, 13-14 and 37, available at: https://pdf.usaid.gov/pdf_docs/PA00KTXJ.pdf.

³¹ Australian Department of Foreign Affairs and Trade, *Country Information Report – Iraq*, 9 October 2017, at 5.27, available at: <https://dfat.gov.au/about-us/publications/Documents/country-information-report-iraq.pdf>.



"In Iraq, a nationality certificate, Civil ID card, housing card and food ration card (PDS) are required to access essential services and public goods – including medical care, education, food rations, employment and government social welfare schemes – as well as to register for compensation entitlements".³²

3.2 Areas Not Under Government Control

Between 30 December 2013 and 17 November 2017,³³ some areas of Iraq fell in and out of the control of state authorities, which resulted in further documentation challenges. For example, those who lived in militant-controlled areas may have either been issued with documents that are not recognised by the Iraqi Government, or may not have had documents issued at all.³⁴ In some cases, the lack of civil documentation in these areas may be attributed to a government policy to withhold documents: "[p]ersons associated with actual or perceived ISIS members are denied civil documentation on account of their imputed political opinion."³⁵

"Iraqi families with perceived ISIS affiliation, usually because of their family name, tribal affiliation or area of origin, were denied security clearances required to obtain identity cards and all other civil documentation. This impacted their freedom of movement, right to education, right to work, and right to apply for welfare benefits and obtain birth and death certificates needed to inherit property or remarry."³⁶

3.3 Difficulties Experienced by IDPs when Accessing Civil Documentation

There are an estimated 1,774,980 IDPs in Iraq and many face obstacles in accessing and navigating the civil documentation system.³⁷ Civil registration processes differ between different governorates, especially as to what documents are needed in order to complete procedures and to acquire other documents. In addition, there are significant barriers to accessing civil documentation, as IDPs are "...expected to present themselves at the office in their governorate of origin. They are also subjected to complicated procedures, fees, administrative backlogs and a high burden of proof."³⁸ Given this, "...many IDPs and returnees do not hold critical documentation, restricting access to basic services, limiting freedom of movement, and increasing the risk of arbitrary arrest."³⁹

³² Humanitarian Practice Network, *Identity crisis? Documentation for the displaced in Iraq*, October 2015, available at:

<https://odihpn.org/magazine/identity-crisis-documentation-for-the-displaced-in-iraq/>

³³ The Wilson Center, *Timeline: the Rise, Spread, and Fall of the Islamic State*, 30 April 2019, available at:

<https://www.wilsoncenter.org/article/timeline-the-rise-spread-and-fall-the-islamic-state>.

³⁴ Australian Department of Foreign Affairs and Trade, *Country Information Report – Iraq*, 9 October 2017, at 5.27, available at:

<https://dfat.gov.au/about-us/publications/Documents/country-information-report-iraq.pdf>.

³⁵ UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019, at 48, available at:

<https://www.refworld.org/docid/5cc9b20c4.html>.

³⁶ Human Rights Watch, *World Report 2019 – Iraq*, 17 January 2019, available at: <https://www.ecoi.net/en/document/2002196.html>

³⁷ UNHCR, *Fact Sheet – Iraq*, April 2019, available at:

<http://reporting.unhcr.org/sites/default/files/UNHCR%20Iraq%20Factsheet%20-%20April%202019.pdf>. Note, IOM estimates the number

of IDPs in Iraq as of April 2019 to be 1,665,108, see: IOM, *Displacement Tracking Matrix – DTM Round 109*, April 2019, available at:

<http://iraqdtm.iom.int/Downloads/DTM%202019/April%202019/DTM%20109%20Report%20English.pdf>.

³⁸ Humanitarian Practice Network, *Identity crisis? Documentation for the displaced in Iraq*, October 2015, available at:

<https://odihpn.org/magazine/identity-crisis-documentation-for-the-displaced-in-iraq/>

³⁹ UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019, at 48, available at:

<https://www.refworld.org/docid/5cc9b20c4.html>.



IDPs lack identity documents for different reasons, among them confiscation by militia groups or government agents, leaving them behind or losing them during displacement. To replace missing documentation, IDPs are required to travel to the governorates they were registered in before displacement. This requirement is often prohibitive because of the restrictions in the freedom of movement that IDPs face and the high costs associated with travelling and administrative fees.

3.4 Children and a Lack of Civil Documentation

At the end of 2018, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) reported, “[i]n 2019, an estimated 2.1 million children may be at serious risk of not being able to access essential services due to lack of civil documentation...”⁴⁰ Indeed, “[l]acking legal identity and civil documents puts children at increased risk of statelessness and has been known to lead to exclusion from political, social, and economic life.”⁴¹ In early 2019, the Norwegian Refugee Council (NRC) estimated that some 45,000 children in displacement camps do not have birth certificates issued by the Iraqi authorities.⁴²

Specific complications arise for children with missing or deceased fathers. According to the NRC, “[r]egardless of whether the child’s father is missing, imprisoned or dead, without government-issued proof of the event, mothers are very often unable to obtain civil documentation for her children, even if she has a government-issued marriage contract.”⁴³ This is due to administrative hurdles in obtaining a death certificate or a certificate of absence. According to the UN Human Rights Council, certificates of absence “may be withheld from families of disappeared suspected ISIL members, including those that went missing after surrendering to ISF or affiliated forces.”⁴⁴ Without a death certificate or certificate of absence, many families struggle to register vital civil status events and access essential services.⁴⁵

“Iraqis lacking full civil documentation can readily be deprived of their basic rights. They cannot freely move around for fear of arrest, nor can they get a job or apply for welfare benefits. Children denied birth certificates may be considered stateless and may not be allowed to enrol in school. Women unable to obtain death certificates for their spouses are unable to inherit property or remarry.”⁴⁶

⁴⁰ OCHA, *Iraq: Humanitarian Needs Overview 2019*, 16 December 2018, at 9, available at:

https://reliefweb.int/sites/reliefweb.int/files/resources/irq_2019_hno.pdf

⁴¹ Norwegian Refugee Council, *Barriers from birth: Undocumented children in Iraq sentenced to a life on the margins*, April 2019, at 7, available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/barriers-from-birth---report.pdf>

⁴² Norwegian Refugee Council, *Barriers from birth: Undocumented children in Iraq sentenced to a life on the margins*, April 2019, at 3, available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/barriers-from-birth---report.pdf>

⁴³ Norwegian Refugee Council, *Barriers from birth: Undocumented children in Iraq sentenced to a life on the margins*, April 2019, at 18, available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/barriers-from-birth---report.pdf>

⁴⁴ UN Human Rights Council, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions*, 5 June 2018, at 75-76, available at: <https://www.refworld.org/docid/5b7ad39d4.html>.

⁴⁵ UN Human Rights Council, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions*, 5 June 2018, at 75-76, available at: <https://www.refworld.org/docid/5b7ad39d4.html>.

⁴⁶ Human Rights Watch, *Iraq: Families of Alleged ISIS Members Denied IDs*, 25 February 2018, available at: <https://www.hrw.org/news/2018/02/25/iraq-families-alleged-isis-members-denied-ids>



4. POPULATIONS AFFECTED BY STATELESSNESS IN IRAQ

UNHCR estimates 47,630 people in Iraq to be affected by statelessness. However, UNHCR also notes, “[p]ending a more accurate study into statelessness in Iraq, the estimate of stateless persons in Iraq has been adjusted to reflect the reduction of statelessness in line with Law 26 of 2006 [Nationality Law], which allows stateless persons to apply for nationality in certain circumstances.”⁴⁷

Due to definitional issues, gaps in data collection tools and lack of comprehensive data collection, this can be considered a vastly conservative estimate, regardless of Law No. 26 of 2006. Stateless refugees are generally excluded from UNHCR’s estimate of stateless populations and therefore stateless Kurds displaced from Syria by the conflict and living as refugees in Iraq are not identified in the statelessness statistics. Meanwhile, according to UNHCR, there is an increased risk of statelessness as a growing number of people are either unable to acquire or are denied access to civil documentation.

4.1 Faili Kurds

There are approximately 1.5 million Faili Kurds in Iraq.⁴⁸ They are “considered a cross-border population” between Iraq and Iran.⁴⁹ A majority of the Faili Kurds in Iraq reside in Baghdad, the border regions and the Kurdistan Region of Iraq.⁵⁰ Unlike a majority of Kurds, Faili Kurds are identified as Shia Muslims and have historically been victims of hostility and mistrust by the Iraqi authorities.⁵¹ For example, pursuant to Decree No. 666 of 1980, the Revolutionary Command Council declared, “Iraqi nationality shall be dropped from any Iraqi of foreign origin if it is appeared that he is not loyal to the homeland, people, higher national and social objectives of the Revolution.”⁵² This applied directly to Faili Kurds, who were perceived to be loyal to Iran following an assassination attempt on the Deputy Prime Minister, Tariq Aziz, in April 1980 by a Faili Kurd from Iraq.⁵³ As a result, “Faili Kurds were systematically rounded up, and various state agencies cooperated in compiling lists of names for deportation” to Iran, with estimates ranging from tens to hundreds of thousands of individuals.⁵⁴ Even before the issuing of Decree No. 666 of 1980, Faili Kurds experienced persecution in Iraq and “[w]hile forced deportation and the questioning of Faili Kurds’ citizenship was not a new phenomenon, the mass deprivation of citizenship was.”⁵⁵ The number of those affected subsequently increased due to the hereditary nature of this stateless status.

⁴⁷ UNHCR, *Global Trends – 2017*, June 2018, available at: <https://www.unhcr.org/statistics/unhcrstats/5b27be547/unhcr-global-trends-2017.html>

⁴⁸ Minority Rights Group International, *Iraq – Faili Kurds*, November 2017, available at: <https://minorityrights.org/minorities/faili-kurds/>

⁴⁹ Minority Rights Group International, *Iraq – Faili Kurds*, November 2017, available at: <https://minorityrights.org/minorities/faili-kurds/>

⁵⁰ Minority Rights Group International, *Iraq – Faili Kurds*, November 2017, available at: <https://minorityrights.org/minorities/faili-kurds/>

⁵¹ Australian Department of Foreign Affairs and Trade, *Country Information Report – Iraq*, 9 October 2017, at 3.4, available at:

<https://dfat.gov.au/about-us/publications/Documents/country-information-report-iraq.pdf>

⁵² Iraqi Revolutionary Command Council, *Decree No. 666 of 1980*, 26 May 1980, available at:

<https://www.refworld.org/docid/3ae6b51d28.html>

⁵³ Minority Rights Group International, *Iraq – Faili Kurds*, November 2017, available at: <https://minorityrights.org/minorities/faili-kurds/>

⁵⁴ Australian Department of Foreign Affairs and Trade, *Country Information Report – Iraq*, 9 October 2017, at 3.4, available at: <https://dfat.gov.au/about-us/publications/Documents/country-information-report-iraq.pdf> suggests tens of thousands and perhaps hundreds of thousands were expelled from Iraq; the Minority Rights Group International, *Iraq – Faili Kurds*, November 2017, available at: <https://minorityrights.org/minorities/faili-kurds/> suggests numbers ranged from 150,000-500,000.

⁵⁵ Tucker, Jason, *Exploring Statelessness in Iran: Gaps in the nationality law, populations of concern and areas for future research*, 2014, at 11, https://www.academia.edu/7156718/Exploring_Statelessness_and_Nationality_in_Iran



Following the fall of Saddam Hussein's regime in 2003, many Fails Kurds returned from Iran to Iraq, as many had limited rights or access to nationality in Iran, as they were considered Iraqi.⁵⁶ Pursuant to Article 17 of Law No. 26 of 2006, *"Decision No. 666 of 1980 issued by the (defunct) Revolutionary Command Council shall be repealed and Iraqi nationality shall be restored to all Iraqis deprived of their Iraqi nationality under the said as well as all other unfair decisions issued by the (defunct) Revolutionary Command Council in this respect"*.⁵⁷ This law was intended to enable Fails Kurds, among others, to reacquire their Iraqi nationality. However, the requirements for re-acquisition of nationality were regarded as imposing a high threshold, predominantly the requirement to prove nationality before 1980. For example, UNHCR stated that it *"...is aware of reports that the process of reinstatement is long and cumbersome, and applicants are often required to travel from their place of residence to the nationality directorate in Baghdad to follow up on their applications. Some Fails Kurds started the process but could not complete it due to documentary and financial requirements (including for repeated travel to Baghdad)"*.⁵⁸ In addition, *"...the process [to reacquire nationality] can be administratively complex if an individual lacks sufficient documentation to demonstrate Iraqi origin."*⁵⁹

While reports suggest that many Fails Kurds have been able to reacquire Iraqi nationality, UNHCR *"...has no updated information on how many Fails Kurds have benefited from the 2006 Nationality Law and have been issued with nationality certificates, as the Government of Iraq has not released relevant data in recent years."*⁶⁰ Additionally, many remained in displacement and never attempted to reacquire their Iraqi nationality. As a result, there is still today an unknown number of Fails Kurds who have not regained their Iraqi nationality. Statelessness therefore remains an issue of concern for this group.

In 2019, UNHCR confirmed that *"A number of Fails Kurds...also remain stateless and consequently without official documentation, resulting in restrictions on access to public services and formal employment, as well as on their freedom of movement due to difficulties to pass checkpoints."*⁶¹

For more information on the treatment of Fails Kurds, please refer to the [Iran Country Position Paper](#).

4.2 Bidoon

The word 'bidoon' is Arabic for 'without' and has become shorthand for *bidoon jinsiya* – 'without nationality.' Most *bidoon* are descended from nomadic tribes native to the Arabian Peninsula. The causes of statelessness among them vary. For the vast majority, it is because these *bidoon* groups were in Kuwait at the time the country gained independence in 1961. The Kuwaiti Government initiated a registration process to identify nationals, but many people were not able to register and

⁵⁶ Tucker, Jason, *Exploring Statelessness in Iran: Gaps in the nationality law, populations of concern and areas for future research*, 2014, at 11, https://www.academia.edu/7156718/Exploring_Statelessness_and_Nationality_in_Iran

⁵⁷ Iraqi Nationality Law [Iraq], Law 26 of 2006, 7 March 2006, available at: <https://www.refworld.org/docid/4b1e364c2.html>

⁵⁸ UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019, at 79, available at: <https://www.refworld.org/docid/5cc9b20c4.html>

⁵⁹ Australian Department of Foreign Affairs and Trade, *Country Information Report – Iraq*, 9 October 2017, at 3.4, available at: <https://dfat.gov.au/about-us/publications/Documents/country-information-report-iraq.pdf>

⁶⁰ UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019, at 79, available at: <https://www.refworld.org/docid/5cc9b20c4.html>

⁶¹ UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019, at 78-79, available at: <https://www.refworld.org/docid/5cc9b20c4.html>



were excluded from the nationality process.⁶² Bidoon in Kuwait were subsequently rendered stateless with limited rights and freedoms. Despite this, *“Bidoon made up the majority of the Kuwaiti army”* and following Iraq’s invasion of Kuwait in 1990, *“...they became an easy scapegoat for their country’s capitulation to the rapidly advancing Iraqi army.” “Bidoon were dismissed en masse from the army, and some were tried in military courts for collaboration... [with] approximately 10,000 bidoon deported”*.⁶³ UNHCR estimates that 125,000 *bidoon* either fled or were deported to Iraq following the Gulf War.⁶⁴

Most *bidoon* communities in Iraq reside in Basrah, Dhi Qar, Wassit and Qadisiyah Governorates. There is a lack of accurate data on the number of *bidoon* in Iraq and whether some have been able to obtain nationality.⁶⁵ The most recent figures from 2006 estimated that 54,000 *bidoon* resided in Iraq at the time, mainly living as nomads in desert areas or governorates in the south of the country.⁶⁶

It is believed that a majority of these individuals are stateless and undocumented. There are reports of some *bidoon* travelling to city centres for a number of reasons, such as drought, to obtain food rations and civil status documentation.⁶⁷ However, *bidoon* continue to live on the margins of society in Iraq and in 2019 UNHCR confirmed that *“[a] number of...Bidoon also remain stateless and consequently without official documentation”*.⁶⁸

For further information on the treatment of *bidoon*, please refer to the [Kuwait Country Position Paper](#).

4.3 The Dom (Roma)

The Dom (also referred to as Roma) who identify themselves through tribal affiliations rather than the derogatory Arabic words they are commonly called in Iraq including ‘Kawliyah’, ‘Qawliya’, ‘Ghagar’, ‘Ghajari’ or ‘Gypsies’.⁶⁹ While there are no accurate figures for the number of Dom in Iraq, estimates suggest the population is around 60,000, primarily residing on the outskirts of Baghdad, Mosul and Basra.⁷⁰ Other reports suggest the Dom population is between 50,000 and 200,000.⁷¹ UNHCR reported in 2019 that *“...members of the Roma community are reportedly stateless or at risk of*

⁶² Minority Rights Group International, *Kuwait: Bidoon Profile*, 2017, available at: <https://minorityrights.org/minorities/bidoon/>. See also Institute on Statelessness and Inclusion and European Network on Statelessness, *Statelessness in Kuwait: Country Position Paper*, May 2019, at 6, available at: <https://statelessjourneys.org/wp-content/uploads/StatelessJourneys-Kuwait-FINAL.pdf>

⁶³ Minority Rights Group International, *Kuwait: Bidoon Profile*, 2017, available at: <https://minorityrights.org/minorities/bidoon/>.

⁶⁴ UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019, at 79, available at: <https://www.refworld.org/docid/5cc9b20c4.html>

⁶⁵ UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019, at 79, available at: <https://www.refworld.org/docid/5cc9b20c4.html>

⁶⁶ US Department of State, *Human Rights Report – Iraq 2018*, 13 March 2019, at 40, available at: <https://www.state.gov/wp-content/uploads/2019/03/IRAQ-2018.pdf>

⁶⁷ US Department of State, *Human Rights Report – Iraq 2018*, 13 March 2019, at 40, available at: <https://www.state.gov/wp-content/uploads/2019/03/IRAQ-2018.pdf>

⁶⁸ UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019, at 78-79, available at: <https://www.refworld.org/docid/5cc9b20c4.html>

⁶⁹ Institute for International Law and Human Rights, *Iraq’s Minorities and Other Vulnerable Groups: Legal Framework, Documentation and Human Rights*, May 2013, at 126, available at: http://lawandhumanrights.org/documents/MinorityHB_EN.pdf. Also see, Minority Rights Group International, *Alternative Report to the Committee on the Elimination of Racial Discrimination – Review of the Periodic Report of Iraq*, 2018, at 23, available at: <http://bit.ly/2VKsoYo>.

⁷⁰ Institute for International Law and Human Rights, *Iraq’s Minorities and Other Vulnerable Groups: Legal Framework, Documentation and Human Rights*, May 2013, at 126, available at: http://lawandhumanrights.org/documents/MinorityHB_EN.pdf

⁷¹ Minority Rights Group International, *Iraq: Roma*, November 2017, available at: <https://minorityrights.org/minorities/roma-21/>



*statelessness due to the lack of essential civil documentation, further compounding their vulnerable situation.*⁷² The total number of Dom affected by statelessness in Iraq is not known.

The situation for Dom deteriorated after the fall of Saddam Hussein in 2003, as *"the community was accused of having supported the former President [Saddam Hussein], and conservative local communities as well as Shi'ite militants, who had long resented their differing social norms, reportedly attacked and forcibly displaced many Roma from their settlements."*⁷³ It has been reported that *"many Roma have since left Iraq to seek greater security in Jordan and the Gulf."*⁷⁴ The human rights situation for Dom in Iraq is dire, with many internally displaced or forcibly removed from their settlements, resulting in Dom living on *"...squatted land without access to clean water, electricity, adequate shelter, healthcare, adequate food, education and other basic services."*⁷⁵ Dom women and children are particularly at risk of exploitation, sexual abuse and stigmatisation.⁷⁶ Dom children are reported *"to be at heightened risk of abuse and exploitation due to the absence of birth registration, lack of documentation confirming nationality, extremely low levels of school attendance and widespread involvement in street begging."*⁷⁷

While some Dom have civil status documentation, the ability to renew those documents is limited, particularly given the high levels of discrimination and stigmatisation by public officials. Further, Iraqi authorities have frequently refused to renew documents or transfer nationality to children on the basis of Law No. 26 of 2006 (see above at 4.1). UNHCR received reports in November 2013 suggesting that some Dom had been told, *"...because their nationality was acquired "exceptionally" by decree of the now defunct Revolutionary Command Council, they were not eligible to renew their official documents or transfer nationality to their children."*⁷⁸ Some Dom possess citizenship certificates (*shahadat al-jinsiya*), which are stamped with the word, 'Exception', thereby restricting them from being able to access government employment.⁷⁹ Other civil status documents, *"...still contain the word 'Ghajari' (gypsy), which signals to employers that they are Roma and opens them to discrimination."*⁸⁰ It also limits rights and access to other services, while also resulting in a rejection of a renewal of documents. Stateless Dom in Iraq lack adequate state protection and *"...continue to face systematic discrimination and marginalisation in all aspects of life, as a result of which many are reported to live in extreme poverty with high rates of illiteracy and unemployment."*⁸¹

⁷² UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019, at 78-79, available at: <https://www.refworld.org/docid/5cc9b20c4.html>

⁷³ UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019, at 78, available at: <https://www.refworld.org/docid/5cc9b20c4.html>

⁷⁴ Minority Rights Group International, *Iraq: Roma*, November 2017, available at: <https://minorityrights.org/minorities/roma-21/>

⁷⁵ Institute for International Law and Human Rights, *Iraq's Minorities and Other Vulnerable Groups: Legal Framework, Documentation and Human Rights*, May 2013, at 127, available at: http://lawandhumanrights.org/documents/MinorityHB_EN.pdf

⁷⁶ UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019, at 78, available at: <https://www.refworld.org/docid/5cc9b20c4.html>

⁷⁷ UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019, at 78, available at: <https://www.refworld.org/docid/5cc9b20c4.html>

⁷⁸ UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019, at 78-79, available at: <https://www.refworld.org/docid/5cc9b20c4.html>

⁷⁹ Minority Rights Group International, *Alternative Report to the Committee on the Elimination of Racial Discrimination – Review of the Periodic Report of Iraq*, 2018, at 23, available at: <http://bit.ly/2VKsoYo>.

⁸⁰ Minority Rights Group International, *Alternative Report to the Committee on the Elimination of Racial Discrimination – Review of the Periodic Report of Iraq*, 2018, at 23, available at: <http://bit.ly/2VKsoYo>.

⁸¹ UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019, at 78-79, available at: <https://www.refworld.org/docid/5cc9b20c4.html>



Given these discriminatory provisions and the generally widespread lack of identity documentation for the Dom, there have been increased advocacy efforts for law reform. This ultimately resulted in a decision from the Ministry of Interior in early 2019 instructing, *“...all national identity directorates to issue unified identity documents to Roma...thereby facilitating their full and equal access to education, health care and other basic services provided by the Government.”*⁸² UNHCR reported in May 2019 that it is *“...monitoring the implementation of the instructions.”*⁸³ It is not yet clear how practical and effective these reforms have been, particularly when considering that *“...Roma have to visit a government office and submit a request in order to obtain new identification documents”*,⁸⁴ which may continue the cycle of barriers to civil documentation for Dom.

4.4 Palestinian Refugees

Iraq is outside the mandate of the United Nations Relief and Works Agency for Palestine Refugees (UNRWA), and therefore the protection of Palestinian refugees in Iraq falls under the jurisdiction of the Iraqi Government and UNHCR. According to the 2006 Nationality Law, Palestinian refugees are excluded from naturalisation in Iraq and therefore even those who have been in the country for generations would not have the right to acquire Iraqi nationality. In terms of access to civil documentation, there is a distinction between Palestinian refugees who arrived in 1948 and those who arrived in 1967 or later (for further information, see the table at 5).

According to Article 6(2) of the Nationality Law (Law No. 26 of 2006), *“Iraqi nationality shall not be granted to Palestinians as a guarantee to their right to return to their homeland.”*⁸⁵ While this is a common clause in nationality laws throughout the MENA region, it nonetheless deprives Iraqi-born Palestinians of their fundamental rights and further marginalises them through a denial of public services afforded to citizens.⁸⁶

The pre-2003 population of Palestinian refugees in Iraq was estimated to be 34,000.⁸⁷ However, *“...worsening conditions since 2003 have forced at least 25,000 Palestinians to flee Iraq, leaving only around 10,000 in the country”*, according to the Palestinian Embassy in Baghdad in December 2018.⁸⁸ More recently, as of 31 March 2019, there are 8,119 Palestinian refugees from Iraq registered with UNHCR in Iraq.⁸⁹

⁸² UN Security Council, *Implementation of resolution 2421 (2018)*, S/2019/365, 2 May 2019, available at:

https://reliefweb.int/sites/reliefweb.int/files/resources/s_2019_365_E.pdf

⁸³ UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019, at 79, available at:

<https://www.refworld.org/docid/5cc9b20c4.html>

⁸⁴ MRGI, Alternative Report to the Committee on the Elimination of Racial Discrimination (CERD) – Review of the Periodic Report of Iraq, 2018, <http://bit.ly/2VKsoYo>, para. 23

⁸⁵ Institute for International Law and Human Rights, *Iraq's Minorities and Other Vulnerable Groups: Legal Framework, Documentation and Human Rights*, May 2013, at 39, available at: http://lawandhumanrights.org/documents/MinorityHB_EN.pdf

⁸⁶ Institute for International Law and Human Rights, *Iraq's Minorities and Other Vulnerable Groups: Legal Framework, Documentation and Human Rights*, May 2013, at 39, available at: http://lawandhumanrights.org/documents/MinorityHB_EN.pdf

⁸⁷ UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019, at 109, available at: <https://www.refworld.org/docid/5cc9b20c4.html>

⁸⁸ Reuters, *Palestinians in Iraq fearful after loss of Saddam-era privileges*, 20 December 2018, available at: <https://www.reuters.com/article/us-iraq-palestinians-rights/palestinians-in-iraq-fearful-after-loss-of-saddam-era-privileges-idUSKCN1QJ2CM>

⁸⁹ UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019, at 109, available at: <https://www.refworld.org/docid/5cc9b20c4.html>



In 2017, the Iraqi Parliament enacted laws that seriously restricted the rights and liberties of Palestinians in Iraq. Law No. 76 of 2017 abolished a previous law (Decree 202 of 2001) that stated *"Palestinians permanently residing in Iraqi [sic] shall be treated as Iraqis in respect of all rights and duties, with the exception of the right to the Iraqi Nationality."*⁹⁰ Article 52(2) of Law No. 76 of 2017 states, *"The decisions of the (dissolved) Revolutionary Command Council...202 on 12/9/2001 shall be repealed."*⁹¹ It has been reported that these changes have had damaging impacts on the rights and livelihoods of Palestinians in Iraq, *"...from eligibility for state jobs and free education to receiving pensions and food items from a government subsidies program."*⁹² It is important to note that these deteriorated circumstances are not reflected in all relevant country of origin information.⁹³

Further, the US Department of State notes in a recent report, *"Palestinian refugees...faced job insecurity in the public sector due to their ambiguous legal status; the government did not recognise their refugee status nor allow them to obtain citizenship."*⁹⁴ The violence in Iraq between 2014 to 2017 resulted in what UNHCR recently described as *"...significant deterioration of the security and human rights situation for Palestinians in Iraq..."*⁹⁵ UNHCR stated that Palestinian refugees in Iraq *"...may be in need of international refugee protection, depending on the individual circumstances of the case."*⁹⁶ Moreover, a lack of state protection is an issue for Palestinian Refugees in Iraq, leaving them *"...exposed to human rights abuses by both state and non-state actors such as militias or tribes."*⁹⁷

For more information on the treatment of Palestinians in the region, please refer to the [Syria Country Position Paper](#).

4.5 Stateless Refugees from Syria

According to UNHCR, there are 253,672 Syrian refugees in Iraq, *"99% of [whom] live in the Kurdistan Region of Iraq (KR-I); 37% reside in 9 camps, while the remainder live in urban and peri-urban areas."*⁹⁸ Many of these people are Kurds from Syria, who share close cultural and linguistic ties with this region. In Syria, many members of the Kurdish minority population were stripped of nationality in 1962 following a deeply flawed and arbitrary census in al-Hassaka Governate, North East Syria. Syria's stateless Kurds fall broadly into two sub-groups: Ajanib ('foreigner') and Maktumeen ('concealed'). Both were confronted with restrictions of rights and freedoms, with the situation of

⁹⁰ Iraq, *Resolution by the Revolutionary Command Council on the Treatment of Palestinians Permanently Residing in Iraq as Iraqis* (2001), 24 September 2001, available at: <https://www.refworld.org/docid/5c7558ca7.html>

⁹¹ Iraq, *Law on the Residence of Foreigners* (2017), 2 October 2017, available at: <https://www.refworld.org/docid/5c7561147.html>

⁹² Reuters, *Palestinians in Iraq fearful after loss of Saddam-era privileges*, 20 December 2018, available at: <https://www.reuters.com/article/us-iraq-palestinians-rights/palestinians-in-iraq-fearful-after-loss-of-saddam-era-privileges-idUSKCN1OJ2CM>

⁹³ For example, the Australian Department of Foreign Affairs and Trade stated in October 2018, *"...legislation does provide protections for Palestinians including the right to access the same services as other refugee communities."* Australian Department of Foreign Affairs and Trade, *Country Information Report – Iraq*, 9 October 2017, at 3.11, available at: <https://dfat.gov.au/about-us/publications/Documents/country-information-report-iraq.pdf>

⁹⁴ US Department of State, *Human Rights Report – Iraq 2018*, 13 March 2019, at 39, available at: <https://www.state.gov/wp-content/uploads/2019/03/IRAQ-2018.pdf>

⁹⁵ UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019, at 6-7, available at: <https://www.refworld.org/docid/5cc9b20c4.html>

⁹⁶ UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019, at 6-7, available at: <https://www.refworld.org/docid/5cc9b20c4.html>

⁹⁷ UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019, at 110, available at: <https://www.refworld.org/docid/5cc9b20c4.html>

⁹⁸ UNHCR, *Fact Sheet – Iraq*, April 2019, available at: <http://reporting.unhcr.org/sites/default/files/UNHCR%20Iraq%20Factsheet%20-%20April%202019.pdf>.



the Maktumeen especially precarious. Despite the passage of Decree 49 in Syria in 2011, which created a pathway to Syrian nationality for the Ajanib, many Kurds from Syria in KR-I continue to be stateless due to the difficulties in the implementation of procedures for acquisition of nationality. Ordinarily, foreigners who have been resident in Iraq for ten years can apply for naturalisation. This is not implemented, however, for stateless Kurds from Syria who arrived in 2004 as they are considered to have not “entered Iraq legally”.⁹⁹

For further information on stateless Kurds, please see the [Country Position Paper on Syria](#).

4.6 Other Populations Affected by or at Risk of Statelessness

The US Department of State reported in 2018 that children of Iraqi mothers, including Yezidi women held captive by ISIS, whose fathers were members of Daesh are at risk of statelessness.¹⁰⁰ Children born to mothers associated with ISIS through marriage to an ISIS member or through direct engagement, and children simply born under ISIS control may also be at risk of statelessness, as ISIS issued documentation are not often recognised.¹⁰¹

An amendment to Iraq’s Nationality Law in 2015 stated that a child born to a non-Muslim mother and a Muslim father are to be considered as Muslim regardless of the mother’s religion, circumstances or choices. This is another clear example of gender discrimination in Iraq’s Nationality Law impacting on women’s equality. As a result, “[t]he Yezidi community frequently forced women to give up such babies and minor children to orphanages under threat of expulsion from the community...some such children are without parents, identification, clear country of birth, or settled nationality.”¹⁰² Amnesty International reported that, “[a]lthough the Yezidi community have tried to reintegrate women victims who have escaped, the stigma attached to such women is far reaching.”¹⁰³ UNHCR stated, in 2019 that “[c]hildren born out of wedlock or to parents whose marriage was not officially registered, particularly children born in areas formerly under ISIS control, including as a result of sexual enslavement, are reported to be at risk of remaining without official legal status and documentation, abandonment as well as stigmatisation and abuse.”¹⁰⁴ UN Assistance Mission for Iraq reported in 2017 that there were 2,745 Yezidi children that had lost one or both parents.¹⁰⁵

Iraqis of African descent (sometimes referred to as “Black Iraqis”) are considered nationals of Iraq. However, they may be at risk of statelessness, as they are among the most marginalised and disadvantaged populations in Iraq, and many lack civil status documentation, such as birth

⁹⁹ According to expert consultant, 2019.

¹⁰⁰ US Department of State, *Human Rights Report – Iraq 2018*, 13 March 2019, at 39, available at: <https://www.state.gov/wp-content/uploads/2019/03/IRAQ-2018.pdf>

¹⁰¹ According to expert consultant, 2019; see also Lees, S (2016) *Born of the Islamic State: Addressing Discrimination in Nationality Provision through a Rule of Law Framework* [online] available at: https://files.institutesi.org/WP2016_08.pdf; see also Norwegian Refugee Council (2017) *Barriers From Birth: Undocumented Children in Iraq Sentenced to a Life on the Margins* [online] available at: <https://www.nrc.no/globalassets/pdf/reports/iraq/barriers-from-birth/barriers-from-birth-med-pages.pdf>

¹⁰² US Department of State, *Human Rights Report – Iraq 2018*, 13 March 2019, at 39, available at: <https://www.state.gov/wp-content/uploads/2019/03/IRAQ-2018.pdf>

¹⁰³ The Conversation, *Sexual violence against the Yezidis is part of IS’s genocide campaign*, 6 July 2017, available at: <http://theconversation.com/sexual-violence-against-the-yezidis-is-part-of-iss-genocide-campaign-77070>

¹⁰⁴ UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019, at 98, available at: <https://www.refworld.org/docid/5cc9b20c4.html>

¹⁰⁵ UN Assistance Mission for Iraq (UNAMI), *Report on Human Rights in Iraq: July to December 2017*, 8 July 2018, available at: <https://www.refworld.org/docid/5b6afc544.html>



certificates, marriage certificates or nationality documentation. In addition, they do not have allocated electoral seat quotas in the Iraqi Parliament unlike some other minority groups.¹⁰⁶

Iraqis of African descent primarily reside in “economically marginalised areas”¹⁰⁷ of Basrah and Baghdad’s Sadr City and “...are subjected to frequent verbal abuse, including by continually being referred to as “abd”, or slave.”¹⁰⁸ Many reside in informal settlements, where they are at risk of eviction.¹⁰⁹ Given the widespread poverty and exclusion from education and employment, many Iraqis of African descent struggle to access basic services, have high illiteracy rates, lack civil documentation for vital civil status events, and have unregistered marriages.¹¹⁰ A lack of civil documentation not only increases the risk of statelessness, but also “...hinders school enrollment, employment, travel and access to services.”¹¹¹

¹⁰⁶ Institute for International Law and Human Rights, *Iraq’s Minorities and Other Vulnerable Groups: Legal Framework, Documentation and Human Rights*, May 2013, at 8 and 64, available at: http://lawandhumanrights.org/documents/MinorityHB_EN.pdf

¹⁰⁷ Minority Rights Group International, *Alternative Report to the Committee on the Elimination of Racial Discrimination – Review of the Periodic Report of Iraq*, 2018, at 28, available at: <http://bit.ly/2VKsoYo>.

¹⁰⁸ UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019, at 78, available at: <https://www.refworld.org/docid/5cc9b20c4.html>

¹⁰⁹ UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019, at 78, available at: <https://www.refworld.org/docid/5cc9b20c4.html>. Also see, Minority Rights Group International, *Alternative Report to the Committee on the Elimination of Racial Discrimination – Review of the Periodic Report of Iraq*, 2018, at 28, available at: <http://bit.ly/2VKsoYo>.

¹¹⁰ Institute for International Law and Human Rights, *Iraq’s Minorities and Other Vulnerable Groups: Legal Framework, Documentation and Human Rights*, May 2013, at 57, available at: http://lawandhumanrights.org/documents/MinorityHB_EN.pdf. See also, Minority Rights Group International, *Alternative Report to the Committee on the Elimination of Racial Discrimination – Review of the Periodic Report of Iraq*, 2018, at 28, available at: <http://bit.ly/2VKsoYo>.

¹¹¹ Institute for International Law and Human Rights, *Iraq’s Minorities and Other Vulnerable Groups: Legal Framework, Documentation and Human Rights*, May 2013, at 72, available at: http://lawandhumanrights.org/documents/MinorityHB_EN.pdf



5. DOCUMENTATION IN IRAQ

DOCUMENT	APPLIES TO	DESCRIPTION
CITIZENSHIP CERTIFICATE (OR NATIONALITY CERTIFICATE - SHAHADAT AL-JINSIYA)	Nationals	<i>Certifies Iraqi nationality. If Dom possess these documents they are usually stamped with the word, "Exception", thereby restricting them from being able to access government employment. See 4.3 for further details.</i>
CIVIL STATUS IDENTITY CARD (BITAQA SHAKHSIYEH OR BITAQA HAWWIYA)	Nationals	<i>Main ID card for Iraqi nationals. Treated in a similar way as birth certificates. Both the Citizenship Certificate and Civil Status Identity Card are required to access public services, including food assistance through the Public Distribution System (PDS), healthcare, employment, education and housing, and to obtain a passport.</i>
RESIDENCE CARD (BITAQA SAKAN)	Nationals	<i>One of the five main documents issues to Iraqi nationals, together with the Iraqi Passport, Citizenship Certificate, Civil Status Identity Card and Food Ration Card. It can be issued to anybody as it indicates where somebody lives/their locality and place of registered presence.</i>
PUBLIC DISTRIBUTION SYSTEM (FOOD RATION) CARD	Nationals	<i>Issued to allow access to government services and required to be produced in order to obtain various civil documentation. In the past it has had other usages, such as voter registration. It is considered to be the strongest form of civil identity documentation in Iraq.¹¹²</i>
PC-MOI ¹¹³ Red CARDS	Palestinian refugees	<i>Only applies to Palestinian refugees who arrived in 1948 or later (including their descendants).</i>
PC-MOI YELLOW CARDS	Palestinian refugees	<i>Only applies to Palestinian refugees who arrived in 1967 or later (including their descendants).</i>
PC-MOI REFUGEE CARDS	Refugees in Iraq	<i>Originally applied to all non-Palestinian refugees in Iraq. However, since early 2018 Palestinians are eligible for refugee cards and they do not distinguish between their dates of arrival.</i>
MOI TRAVEL DOCUMENT	Palestinian refugees who arrived in 1948	<i>The MOI Travel Document is issued by the Ministry of Interior Resident Affairs Directorate.</i>
PALESTINIAN PASSPORT	All other Palestinian refugees in Iraq	<i>The Palestinian Passport is issued by the Palestinian Embassy in Baghdad.</i>
UNHCR Certificate	Refugees in Iraq, including some Palestinian refugees from Iraq	<i>Most refugees who have registered with UNHCR in Iraq possess a UNHCR Certificate, unless lost or stolen. In Iraq, the certificate issued by UNHCR may be titled 'Asylum Seeker Certificate' (not 'Refugee Certificate'), but it is issued to persons UNHCR considers to be refugees. Palestinian refugees from Iraq hold a UNHCR Certificate and/or a PC-MOI ID Card.</i>

It is important to note that the table above lists some Iraqi documents, but it is not exhaustive.¹¹⁴ It also must be noted that in many cases stateless individuals do not have any documentation at all.

¹¹² Despite being intended only as a food ration card, this is considered to be the strongest form of civil identity documentation in Iraq because it is considered to be the most resistant to fraud due to each having a unique code and the possibility to search the database for details to cross-check the holder's identity. It is also one of the few electronic ID systems in Iraq.

¹¹³ Iraqi Permanent Committee for Refugee Affairs of the Ministry of Interior (PC-MOI).

¹¹⁴ Documents obtained from: UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019, available at: <https://www.refworld.org/docid/5cc9b20c4.html>; Australian Department of Foreign Affairs and Trade, *Country Information Report – Iraq*, 9 October 2017, at 5.27, available at: <https://dfat.gov.au/about-us/publications/Documents/country-information-report-iraq.pdf>; Humanitarian Practice Network, *Identity crisis? Documentation for the displaced in Iraq*, October 2015, available at:



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Statelessness is often overlooked in asylum and migration debates. It is a hidden but very real issue affecting many refugees and migrants in Europe.

#StatelessJourneys is a joint project between the European Network on Statelessness and the Institute on Statelessness and Inclusion. It was designed to expose gaps, identify solutions and deliver evidence-based advocacy to secure the protection of stateless refugees and migrants, and to prevent new cases of statelessness arising in Europe.

For more information about the issue and the project please visit <https://statelessjourneys.org>



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