

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	1340
Land:	Irak
Kilde:	EASO
Titel:	Country of Origin Information Report. Iraq - Treatment of Iraqis with perceived affiliation to ISIL
Udgivet:	1. oktober 2020
Optaget på baggrundsmaterialet:	13. januar 2021



EASO

Iraq: Treatment of Iraqis with perceived affiliation to ISIL

Country of Origin Information Report

October 2020



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Luxembourg: Publication Office of the European Union, 2020

ISBN 978-92-9485-644-9

doi: 10.2847/726036

BZ-02-20-559-EN-N

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Acknowledgements

EASO acknowledges as the drafter of this report, France's Office for the Protection of Refugees and Stateless Persons (OFPRA), Information, Documentation and Research Division (DIDR).

Furthermore, the following national asylum and migration department contributed by reviewing this report together with EASO:

Denmark, Danish Immigration Service

Additionally, the following external organisation reviewed the report:

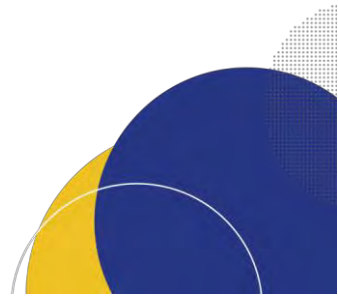
ACCORD, Austrian Centre for Country of Origin and Asylum Research and Documentation

It must be noted that the review carried out by the mentioned departments, experts or organisations contributes to the overall quality of the report, but does not necessarily imply their formal endorsement of the final report, which is the full responsibility of EASO.

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Disclaimer

This report was written according to the EASO COI Report Methodology (2019).¹ The report is based on carefully selected sources of information. All sources used are referenced.

The information contained in this report has been researched, evaluated and analysed with utmost care. However, this document does not claim to be exhaustive. If a particular event, person or organisation is not mentioned in the report, this does not mean that the event has not taken place or that the person or organisation does not exist.

Furthermore, this report is not conclusive as to the determination or merit of any particular application for international protection. Terminology used should not be regarded as indicative of a particular legal position.

'Refugee', 'risk' and similar terminology are used as generic terminology and not in the legal sense as applied in the EU Asylum Acquis, the 1951 Refugee Convention and the 1967 Protocol relating to the Status of Refugees.

Neither EASO nor any person acting on its behalf may be held responsible for the use which may be made of the information contained in this report.

The drafting of this report was finalised in October 2020 with the reference period ending 31 July 2020. Any event taking place after this date is not included in this report. More information on the reference period for this report can be found in the methodology section of the [Introduction](#).

¹ EASO, EASO Country of Origin Information (COI) Report Methodology, June 2019, [url](#)

Glossary and abbreviations

<i>Asayish</i>	Intelligence services of the Kurdistan Region of Iraq
IDP	Internally Displaced Person
ISF	Iraqi Security Forces
ISIL	Islamic State in Iraq and the Levant, Islamic State (IS) or ISIS
PMU	Popular Mobilisation Units or Popular Mobilisation Forces or <i>Al-hashd al Shaabi</i>
KRG	Kurdistan Regional Government
KRI	Kurdistan Region of Iraq - refers to Dohuk, Erbil, Sulaymaniyah governorates
<i>mukhtar</i>	Local community leader
<i>peshmerga</i>	Military forces of the Kurdistan Region of Iraq
<i>tabriya</i>	Criminal complaint against a family member accused of ISIL affiliation

Introduction

The purpose of this report is to provide relevant information regarding the treatment of individuals in Iraq in relation to ISIL affiliation, for international protection status determination, including refugee status and subsidiary protection, and in particular for use in developing EASO's updated country guidance on Iraq, following from the 2019 Iraq Country Guidance that was previously published.

This report is produced in line with the EASO COI Report Methodology (2019)² and the EASO COI Writing and Referencing Style Guide (2019)³. This report should be read in conjunction with other EASO COI reports published on Iraq in 2019 and in 2020. These reports provide relevant information regarding topics such as the main armed actors, targeted violence, and armed conflict developments in Iraq.⁴

Methodology

Defining the terms of reference

This report covers the treatment of Iraqis perceived to have ISIL ties and their families, from 1 January 2019 to 31 July 2020.

The terms of reference (ToR) of this report were defined by EASO based on discussions held and input received from COI experts in the EASO COI specialist network on Iraq and from policy experts in EU+ countries within the framework of a Country Guidance update on Iraq. This COI report was drafted for the purpose of developing an analysis of particular profiles relating to ISIL affiliation.

The ToR are attached in [Annex 2](#).

Collecting information

The information gathered is a result of desk research using public, specialised paper-based and electronic sources from June until 31 July 2020, in line with the reference period. Some additional information was added in October 2020 during the finalisation of this report in response to feedback received during the quality control process.

Quality control

This report was written according to the EASO COI Report Methodology (2019) which requires a quality review process. The report was peer reviewed by EASO and the departments mentioned in the [acknowledgements](#) section.

Sources

This report uses publicly available published sources, including human rights bodies, governmental and non-governmental bodies, international agencies and organisations such as the United Nations, media sources, and think tanks.

² EASO, EASO Country of Origin Information (COI) Report Methodology, June 2019, [url](#)

³ EASO, EASO Writing and Referencing Guide, June 2019, [url](#)

⁴ EASO COI reports can be found on the EASO COI Portal: [url](#)

Structure and use of the report

The report is divided into three chapters. The first chapter focuses on the treatment of Iraqis, including children, who are perceived to be affiliated with the Islamic State in Iraq and the Levant (ISIL) by State actors, such as the security forces and the judicial system. The second chapter analyses the treatment of families of perceived ISIL members. The last chapter covers access for Iraqis perceived as having ISIL ties to effective redress measures and state protection.

Map



Map 1: UN, July 2014, Iraq⁵

⁵ UN, Map No. 3835 Rev. 6, July 2014, [url](#)

1. Treatment of Iraqis perceived to be affiliated with ISIL by state actors

Between 2014-2018, during the fight against the Islamic State of Iraq and the Levant (ISIL), numerous reports highlighted serious human rights abuses conducted by military forces or associated forces, including war crimes, unlawful killings, abductions and revenge attacks targeting mostly Sunni civilians, perceived to be ISIL affiliates, in particular men or boys of fighting age. Thousands of perceived ISIL fighters or affiliates, including children, have been arrested and prosecuted in Iraqi counterterrorism courts, and hundreds have been sentenced to death.⁶ Reports denounced lack of fair trials, based on forced confessions, obtained through torture and other forms of ill treatment.⁷ Families with perceived ISIL ties, 'usually because of family name, tribal affiliation or area of origin'⁸, or due to lack of civic documentation,⁹ have also been targeted by measures of collective punishment and stigmatisation by government forces, other armed groups and the community.¹⁰

Thousands of people, have been profiled as ISIL supporters, and have been arrested,¹¹ prosecuted, detained and tortured by Iraqi and KRG forces, including children.¹² Human Rights Watch has listed 'a range of actors screening and detaining ISIS suspects,' including:

- army and military intelligence services;
- Counterterrorism Service;
- National Security Service;
- Emergency Response Division;
- Federal Police;
- the intelligence branch of the Ministry of Interior;
- Popular Mobilisation Forces;
- Asayish (KRG security forces) and the Peshmerga (KRG military forces).¹³

Iraqi and KRG forces have screened thousands of individuals fleeing ISIL-held areas for ISIL affiliation based on broad criteria, such as being men and boys of fighting age¹⁴, family connections with alleged ISIL members,¹⁵ and similarity of name to an alleged ISIL suspect name on 'wanted lists'.¹⁶ Other factors include alleged affiliation with a tribe perceived to have provided support to ISIL,¹⁷ and whether a person resided in and/or fled from an area formerly held by ISIL.¹⁸ There have been reports

⁶ EASO, Iraq: Targeting of Individuals, March 2019, [url](#), see sections: 1.2 Sunni perceived to be ISIL collaborators or sympathisers (1.2.1 Prosecution of ISIL suspects; 1.2.2 Retaliatory violence; 1.2.3 Targeting by KRG Forces); 1.5 Members of tribes with (perceived) affiliation with ISIL

⁷ EASO, Iraq: Targeting of Individuals, March 2019, [url](#), see sections: 1.2.1 Prosecution of ISIL suspects; HRW, World Report for 2019 : Iraq , 14 January 2020, [url](#)

⁸ HRW, World Report for 2019 : Iraq , 14 January 2020, [url](#)

⁹ NRC, Paperless People of Post-Conflict Iraq, 2019, [url](#), p. 14

¹⁰ EASO, Iraq: Targeting of Individuals, March 2019, [url](#), sections: 1.4 family members of actual or perceived ISIL members; 1.5 Members of tribes with (perceived) affiliation with ISIL; 3.5.6 Sexual violence

¹¹ AP, Iraq holding more than 19,000 because of IS, militant ties, 22 March 2018, [url](#)

¹² HRW, Everyone Must Confess - Abuses against Children Suspected of ISIL Affiliation, 6 March 2019, [url](#), pp. 4, 14

¹³ HRW, Everyone Must Confess - Abuses against Children Suspected of ISIL Affiliation, 6 March 2019, [url](#), p. 13, fn 24

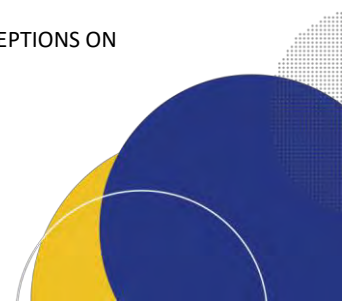
¹⁴ AI, IRAQ: THE ROAD TO JUSTICE – A LONG WAY TO GO, November 2019 [url](#), p.7

¹⁵ HRW, Iraq: Military Enter Camp, Occupy School for 'Screening', July 18, 2019, [url](#)

¹⁶ AI, IRAQ: THE ROAD TO JUSTICE – A LONG WAY TO GO, , November 2019 [url](#), p. 7

¹⁷ Oxfam, Protection Landscape in Diyala and Kirkuk Iraq, 5 March 2020, [url](#), p. 17; IOM, WEST MOSUL PERCEPTIONS ON RETURN AND REINTEGRATION AMONG STAYEES, IDPS AND RETURNEES, June 2019, [url](#), p. 34

¹⁸ AI, IRAQ: THE ROAD TO JUSTICE –A LONG WAY TO GO, November 2019, [url](#), p. 8



of ‘widespread stigmatization against entire tribes or communities for having survived ISIS rule’.¹⁹ Similarly, a 2018 study by the United Nations University and Institute for Integrated Transitions, about the experiences of Iraqis who were under ISIL rule, published in 2018, remarked that the Iraqi government’s approach to individuals associated with ISIL is ‘widely perceived among Sunnis as collectively punishing Sunni civilians’ for living in former ISIL territory.²⁰

This chapter examines the treatment by state actors, such as security and judicial institutions, of Iraqis perceived to be affiliated with ISIL.

For an extended analysis on these topics covering 2014 – 2018, see EASO’s COI report [Iraq: Targeting of Individuals](#), published in March 2019.²¹

1.1 Arrest, forced disappearances, prosecution, treatment in detention

1.1.1 Arrest and forced disappearances

In its annual report on Iraq for 2019, Human Rights Watch stated that Iraqi forces were reported to have continued to ‘arbitrarily’ and ‘regularly’ detain ISIS suspects, ‘many for months, without any court order or arrest warrant, and often without providing any reasons for the arrest’.²² Human Rights Watch also observed systematic violations of due process rights of ISIL suspects, adults and children²³, including seeing a judge within 24 hours, access to a lawyer during interrogations²⁴, having their families notified²⁵ and being able to communicate with them.²⁶ Human Rights Watch wrote that it ‘does not know of a single instance since 2016 where KRG authorities notified a family member of an ISIS suspect directly that the suspect was in custody’.²⁷ USDOS 2019 Trafficking in Persons Report stated that authorities in both Iraq and KRI ‘continued to inappropriately detain and prosecute without legal representation children allegedly affiliated to ISIS—some of whom were victims of forcible recruitment and use—and used abusive interrogation techniques and torture to gain children’s confessions’.²⁸

Human Rights Watch, citing an article by the New Yorker, reported that in relation to ISIL suspects ‘according to senior Iraqi intelligence officials, the lists of suspects reportedly grew to include approximately 100,000 names.’²⁹ Human Rights Watch further noted that this number included people who were suspected of involvement with ISIL in any capacity, including in support functions such as drivers or cooks,³⁰ or who had no direct ties to ISIL except their family members’ involvement,

¹⁹ InterAction, *Moving Forward Together, Leaving No One Behind: From Stigmatization to Social Cohesion in Post-Conflict Iraq*, October 2018, [url](#), p. 3

²⁰ Revkin, M. R., *The Limits of Punishment: Transitional Justice and Violent Extremism – Iraq Case Study*, May 2018, [url](#), p. 27

²¹ EASO, *Iraq: Targeting of Individuals*, March 2019, [url](#), sections: 1.2 Sunni perceived to be ISIL collaborators or sympathisers (1.2.1 Prosecution of ISIL suspects; 1.2.2 Retaliatory violence; 1.2.3 Targeting by KRG Forces) 1.4 family members of actual or perceived ISIL members; 1.5 Members of tribes with (perceived) affiliation with ISIL; 3.5.6 Sexual violence

²² HRW, *World Report for 2019 : Iraq*, 14 January 2020, [url](#)

²³ HRW, *Everyone Must Confess - Abuses against Children Suspected of ISIL Affiliation*, 6 March 2019, [url](#), p. 17

²⁴ UN OHCHR, *Iraq: UN expert says prosecution of ISIL leadership must be fair and thorough*, 4 April 2019, [url](#)

²⁵ HRW, *Everyone Must Confess - Abuses against Children Suspected of ISIL Affiliation*, 6 March 2019, [url](#), p. 33

²⁶ HRW, *World Report for 2019 : Iraq*, 14 January 2020, [url](#)

²⁷ HRW, *Everyone Must Confess - Abuses against Children Suspected of ISIL Affiliation*, 6 March 2019, [url](#), p. 33

²⁸ USDOS, *2019 Trafficking in Persons Report - Iraq*, June 2019, [url](#)

²⁹ HRW quoted as a reference in an article from the New Yorker, however, the exact source of the figure 100 000 within the article is not clear. HRW, *Everyone Must Confess - Abuses against Children Suspected of ISIL Affiliation*, 6 March 2019, [url](#), p. 13; see also: *New Yorker (The), Iraq’s Post-ISIS Campaign of Revenge*, 23 December 2018, [url](#)

³⁰ HRW, *Everyone Must Confess - Abuses against Children Suspected of ISIL Affiliation*, 6 March 2019, [url](#), p. 3

or because community members informed on persons, often based solely on ‘personal or local grievances’ or ‘following forced confessions involving torture.’³¹ A senior Iraqi intelligence official told Human Rights Watch that ‘thousands of ISIS suspects in custody have been arrested based on incorrect information or because their names were falsely reported.’³² Human Rights Watch also recorded cases where people were arrested based on similarities or matching names with ISIL suspects.³³ The same source reported that ‘authorities [...] have detained adults and children who had only minimal association with ISIS, or no affiliation at all.’³⁴ In a report published on 5 March 2020, OXFAM found that in Diyala governorate, in 5 out of 10 locations researched,³⁵ ‘[i]n-camp and out-of-camp IDP respondents reported that state armed groups carry out arrests based on their wanted lists, resulting in unlawful identification and detention of boys and men who are not affiliated with ISIS’. There were also reports that armed groups asked the detainees’ families for ransom.³⁶

Moreover, Amnesty International noted that the whereabouts of thousands of men and boys who were reportedly forcibly disappeared between 2014 and 2018 by ISF, supported by the Popular Mobilisation Units (PMU), or by KRG forces³⁷ while fleeing ISIL-held areas, remained unknown as of February 2020.³⁸ Others ‘may have been extrajudicially executed [or] entered a vast network of official and unofficial detention centers where they are routinely subjected to torture and other ill-treatment’³⁹ in order to force them to confess their ISIL affiliation.⁴⁰

Amnesty International’s 2019 annual report on Iraq stated that displaced Iraqis perceived to be associated with ISIL were ‘subjected to enforced disappearance following arrest’ by Iraqi authorities at checkpoints, in camps and in areas of origin that they returned to, many of which were in former ISIL strongholds.⁴¹ Human Rights Watch also reported in its 2019 World Report on Iraq that ISIL suspects were arbitrarily detained and prosecuted.⁴²

1.1.2 Prosecution and fair trial

According to analysis by the United Nations Assistance Mission for Iraq (UNAMI), the Iraqi judiciary processed over 20 000 terrorism-related cases between January 2018 and October 2019, with thousands still pending as of January 2020. The UNAMI report stated that ‘[g]iven the heavy caseload of ISIL-related prosecutions, the consistent pattern of well-organized trial proceedings was notable’.⁴³ However, observers also describe legal proceedings of ISIL suspects, including children⁴⁴, in Iraq, as

³¹ HRW, Everyone Must Confess - Abuses against Children Suspected of ISIL Affiliation, 6 March 2019, [url](#), pp. 3, 14.

³² HRW, Everyone Must Confess - Abuses against Children Suspected of ISIL Affiliation, 6 March 2019, [url](#), p. 14; see also Al Jazeera, Iraq government employees face prosecution for working under ISIL, 9 July 2019, [url](#)

³³ HRW, Everyone Must Confess - Abuses against Children Suspected of ISIL Affiliation, 6 March 2019, [url](#), p. 14

³⁴ HRW, Everyone Must Confess - Abuses against Children Suspected of ISIL Affiliation, 6 March 2019, [url](#), p. 14

³⁵ OXFAM’s study was conducted in 23 locations in Diyala and Kirkuk, targeting IDPs/returnees/host communities to understand ‘protection threats’ in these areas. OXFAM, Protection Landscapes in Diyala and Kirkuk, Iraq, 5 March 2020, [url](#), p. 11

³⁶ OXFAM, Protection Landscapes in Diyala and Kirkuk, Iraq, 5 March 2020, [url](#), pp. 11, 17

³⁷ HRW, Kurdistan Region of Iraq: 350 Prisoners ‘Disappeared’, 21 December 2017, [url](#); UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to Iraq [A/HRC/38/44/Add.1], 20 June 2018, [url](#), p. 9

³⁸ AI, Iraq 2019, 18 February 2020, [url](#)

³⁹ AI, IRAQ: THE ROAD TO JUSTICE – A LONG WAY TO GO, November 2019, [url](#), p. 7

⁴⁰ AI, IRAQ: THE ROAD TO JUSTICE – A LONG WAY TO GO, November 2019, [url](#), p. 7

⁴¹ AI, Iraq 2019, 18 February 2020, [url](#)

⁴² HRW, World Report for 2019 : Iraq , 14 January 2020, [url](#)

⁴³ UNAMI’s findings are based on the monitoring of 794 criminal court hearings in Anbar, Baghdad, Basra, Dhi Qar, Dohuk, Erbil, Kirkuk, Ninewa and Wassit governorates, involving men, women and children facing charges under Iraq’s anti-terrorism laws; UNAMI/OHCHR, Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL, January 2020, [url](#), p. iv

⁴⁴ HRW, Everyone Must Confess - Abuses against Children Suspected of ISIL Affiliation, 6 March 2019, [url](#), p. 4

falling short of fair trial standards.⁴⁵ Human Rights Watch described proceedings of Iraqi ISIL suspects as ‘inherently unfair and replete with due process violations’, ‘unjust’, and failing to meet ‘even the most basic markers of due process’.⁴⁶ The NGO, PAX, similarly stated in an October 2019 policy brief on ISIL trials that under anti-terrorism legislation, thousands of alleged ISIL members have been sentenced to either execution or long prison sentences, noting that these ‘frequently fail to meet basic standards of fairness’.⁴⁷

Summary trials of ISIL suspects were reported by Human Rights Watch to last as short as five minutes.⁴⁸ UNAMI expressed ‘serious concerns that basic fair trial standards have not been respected in terrorism-related trials’.⁴⁹ Some of the main issues of concern reported by human rights observers regarding the prosecution of ISIL suspects in Iraq relate to overreliance on anonymous informants and intelligence or security reports.⁵⁰ Overreliance on confessions was also reported, including with frequent allegations of torture or ill treatment that appeared to be inadequately addressed by courts.⁵¹ Concerns reportedly also relate to ISIL suspects being prosecuted for association with, or membership of, a terrorist organisation⁵² under the Federal Anti-Terrorism Law⁵³ in an overtly broad manner.⁵⁴ For example, ‘in one case before the Nineveh counterterrorism court in early January, a male nurse was prosecuted under the law because he provided ISIS members with medical care after ISIS took over the area.’⁵⁵ UNAMI described two hearings in which ‘one defendant was sentenced to eight years of imprisonment for providing physiotherapy to wounded ISIL members in Erbil and another received a life sentence in Mosul for providing medical services to wounded ISIL members as pharmacist.’⁵⁶ Another issue highlighted by UNAMI/OHCHR was the ineffective legal representation, including inadequate time and facilities for court-appointed lawyers to prepare defence.⁵⁷ In the KRG, children suspected of ISIL ties interviewed by HRW also said their hearings were conducted in Kurdish, a language they did not speak.⁵⁸ Nevertheless, a Human Rights Watch report published on 13 March 2019 noted improvements in how proceedings at the Ninewa governorate’s Tal Keyf counterterrorism court was operating; noting a ‘significant shift in the way that prosecutions are proceeding’.

⁴⁵ UNAMI/OHCHR, Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL, January 2020, [url](#), p. 13; AI, Iraq 2019, 18 February 2020, [url](#); HRW, ISIS Suspect Transfers to Iraq Replete with Risks, 1 November 2019, [url](#)

⁴⁶ HRW, ISIS Suspect Transfers to Iraq Replete with Risks, 1 November 2019, [url](#)

⁴⁷ PAX, ISIS-only tribunal: selective, politicised justice will do more harm than good, 31 October 2019, [url](#), p. 2

⁴⁸ HRW, Transfer of ISIS Suspects, Including Foreigners, to Iraq Raises Torture Concerns, 4 March 2019, [url](#)

⁴⁹ UNAMI/UN OHCHR, Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL, January 2020, [url](#), p. 13

⁵⁰ UNAMI/UN OHCHR, Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL, January 2020, [url](#), pp. 6-8. See also, AI, Iraq 2019, 18 February 2020, [url](#); HRW, Everyone Must Confess - Abuses against Children Suspected of ISIL Affiliation, 6 March 2019, [url](#), pp. 19, 27

⁵¹ UNAMI/UN OHCHR, Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL, January 2020, [url](#), pp. 8-9. See also, AI, Iraq 2019, 18 February 2020, [url](#); HRW, World Report for 2019: Iraq, 14 January 2020, [url](#)

⁵² UNAMI/UN OHCHR, Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL, January 2020, [url](#), p. 11

⁵³ Iraqi Parliament, Iraq Anti-Terrorism Law (Law No. 13 of 2005), 7 November 2005, [url](#); On KRG’s legislation, see Kurdistan Parliament, Law No. 3 (2006) An act for anti-terrorism in the Kurdistan Region – Iraq, [url](#)

⁵⁴ HRW, World Report for 2019: Iraq, 14 January 2020, [url](#); UNAMI/OHCHR, Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL, January 2020, [url](#), pp. 9-11; HRW, Everyone Must Confess - Abuses against Children Suspected of ISIL Affiliation, 6 March 2019, [url](#), pp. 46, 47.

⁵⁵ HRW, Iraq: Key Courts Improve ISIS Trial Procedures, But Changes Needed in Laws, Response to Torture, Other Courts, 13 March 2019, [url](#)

⁵⁶ UNAMI/UN OHCHR, Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL, January 2020, [url](#), p. 11

⁵⁷ UNAMI/UN OHCHR, Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL, January 2020, [url](#), pp. iv, 6-7

⁵⁸ HRW, Everyone Must Confess - Abuses against Children Suspected of ISIL Affiliation, 6 March 2019, [url](#), p. 5

This included 'requiring a higher evidentiary standard to detain and prosecute suspects, minimizing the court's reliance on confessions alone, erroneous wanted lists, and unsubstantiated allegations.' According to the head of the investigation court, cited in the report, the court processed 9 000 cases in 2018, '[o]f those, 2,036 cases were dropped; 3,162 remain under investigation; 2,827 were referred to trial, including 561 children; and 975 were transferred to other courts because the cases were not linked to terror charges'. Moreover, the report stated that on 4 February 2019, Human Rights Watch sat on a trial before the court and 'observed judges applying the new rules' and added that '[t]here is some indication that these heightened evidentiary standards are being applied elsewhere'.⁵⁹ In one example, on 31 March 2020, Shafaq News reported that the Ninewa counter-terrorism court released 50 detainees due to insufficient evidence.⁶⁰

According to UNAMI/OHCHR, 'the KRI Anti-Terror Law provides consecutive sentences for different acts of terrorism, ranging from the death penalty to life imprisonment to imprisonment for less than 15 years. By contrast, the Federal Anti-Terrorism Law requires the mandatory application of the death penalty for any person who commits any of the terrorist acts detailed in the law. Those who incite, plan, finance, or assist terrorists face the same penalty as the main perpetrator of the terrorist acts detailed in the law.'⁶¹ According to reports, the death penalty⁶² has been handed down following unfair trials in terrorism-related hearings in federal courts.⁶³ According to UNAMI, courts in Kurdistan sentenced ISIL defendants to death less frequently compared to federal courts in central Iraq. Out of 186 trial hearings observed by UNAMI in the KRI, only one death penalty was handed down. Out of 317 terrorism-related trial hearings in federal courts observed by UNAMI, judges applied the death penalty in 100 instances for 105 defendants, which represents a rate of 31.5 %.⁶⁴ In June 2020, an unnamed Iraqi security source, cited by RT Arabic, stated that more than 3 000 alleged ISIL members who were sentenced to death months ago remain in prison, as the sentences have not been carried out. The source added that some of those 3 000 ISIL members were handed over to the Iraqi authorities by the Syrian Democratic Forces in Syria.⁶⁵ Moreover, Iraqi courts have sentenced children suspected of ISIL association to longer sentences – estimated between 5 to 15 years - than KRG courts.⁶⁶ Children interviewed by Human Rights Watch who were convicted in KRI facilities had been sentenced to six to nine months in prison.⁶⁷ According to the same source, the KRG states that sentences have ranged from one month to five years.⁶⁸ UNAMI also reported little consistency or clarity as to the basis on which sentencing decisions were reached, where trials with similar facts

⁵⁹ HRW, Iraq: Key Courts Improve ISIS Trial Procedures, 13 March 2019, [url](#)

⁶⁰ Shafaq News, "العراق يخلي سبيل 50 موقوفاً وفق المادة 4/1 م 4/1 اهاب لـ"عدم كفاية الأدلة" [Iraq Releases 50 Persons Detained on the Basis of Art. 1/4 Terrorism "for Insufficient Evidence"], 31 March 2020, [url](#)

⁶¹ UNAMI/UN OHCHR, Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL, January 2020, [url](#), pp. v, 4, 10.; Iraqi Parliament, Iraq Anti-Terrorism Law (Law No. 13 of 2005), 7 November 2005, [url](#)

⁶² UNAMI/UN OHCHR, Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL, January 2020, [url](#), pp. v, 4, 10.; Iraqi Parliament, Iraq Anti-Terrorism Law (Law No. 13 of 2005), 7 November 2005, [url](#)

⁶³ AI, Iraq 2019, 18 February 2020, [url](#); UNAMI/UN OHCHR, Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL, January 2020, [url](#), p. 12; HRW, World Report for 2019: Iraq, 14 January 2020, [url](#)

⁶⁴ UNAMI/UN OHCHR, Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL, January 2020, [url](#), p. 12

⁶⁵ RT, "داعش" حكموا بالإعدام ولم تنفذ بهم العقوبة: مصدر عراقي لـ RT: More than 3 000 'Da'esh' Members Were Sentenced to Death but the Sentence Was not Carried out], 1 June 2020, [url](#)

⁶⁶ HRW, Everyone Must Confess - Abuses against Children Suspected of ISIL Affiliation, 6 March 2019, [url](#), p. 19

⁶⁷ HRW, Everyone Must Confess - Abuses against Children Suspected of ISIL Affiliation, 6 March 2019, [url](#), p. 29

⁶⁸ HRW, Everyone Must Confess - Abuses against Children Suspected of ISIL Affiliation, 6 March 2019, [url](#), p. 29

presented during hearings resulted in differing convictions, ranging from death sentences and life sentence to lesser terms of imprisonment or, on some occasions, acquittal.⁶⁹

The head of the investigation court in Nineveh, Raed al-Maslah, noted that there were improvements in the fair trial standards in the governorate's counter-terrorism court and there were indications of heightened evidentiary standards to detain and prosecute suspects. Another source gave the opinion that there were indications that progress was also applied elsewhere in Iraq, including in Karkh court in Baghdad and Diyala. Human Rights Watch wrote that 'under the new procedures, anyone arrested typically appears before an investigative judge within 48 hours. If they maintain innocence, intelligence officers consult the accused's local community leader and two neighbors to assess the credibility of the allegations. If the person is cleared, including based on witness testimony, the court issues a notice to remove the defendant's name from wanted lists countrywide, reducing the possibility of rearrests.' However, Human Rights Watch reported that these practices were not applied consistently in proceedings across Iraq, with continuous reports of torture, forced confessions, and deaths in custody.⁷⁰

1.1.3 Treatment in detention

Throughout 2019, human rights observers continued to report the use of torture and ill treatment by Iraqi and KRG authorities, particularly of detainees held on suspicion of ISIL affiliation.⁷¹ Human Rights Watch and Amnesty International described the use of torture of ISIL suspects, including children, across Iraq throughout 2019 as 'widespread'.⁷² Children suspected to have ties with ISIL were reported to be 'exposed to a heightened risk of violence, including sexual violence, abuse, exploitation and neglect' in detention, according to the UN.⁷³ For instance, in KRI, in Erbil, at the Reformatory for Women and Children, despite reported better detention conditions than in other facilities, Human Rights Watch expressed 'grave concerns', in particular due to 'beatings and verbal abuse' and 'death threats' by some guards towards children detained.⁷⁴ Torture continued to be reported among sources in 2020: The Arabic-language news outlet, Elaph, reported that the Iraqi Salvation Development Front party accused the government of subjecting around 15 000 prisoners, including ISIL members, to torture in Al-Hout prison in Al-Nasiriyya, Thi Qar governorate, and claiming that tens have died since the beginning of 2020; they called on the government to investigate human rights violations.⁷⁵ In a 2020 interview with the organisation Prison Insider, which raises awareness on prison conditions, Agnès Callamard, the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, stated that 'inmates are almost, without fail, victims of torture or ill treatment by the authorities' committed during detention in order to extract confessions.⁷⁶

⁶⁹ UNAMI/UN OHCHR, Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL, January 2020, [url](#), pp. 10-11

⁷⁰ HRW, Iraq: Key Courts Improve ISIS Trial Procedures, But Changes Needed in Laws, Response to Torture, Other Courts, 13 March 2019, [url](#)

⁷¹ UNAMI/UN OHCHR, Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL, January 2020, [url](#), pp. 8-9; HRW, World Report for 2019: Iraq, 14 January 2020, [url](#); AI, Iraq 2019, 18 February 2020, [url](#)

⁷² HRW, World Report for 2019: Iraq, 14 January 2020, [url](#); AI, Iraq 2019, 18 February 2020, [url](#)

⁷³ UN Security Council, Children and armed conflict in Iraq, 23 December 2019, [url](#), para. 42

⁷⁴ HRW, Everyone Must Confess - Abuses against Children Suspected of ISIL Affiliation, 6 March 2019, [url](#), pp. 5,29

⁷⁵ Elaph, اتهام السلطات العراقية بتعذيب معتقلين حتى القتل دعت المنظمات الحقوقية إلى التحقيق بوفاة العشرات [Human Rights Organisations Called to Investigate Dozens of Deaths: Iraqi Authorities Accused of Killing Detainees under Torture], 17 April 2020, [url](#)

⁷⁶ Prison Insider, "Parodies of justice" in Iraq, 21 January 2020, [url](#)

At the end of 2018, approximately 1 500 children were detained for alleged ties with ISIL by Iraqi and KRG forces, including at least 150 foreign children.⁷⁷ According to the UN Secretary General, as of June 2019, ‘at least 778 children (743 boys and 35 girls), most of them between the ages of 15 and 18 but some as young as 10 years old, remained in pre-trial or post-trial detention on national security-related charges.’⁷⁸

Human Rights Watch reported that in Ninewa governorate, detainees, including women and children, have been held in ‘extreme[ly]’ overcrowded facilities, ‘for extended periods in conditions so degrading that they amount to ill treatment’.⁷⁹ In 2019, Belkis Wille of Human Rights Watch observed the ‘horrible conditions of prisons’ holding ISIL suspects in Ninewa governorate, including Tal Kayf, Faisaliya and Tasfirat pre-trial detention facilities.⁸⁰ Out of the 4 500 detainees, 1 300 have been tried but not transferred to prisons, with cases of people remaining ‘in the crowded facility for up to six months after they were convicted’. Members of parliament and Mosul deputy governor quoted by Human Rights Watch described prisons located close to Mosul as a ‘humanitarian catastrophe’.⁸¹ Moreover, Human Rights Watch reported that in federal Iraq, children suspected of ISIL affiliation are sometimes detained with adults, lack access to education and are denied contact with their families.⁸² Find more information about access to education in [Section 2.3](#).

1.1.4 After detention

UNOCHA remarked that many IDPs did not intend to return to their areas of origin for a broad range of reasons in the short term, including destroyed livelihoods, lack of basic services, security, and fear of re-arrest; specifically those with perceived ISIL affiliation appeared to have barriers obtaining security clearances.⁸³ Human Rights Watch noted that children who served sentences in KRI feared re-arrest if they returned to Baghdad-controlled areas due to lack of coordination between the judicial systems.⁸⁴ Due in particular to fears of re-arrest, long-term stigmatisation, and fears of retaliatory attacks, children interviewed by Human Rights Watch believed that ‘after their release, their only options were to live in a camp or to leave Iraq’.⁸⁵ The same source noted that Iraqi and KRG policies of detention and prosecution for association with ISIL have ‘profound negative consequences’ for children, including ‘family separation, displacement, and nearly insurmountable challenges to societal reintegration’.⁸⁶ For more information on families with perceived ISIL ties, see [Chapter 2](#).

⁷⁷ Moreover, ‘In 2017, according to HRW ‘80 percent [of them] were held by Iraqi federal authorities, and the rest were held by the KRG.’ HRW, Iraq: ISIS Child Suspects Arbitrarily Arrested, Tortured Children Should Be Rehabilitated, Reintegrated, 6 March 2019, [url](#)

⁷⁸ UN Security Council, Children and armed conflict in Iraq, 23 December 2019, [url](#), pp. 8,9

⁷⁹ HRW, Iraq: Thousands Detained, Including Children, in Degrading Conditions, Three Nineveh Jails Way Over Capacity, 4 July 2019, [url](#)

⁸⁰ HRW, Iraq: Thousands Detained, Including Children, in Degrading Conditions, 4 July 2019, [url](#)

⁸¹ HRW, Iraq Authorities Acknowledge Horrific Prison Overcrowding, 5 August 2019, [url](#)

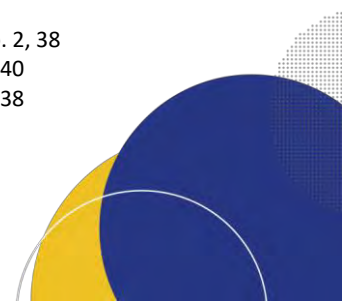
⁸² HRW, Iraq: ISIS Child Suspects Arbitrarily Arrested, Tortured Children Should Be Rehabilitated, Reintegrated, 6 March 2019, [url](#)

⁸³ UNOCHA, Humanitarian Response Plan - Iraq, January 2020, [url](#), p. 99

⁸⁴ HRW, Everyone Must Confess - Abuses against Children Suspected of ISIL Affiliation, 6 March 2019, [url](#), pp. 2, 38

⁸⁵ HRW, Everyone Must Confess - Abuses against Children Suspected of ISIL Affiliation, 6 March 2019, [url](#), p. 40

⁸⁶ HRW, Everyone Must Confess - Abuses against Children Suspected of ISIL Affiliation, 6 March 2019, [url](#), p. 38



2. Treatment of family members of perceived ISIL members or affiliates

As of June 2020, the International Organisation for Migration (IOM) displacement tracking matrix estimated that 1 381 332 people remained internally displaced in Iraq, while over 4.7 million Iraqis have returned to their area of origin.⁸⁷ Of those still displaced, 70 % have been displaced for more than 3 years, according to the Office of the United Nations High Commissioner for Human Rights (OHCHR).⁸⁸ IDP families have been described by Human Rights Watch as ‘uniquely vulnerable to abuse’ due to threats from unsafe return conditions, land mines, or revenge attacks.⁸⁹ In particular, those with ‘perceived affiliation to extremist groups,’ who are ‘among the most vulnerable,’ ‘face stigma and discrimination and have significant protection needs’⁹⁰ and ‘were at increased risk of being deprived of their basic rights’.⁹¹ Families with perceived ISIL affiliation have been ‘subjected to forms of collective punishment’ including looting, destruction of property and displacement, raising concerns among NGOs and UNAMI about the ‘marginalization and punishment’ of such families, particularly relating to female-headed households who have few support resources and who have widely reported being harassed by security personnel due to their ‘perceived vulnerability’.⁹²

IDPs and returnees suspected of ISIL ties have also been at risk of retaliatory acts and false accusations by tribes following ‘tribal law principles of collective responsibility that allow relatives of ISIL members to be held vicariously liable for crimes that they did not personally commit’.⁹³ USDOS also reported that ‘tribal pacts called for punishing false accusations of ISIS affiliation.’⁹⁴ A 2019 paper on Tribal Justice by Iraq analyst Haley Bobseine described the role of tribes in relation to the post-ISIL environment stating that tribes play an active role in mediating disputes post-ISIL, noting that ‘tribes are taking on a significant role in the administering of tribal justice for Islamic State family members and supporters—often resolving matters that the state is ill-equipped or unwilling to deal with.’ Tribal informal justice can broker agreements that prevent revenge attacks and contain communal tensions; however, she also notes that ‘tribes are pivotal in facilitating—and sometimes blocking—the return of more than 1.5 million IDPs.’⁹⁵ In March 2020, IOM observed that communities adopted mechanisms from tribal justice to handle the issue of returnees with perceived affiliation to ISIL, which included disavowal (the most common practice whereby IDPs denounce and deny allegiance to ISIL); denouncement (whereby individuals formally accuse a family member of ISIL membership); and return to a neighbouring area in the vicinity of the community of origin ‘as a temporary measure until tribal mediation between families of victims and families of alleged perpetrators is completed’. The source added that in some cases, relatives of victims from the local community might file a complaint to reject the return of IDPs to the security forces who would inform the community leaders that they would not be able to guarantee the safety of the returnees in question. If the returnee family becomes

⁸⁷ IOM, Iraq Displacement Tracking Matrix, n.d., [url](#)

⁸⁸ UN OHCHR, End of Mission Statement by the United Nations Special Rapporteur on the human rights of internally displaced persons, Ms. Cecilia Jimenez-Damary, upon conclusion of her official visit to Iraq – 15 to 23 February 2020, 27 February 2020, [url](#)

⁸⁹ HRW, Iraq: Not a Homecoming, 14 June 2019, [url](#)

⁹⁰ UNOCHA, Humanitarian Needs Overview - Iraq 2020, 17 December, [url](#), p. 5; See also: Oxfam, Protection Landscape in Diyala and Kirkuk Iraq, 5 March 2020, [url](#), p. 16

⁹¹ USDOS, 2019 Country Reports on Human Rights Practices: Iraq, [url](#), p. 33

⁹² CIVIC, ‘WE JUST WANT SOMEONE TO PROTECT US’ Civilian Protection Challenges in Kirkuk, December 2019, [url](#), pp. 23, 24

⁹³ IOM, WEST MOSUL PERCEPTIONS ON RETURN AND REINTEGRATION AMONG STAYEES, IDPS AND RETURNEES, June 2019, [url](#), p. 41

⁹⁴ USDOS, Country Reports on Human Rights Practices for 2019 – Iraq, March 2020, [url](#), p. 33

⁹⁵ Bobseine, H., Tribal Justice in a Fragile Iraq, [url](#), 7 November 2019, p. 2

secondarily displaced, tribal mediation might start and '[o]nce the case is settled (usually involving the payment of blood money) and the required payments made, the accused IDPs are able to return and the victims are unable to incite or perpetrate violence against them'.⁹⁶ IOM also observed that 'when the return of IDPs with perceived affiliation has been facilitated by the community through the involvement of community leaders ... returns have been more sustainable over time and returnees less exposed to secondary displacement than in larger communities with less tightknit community relations.'⁹⁷

In February 2020, the Special Rapporteur on the Human Rights of Internally Displaced Persons described similar issues as 'very concerning', highlighting 'widespread discrimination' faced by these families. She stated that 'not welcome in hosting Governorates, nor wanted back in their areas of origin, these families have been trapped in camps for years without a solution in sight'.⁹⁸

Family members of actual or perceived ISIL members, remained 'displaced in camps across Iraq – isolated trapped and exploited',⁹⁹ according to Amnesty International. It is further reported that these families 'have been stigmatized and punished for factors outside their control, including being related, however distantly, to men who were somehow involved with IS, or for fleeing from areas believed to be IS strongholds'. They have been subjected to 'serious human rights violations and collective punishments', including arbitrary arrests, harassment, sexual violence, and forced displacement by armed forces and militias.¹⁰⁰ Once labelled as 'ISIL families' ('*Awa'il Dawaish*' in Arabic), they 'lose the support of their extended families, village or tribe'.¹⁰¹ A number of families have limited access or according to one source have been denied basic assistance, including access to food and non-food items,¹⁰² access to medical¹⁰³ or psychological care,¹⁰⁴ civil documentation¹⁰⁵ and security clearance, severely restricting their freedom of movement.¹⁰⁶ Cases have been reported of PMUs looting properties belonging to perceived 'ISIL families'.¹⁰⁷ Children in those families have been subjected to 'extreme acts of violence'.¹⁰⁸ A number of them are 'at risk of statelessness'¹⁰⁹ due to lack of civil documentation and are denied access to education and other rights.¹¹⁰

⁹⁶ IOM Iraq, *Managing Return in Anbar: Community Responses to the Return of IDPs with Perceived Affiliation*, 26 March 2020, [url](#), p. 5, 14, 15

⁹⁷ IOM Iraq, *Managing Return in Anbar: Community Responses to the Return of IDPs with Perceived Affiliation*, 26 March 2020, [url](#), p. 9

⁹⁸ UN OHCHR, *End of Mission Statement by the United Nations Special Rapporteur on the human rights of internally displaced persons, Ms. Cecilia Jimenez-Damary, upon conclusion of her official visit to Iraq – 15 to 23 February 2020*, 27 February 2020, [url](#)

⁹⁹ AI, *IRAQ: THE ROAD TO JUSTICE – A LONG WAY TO GO*, November 2019, [url](#), pp. 7,8

¹⁰⁰ AI, *IRAQ: THE ROAD TO JUSTICE – A LONG WAY TO GO*, November 2019, [url](#), pp. 4,7,8,10

¹⁰¹ CIVIC, "WE JUST WANT SOMEONE TO PROTECT US" - Civilian Protection Challenges in Kirkuk, December 2019, [url](#), p. 26

¹⁰² CIVIC, "WE JUST WANT SOMEONE TO PROTECT US" - Civilian Protection Challenges in Kirkuk, December 2019, [url](#), p. 26; UN Security Council, *Children and armed conflict in Iraq*, 23 December 2019, [url](#), p. 15

¹⁰³ AI, *IRAQ: THE ROAD TO JUSTICE – A LONG WAY TO GO*, November 2019, [url](#), pp. 7,8; UN Security Council, *Children and armed conflict in Iraq*, 23 December 2019, [url](#), p. 15

¹⁰⁴ UN Security Council, *Children and armed conflict in Iraq*, 23 December 2019, [url](#), p. 15

¹⁰⁵ AI, *IRAQ: THE ROAD TO JUSTICE – A LONG WAY TO GO*, November 2019, [url](#), pp. 7,8

¹⁰⁶ NRC, *Paperless People of Post-Conflict Iraq*, 2019, [url](#), pp. 17-20. For more information, see part 2.3 of this report 'Restricted access to civil documentation and security clearance.'

¹⁰⁷ CIVIC, "WE JUST WANT SOMEONE TO PROTECT US" - Civilian Protection Challenges in Kirkuk, December 2019, [url](#), p. 14

¹⁰⁸ UN Security Council, *Children and armed conflict in Iraq*, 23 December 2019, [url](#), p. 15

¹⁰⁹ HRW, *Iraq: Not a Homecoming*, 14 June 2019, [url](#)

¹¹⁰ UNAMI/UN OHCHR, *The Right to Education in Iraq*, February 2020, [url](#), pp. 11-13; HRW, *Human Rights Watch Submission to the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) of Iraq's periodic report for the 74th CEDAW Session*, September 2019, [url](#), p. 4; HRW, *Iraq: School Doors Barred to Many Children Affects Thousands Who Lived Under ISIS Rule*, 28 August 2019, [url](#); HRW, *Iraq: Not a Homecoming*, 14 June 2019, [url](#); NRC, *Paperless People of Post-Conflict Iraq*, 2019, [url](#), p. 5; For more information, see part 2.3.1 Undocumented children born under ISIL and/or of ISIL fathers

Some perceived 'ISIL families' have been forced to return home 'where they risk landmines, revenge attacks from neighbours, or forced recruitment into local armed groups'¹¹¹, whereas others are being prevented from returning to their places of origins and 'effectively detained in camps'.¹¹² So called 'ISIL families' are seen as 'pariahs' in Iraq, according to Human Rights Watch Senior Iraq Researcher Belkis Wille.¹¹³

2.1 Sexual abuse and violence

UNOCHA noted in its Humanitarian Needs Overview for 2020 that gender-based violence is 'widespread in Iraq, both in camps and in out-of-camps settings' and that those perceived links to ISIL were subjected to discriminatory practices, restrictions, harassment and sexual violence and exploitation.¹¹⁴ In February 2020, the UN Special Rapporteur on the Human Rights of Internally Displaced Persons noted that displaced women of perceived ISIL families, including widows, are reportedly the target of revenge sexual violence and harassment.¹¹⁵ This was corroborated by Amnesty International¹¹⁶ and Oxfam.¹¹⁷ Oxfam, which focused on Diyala governorate, speaking about general protection risks to displaced women, stated that female-headed households and divorced women are 'perceived as being at severe risk of exploitation, abuses and survival sex' especially if they are IDPs.¹¹⁸ Moreover, Human Rights Watch and VOA pointed to the IDP camps in Mosul as places where sexual abuses took place.¹¹⁹

Several organisations confirmed that among the perpetrators of sexual harassment, rape and sexual exploitation of women with perceived ISIL ties, were armed actors, including ISF and the PMUs in IDP camps, camp authorities, as well as others in positions of authority.¹²⁰ In July 2019, Human Rights Watch referred to testimonies of camp residents near Mosul describing sexual exploitation and coerced sex by security forces. The NGO also described fears of sexual violence expressed by women IDPs during screenings.¹²¹ The Washington Post reported on displaced people with alleged ISIL links in Khazir camp near Erbil in 2019, reporting that women who had lost their husbands are 'targeted for sexual violence by militia men, camp guards, or forced marriage'.¹²²

¹¹¹ HRW, Iraq: Not a Homecoming, 14 June 2019, [url](#)

¹¹² HRW, Iraq: Not a Homecoming, 14 June 2019, [url](#)

¹¹³ HRW, Iraq: Not a Homecoming, 14 June 2019, [url](#)

¹¹⁴ UNOCHA, Humanitarian Needs Overview - Iraq 2020, November 2019 [url](#), p. 21; Examples of sexual violence in Ninewa, Kirkuk and Erbil governorates can be found in IOM, WEST MOSUL PERCEPTIONS ON RETURN AND REINTEGRATION AMONG STAYEES, IDPS AND RETURNEES, June 2019, [url](#), pp. 40, 33; and CIVIC, WE JUST WANT SOMEONE TO PROTECT US' Civilian Protection Challenges in Kirkuk, December 2019, [url](#), pp. 26,27.; see also a report published in March 2020 by Oxfam 'Respondents indicated that sexual exploitation in the camp takes place systematically, at night, with IDP women and girls forced to have sex with men who come from outside the camp.' Oxfam, Protection Landscape in Diyala and Kirkuk Iraq, 5 March 2020, [url](#), pp. 25, 26

¹¹⁵ UN OHCHR, End of Mission Statement by the United Nations Special Rapporteur on the human rights of internally displaced persons, Ms. Cecilia Jimenez-Damary, upon conclusion of her official visit to Iraq – 15 to 23 February 2020, 27 February 2020, [url](#)

¹¹⁶ AI, Iraq: The Condemned: Woman and Children Isolated, Trapped and Exploited in Iraq, 17 April 2018, [url](#)

¹¹⁷ Oxfam, Protection Landscape in Diyala and Kirkuk Iraq, 5 March 2020, [url](#), p. 23

¹¹⁸ Oxfam, Protection Landscape in Diyala and Kirkuk Iraq, 5 March 2020, [url](#), p. 23

¹¹⁹ VoA, Report: Iraqi Forces Sexually Abuse IS Female Relatives in Mosul, 17 February 2019, [url](#); HRW, Iraq: Military Enter Camp, Occupy School for 'Screening', July 18, 2019, [url](#)

¹²⁰ VoA, Report: Iraqi Forces Sexually Abuse IS Female Relatives in Mosul, 17 February 2019, [url](#); AI, IRAQ: THE ROAD TO JUSTICE – A LONG WAY TO GO, November 2019, [url](#), p. 8; HRW, Iraq: Military Enter Camp, Occupy School for 'Screening', July 18, 2019, [url](#); Washington Post (The), Iraq pressing to build isolation camp for Islamic State refugees, 2 May 2019, [url](#)

¹²¹ HRW, Iraq: Military Enter Camp, Occupy School for 'Screening', July 18, 2019, [url](#)

¹²² Washington Post (The), Iraq pressing to build isolation camp for Islamic State refugees, 2 May 2019, [url](#)

In an article published in April 2019 by FP, Mosul Eye founder and activist Omar Mohammed said that ‘men have formed prostitution rings in some camps, forcing women to engage in sex work. The victims routinely undergo abortions to deal with the unwanted pregnancies.’ He also indicated that there is an organised trade in women from the camps and between camps.¹²³ Early in 2019, a journalistic report,¹²⁴ highly criticised by the Iraqi High Commission for Human Rights,¹²⁵ conducted by Mosul Investigation Team and the Network of Iraqi Reporters for Investigative Journalism, observed that ‘dozens of female relatives of IS fighters’, including several minors, living in IDPs camps and outside near Mosul have been harassed and sexually abused by security forces. According to a journalist from Mosul quoted by the Voice of America website, these are only ‘a few cases among hundreds of cases that happen in Mosul and inside the camps’. Cases of suicide ‘due to the trauma of the abuse’ are cited in the report. Journalist and writer of the report Dlovan Barwari explained that ‘some houses and tents at refugee camps are turned into brothels where those women are forced to accept sexual exploitation in exchange for \$3 or a little food’, having ‘no other options left’.¹²⁶ In response, the Iraqi High Commission for Human Rights has called the report’s findings ‘untrue and contrary to reality on the ground’ Commission member Fadel al-Gharawi said in a media statement the refugee camps hosting IS families are supervised by the Iraqi Ministry of Displacement and Migration and are protected by Iraqi security forces. The organisation was quoted as saying that ‘the office of the High Commissioner for Human Rights has investigative, oversight and follow-up committees that conduct occasional field visits to these camps. These committees have not recorded any cases of violation or complaint by women against the forces in charge of the security of the camps.’¹²⁷

Women with perceived ISIL links have been reported to adopt negative coping strategies, including survival sex and early marriage.¹²⁸ In addition, out of fear of sexual abuse and harassment, women in IDP camps in Kirkuk were reported to withdraw girls from schools and limiting their movements and avoiding contact with the host community.¹²⁹

2.2 Forced and blocked returns

Since early 2018 and throughout 2019, the Iraqi government has pushed IDPs to return to their places of origin and started closing IDP camps.¹³⁰ Around 2 000 IDPs were reportedly expelled from camps by local authorities in Ninewa governorate alone between end of August and September 2019.¹³¹ Families, in particular those with alleged ISIL ties, have been forced to return to their areas of origin despite their security concerns, while others have been unable to return to their home areas for various reasons,¹³² in particular due to concerns over arbitrary arrests, but also fears of revenge attacks.¹³³ For instance, Human Rights Watch recorded grenade attacks targeting IDPs families with perceived links to ISIL in several areas, as well as protests organised by camp residents against the

¹²³ FP, Among Displaced Iraqis, One Group Is Worse Off Than the Rest, 29 April 2019, [url](#)

¹²⁴ Iraqi Network for Investigative Journalism, *النساء في 'عوائل داعش' يدفعن الضريبة: اغتصاب ودعارة.. وجيل يهدد بتطرف جديد* [Women in ISIL Families pay the price: rape and prostitution... And a generation is again threatened by radicalization], March 2019, [url](#)

¹²⁵ VoA, Report: Iraqi Forces Sexually Abuse IS Female Relatives in Mosul, 17 February 2019, [url](#)

¹²⁶ VoA, Report: Iraqi Forces Sexually Abuse IS Female Relatives in Mosul, 17 February 2019, [url](#)

¹²⁷ VoA, Report: Iraqi Forces Sexually Abuse IS Female Relatives in Mosul, 17 February 2019, [url](#)

¹²⁸ Oxfam, Protection Landscape in Diyala and Kirkuk Iraq, 5 March 2020, [url](#), p. 26; UN OHCHR, End of Mission Statement by the United Nations Special Rapporteur on the human rights of internally displaced persons, Ms. Cecilia Jimenez-Damary, upon conclusion of her official visit to Iraq – 15 to 23 February 2020, 27 February 2020, [url](#)

¹²⁹ Oxfam, Protection Landscape in Diyala and Kirkuk Iraq, 5 March 2020, [url](#), pp. 23- 25

¹³⁰ HRW, World Report for 2019 : Iraq , 14 January 2020, [url](#); HRW, Iraq: Not a Homecoming, 14 June 2019, [url](#)

¹³¹ HRW, Iraq: Camps Expel Over 2,000 People Seen As ISIS-Linked, September 4, 2019, [url](#)

¹³² See for instance: HRW, Iraq: Camps Expel Over 2,000 People Seen As ISIS-Linked, September 4, 2019, [url](#)

¹³³ FP, Among Displaced Iraqis, One Group Is Worse Off Than the Rest, 29 April 2019, [url](#)

arrival in their camp of families with perceived ISIL affiliation.¹³⁴ Families with perceived ISIL ties also fear the presence of unexploded ordnances and improvised explosive devices in their areas of origin.¹³⁵ Other reasons preventing their return home include difficulties obtaining security clearance,¹³⁶ damage and destruction of their homes, lack of job opportunities, basic infrastructure and public services,¹³⁷ lack of financial resources to pay tribal or blood compensation,¹³⁸ and confiscation of properties by local forces or militias, causing fear of abuses, arrests, attacks, and lack of intention to return.¹³⁹ As a result, an unspecified number have been displaced to other camps.¹⁴⁰ According to the an article by Alexandra Saieh, an Advocacy Advisor for the NRC in Iraq focusing on post-ISIL displacement, ‘the highest barriers to return are the lack of support to rebuild homes and create jobs’ for the majority of IDPs in Iraq. However, the source noted that IDPs accused of ISIL affiliation ‘are punished for crimes allegedly committed by their relatives, barred from returning home by their former neighbors, community leaders, state-aligned militias, or state authorities themselves.’¹⁴¹ However, In June 2020, REACH observed that the main reasons that barred the return of IDPs to their area of origin in Markaz Al-Baaj sub-district of Ninewa governorate were destroyed/damaged housing, lack of jobs and services, resistance from community and/or local actors, presence of jobs in areas of displacement and unstable security. Moreover, 94 % of respondents ‘reported that community members trust each other’ and all respondents ‘reported that there are no specific population groups which are not welcome by the majority of the community in the area’. No retaliation incidents were reported in the area of return.¹⁴² Finally, with regard to Al-Rummaneh subdistrict of Anbar, whose sub-district was taken over by ISIL in 2014 forcing over 2 500 families to flee, REACH’s June 2020 assessment indicated most families had returned. Of the roughly 700 families that did not return, the main reasons for failed returns were destroyed/damaged housing, lack of jobs, resistance from community and/or local actors, lack of services and unstable security. According to the report, all respondents ‘reported that there are no specific population groups which are not welcome by the majority of the community in the area’.¹⁴³

In a report published on 26 March 2020, IOM stated that 1.4 million IDPs returned to Anbar as of December 2019, ‘where tension exists between those who displaced during the initial advance of ISIL and those who initially remained and displaced at a later period’. IOM observed that ‘[a]lthough some communities have advanced towards a more nuanced understanding that having cohabited with ISIL does not necessarily imply affiliation, community members with family or tribal ties with those accused of having an affiliation continue to be perceived as sympathizers of the group’ and in some instances experienced secondary displacement due to being rejected by the communities of origin.¹⁴⁴

UNHCR observed a number of cases of forced returnees being detained, attacked, threatened, or denied access to their areas of origin due to their perceived ISIL affiliation by tribes, local forces or the

¹³⁴ HRW, Iraq: Camps Expel Over 2,000 People Seen As ISIS-Linked, September 4, 2019, [url](#)

¹³⁵ AI, IRAQ ; THE ROAD TO JUSTICE – A LONG WAY TO GO, November 2019, [url](#), p. 7

¹³⁶ HRW, Iraq: Not a Homecoming, 14 June 2019, [url](#)

¹³⁷ AI, IRAQ : THE ROAD TO JUSTICE – A LONG WAY TO GO, November 2019, [url](#), p. 7

¹³⁸ HRW, Iraq: Not a Homecoming, 14 June 2019, [url](#); IOM, WEST MOSUL PERCEPTIONS ON RETURN AND REINTEGRATION AMONG STAYEES, IDPS AND RETURNEES, June 2019, [url](#), p. 30

¹³⁹ NRC, Broken Home, Women’s housing, land and property rights in post-conflict Iraq, May 2020, [url](#), p. 11; See also: Oxfam, Protection Landscape in Diyala and Kirkuk Iraq, 5 March 2020, [url](#), p. 13

¹⁴⁰ AI, Iraq: Stop forced returns of hundreds of internally displaced people, 28 August 2019, [url](#); HRW, Iraq: Not a Homecoming, 14 June 2019, [url](#)

¹⁴¹ Saieh, A, Ignoring Iraq’s Most Vulnerable Displaced Families Undermines US Stabilization Agenda in Iraq, 18 August 2020, [url](#)

¹⁴² REACH, RAPID ASSESSMENT ON RETURNS AND DURABLE SOLUTIONS Markaz Al Baaj Sub-district - Al Baaj District - Ninewa Governorate, Iraq, 1 August 2020, [url](#), pp. 2, 5

¹⁴³ REACH, RAPID ASSESSMENT ON RETURNS AND DURABLE SOLUTIONS Al Rummaneh Sub-district - Al Kaim District - Al Anbar Governorate, Iraq, 31 July 2020, [url](#), pp. 2, 5

¹⁴⁴ IOM Iraq, Managing Return in Anbar: Community Responses to the Return of IDPs with Perceived Affiliation, 26 March 2020, [url](#), p. 4

community at their arrivals in several districts in Anbar, Ninewa, Kirkuk and Salah Al-Din. In addition to these protection issues faced by forced returnees¹⁴⁵ from IDP camps across Iraq, there are reports of blocked returns of IDPs who are unable to return to their home areas.¹⁴⁶ Quoting an official, Human Rights Watch reported in June 2019 that around 250 000 families perceived as having ISIL ties ‘could not return home because of objections by federal or local authorities or communities’.¹⁴⁷ Moreover, in spring 2019, 242 distinct areas were identified in Iraq as areas to which no returns took place even though fighting has ended.¹⁴⁸ The same source stated that in 94 of the areas, ‘the de facto ban on returns is a form of punishment against those the security forces perceive as having been sympathetic to ISIL, or as having a relative who was sympathetic to the group’.¹⁴⁹ The Turkish media outlet, TRT, stated that more than 1 million Iraqis remain in displacement, including around 14 000 in IDP camps. According to the source, those IDPs have been struggling to return to their areas of origin which were destroyed by war, while the residents of some areas reject the return of those IDPs whom they consider to be ISIL affiliates.¹⁵⁰ In September 2019, KRG authorities were ‘preventing about 4 200 Sunni Arabs [displaced in camps] from returning home to 12 villages east of Mosul’, allowing only ‘Kurdish residents and Arabs with KRG ties to return’.¹⁵¹ Human Rights Watch described this as a ‘punishment’ targeting these families, despite claims by KRG officials that it was meant to protect civilians from returning to insecure areas.¹⁵²

On 20 July 2020, UN News stated that the Iraqi government and IOM launched the first round of a joint project aimed at supporting the return of IDPs to their areas of origin. According to the source, more than 50 IDP families, ‘in situations of protracted displacement’¹⁵³, returned from the Amriyat Al-Falluja camp to their areas of origin in Anbar governorate after receiving support.¹⁵⁴ According to a statement of the General Director in the Iraqi Ministry of Migration, cited by the New Arab, more than 240 000 IDP families returned to their areas of origin in 2019, with the Anbar governorate accounting for the highest number of returnees (89 000 IDP families), followed by Salah Al-Din (61 000), Ninewa (44 000), Kirkuk (19 000), and Diyala (14 000).¹⁵⁵ As regards ‘the current challenges around returns for people with perceived or actual affiliation with ISIL’, UNOCHA cited the governor of Anbar who stated that ‘[t]he Anbar Government has engaged in a lengthy process of negotiations with tribal and community leaders that have allowed many such families to return to their areas of origin’. He added that ‘community reconciliation programmes had been instrumental, and that collective punishment and discrimination of relatives of ISIL members was not acceptable’ and that ‘community trauma’ might block the return of some people and force them to settle in new areas.¹⁵⁶

¹⁴⁵ UNHCR, UNHCR Iraq Protection Update - August 2019, 14 October 2019, [url](#), p. 3

¹⁴⁶ HRW, World Report for 2019 : Iraq , 14 January 2020, [url](#); HRW, Iraq: Not a Homecoming, 14 June 2019, [url](#)

¹⁴⁷ HRW, Iraq: Not a Homecoming, 14 June 2019, [url](#)

¹⁴⁸ HRW, Iraq: Not a Homecoming, 14 June 2019, [url](#)

¹⁴⁹ HRW, Iraq: Not a Homecoming, 14 June 2019, [url](#)

¹⁵⁰ TRT Arabic, إقليم شمال العراق: فصائل مسلحة تمنع عودة النازحين إلى مناطقهم [Northern Iraq Region: Armed Groups Prevent the Return of IDPs to Their Areas], 12 July 2020, [url](#)

¹⁵¹ HRW, Kurdistan Region of Iraq: Arabs Not Allowed Home Lift Unlawful Restrictions Blocking Thousands, 6 September 2019, [url](#)

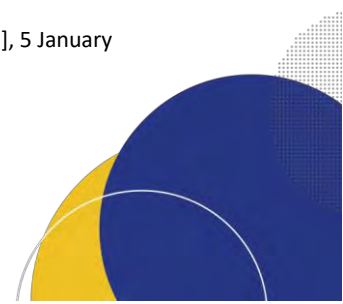
¹⁵² HRW, Kurdistan Region of Iraq: Arabs Not Allowed Home Lift Unlawful Restrictions Blocking Thousands, 6 September 2019, [url](#)

¹⁵³ IOM, FAMILIES DISPLACED BY ISIL CONFLICT SAFELY RETURN HOME THROUGH GOVERNMENT OF IRAQ, IOM PROJECT, 19 July 2020, [url](#)

¹⁵⁴ UN News, العراق: إطلاق مشروع يشجع النازحين داخليا على العودة الطوعية من المخيمات إلى ديارهم الأصلية [Iraq: Launching of a Project to Encourage the Voluntary Return of IDPs from Camps to Areas of Origin], 20 July 2020, [url](#)

¹⁵⁵ New Arab (The), 2019 عودة أكثر من مليون نازح عراقي خلال 2019 [The Return of More than 1 Million Iraqi IDPs in 2019], 5 January 2020, [url](#)

¹⁵⁶ UNOCHA, Humanitarian Bulletin, 23 July 2020, [url](#), p. 3



In a July 2020 article on ISIL families, the late Iraqi political analyst, Husham Al-Hashimi identified three categories of 'ISIL families' who returned to their areas of origin in southern Ninewa and the Ninewa plain:

1. 'Families that fled their cities and whose houses were looted, even if one of the family members was with ISIS, who are welcome to return to their communities. Occurrences of this were found in Muhallabiyah west of Mosul, and Shora and Hammam Al Alil south of Mosul;
2. Families of ISIS members or supporters who informed the security forces about relatives who joined ISIS after the liberation of the city, who are outside suspicion. Such cases were found in Shora and Hammam Al Alil; or
3. Families with members who had pledged allegiance to ISIS and remain alive, who are continuously harassed and displaced.'

Al-Hashimi stated that according to the Iraqi authorities, more than 300 000 individuals with familial links to ISIL resided in camps across 10 governorates, and added that '[e]ven though many of the displaced families returned to their areas of origin, many could not return to their actual homes and still live in nearby shelters'. Moreover, the return of Sunni populations in more than 400 villages near the Syrian-Iraqi border to their areas of origin in northern and western Iraq was blocked due to different factors which included sectarian, ethnic, and security tensions.¹⁵⁷

Finally, with regard the return of family members labelled as having connections to ISIL, Al-Hashimi conducted interviews with several governors and officials who each gave a range of views about the position of these families. The governor of Ninewa supported the return of ISIL members' relatives and indicated that the return 'depends on providing proper accommodation and services to speed up integration with the local community'. He added that the return to the governorate 'except for villages outside of Mosul in southern and western Ninewa – mainly for economic, social, and tribal reasons rather than legal or security concerns' and that security clearances are required for return. Regarding Tal Afar, Al-Hashimi stated that 'the PMF has made the return of these ISIL families contingent on the government's provision of services to victims' families'. The governor of Kirkuk supported the immediate return of such families and said that 'Arab Sunni tribes, Sunni Turkmen, and the Kurds also endorse that policy' and that the 'opposition from Shiite Turkmen and PMF' was the main obstacle. According to the governor, legal, tribal, or economic obstacles did not exist. The governor of Anbar supported the return of these families and the closure of IDP camps by autumn 2020. He stated that only social and tribal reasons hindered the return, which could be 'overcome by enforcing law and getting pledges from the tribal leaders to stop harassing the returning families'. Furthermore, the governor of Salah Al-Din also supported the return and stated that this was achieved 'in cooperation with the Iraqi security forces and tribal leaders in all of the province except Shirqat, north of Baiji, and Senniyah, and a small part of Yathrib and Auoja'. He also asserted that the obstacles that prevented return were economic, security, tribal and social rather than legal, and that no security clearances were requested for returns to Kirkuk 'as the tribal council, intelligence and the National Security Advisory have distributed a form to all of the families inside the IDP camps, and all were reviewed and cleared'. However, the head of Salah Al-Din Provincial Council's Security Committee highlighted the opposition of local communities to the return and integration of ISIL families and warned that even if such families obtained security and judiciary clearances, they would be 'in great danger' if they returned. Finally, the governor of Diyala stated that the return operations for ISIL families were halted for two years, 'citing legal, economic, tribal, social and security obstacles'. He added that families

¹⁵⁷ Al-Hashimi, H., ISIL in Iraq: The Challenge of Reintegrating 'ISIL Families', 7 July 2020, [url](#)

needed security clearances, and highlighted that 'it is not safe for the families to return to Diyala ... especially with the recent spike in ISIS attacks'.¹⁵⁸

2.2.1 Transfer of perceived ISIL suspects and their families from north-east Syrian Al-Hol camp to Iraq

Rudaw reports that in early 2019, there were more than 30 000 Iraqis, mostly women and children, and many of them perceived as 'ISIL families', detained by the Syria Democratic Forces in Al-Hol camp, located in north-east Syria.¹⁵⁹ In 2019, Human Rights Watch reported that 'at least 900 Iraqi detainees with alleged links to ISIS' were transferred to Iraq'.¹⁶⁰

In February 2019, Iraqi authorities were reportedly building a new displacement camp in Ninewa governorate, allegedly in Al-Amla area, located in Al-Zummar sub-district¹⁶¹, to host a number of families of perceived ISIL members returning from Al-Hol camp, in a de facto detention camp, according to Human Rights Watch.¹⁶² The establishment of the new camp was opposed by Iraqi tribes who threatened to use force to prevent the transfer of ISIL families from Syria to Iraq.¹⁶³

2.3 Access to civil documentation and security clearance

According to the Norwegian Refugee Council, in 2019, access to security clearances, which are needed to issue civil documentation and to exercise freedom of movement, including passing through checkpoints, remained severely restricted to undocumented families.¹⁶⁴ Many families, who lived in ISIL-held areas between 2014 and 2017, are missing one or more civil documents, as these were reportedly confiscated by ISIL or lost, destroyed or confiscated by Iraqi authorities during flight or in displacement.¹⁶⁵ In turn, undocumented women, children or men 'are commonly suspected by security forces and fellow community members to be affiliated with IS'.¹⁶⁶ In early 2019, aid organisations told Human Rights Watch that they estimated that 'at least 156,000 displaced people are missing at least some of their essential civil documentation'.¹⁶⁷

Human Rights Watch described the denial of security clearance requests required to obtain all other civil documentation by Iraqi authorities, as a form of collective punishment of families with perceived ISIL links.¹⁶⁸ The Geneva Centre for Security Sector Governance (DCAF) stated that 'Iraqi families with perceived ISIL affiliation because of their family name, tribal affiliation, or area of origin, have been denied security clearances required to obtain identity documentation or other civil documentation.' The source added that this had an impact on 'freedom of movement, right to education, right to work, and right to apply for welfare benefits and obtain birth and death certificates'.¹⁶⁹

¹⁵⁸ Al-Hashimi, H., ISIL in Iraq: The Challenge of Reintegrating 'ISIL Families', 7 July 2020, [url](#)

¹⁵⁹ Rudaw, 'Families of Iraqi ISIS fighters to be moved to Nineveh from Syria's Al-Hol: official', 15 February 2020, [url](#)

¹⁶⁰ HRW, World Report for 2019 : Iraq , 14 January 2020, [url](#)

¹⁶¹ Kurdistan 24, Iraq quietly building camp to hold families of ISIS fighters held in Syria: MP, 9 February 2020, [url](#); Iraqi24, [Parliamentarian Reveals the Establishment of a New Camp in Mosul to Transfer ISIL Families from Syria], 9 February 2020, [url](#)

¹⁶² HRW, World Report for 2019 : Iraq , 14 January 2020, [url](#)

¹⁶³ RT Arabic, سنقمع عوائل "داعش" إذا نُقلت من سوريا إلى العراق: المتحدث باسم العشائر العربية لـ RT: We Will Suppress ISIL Families If They Are Transferred from Syria to Iraq], 8 March 2020, [url](#)

¹⁶⁴ NRC, Paperless People of Post-Conflict Iraq, 2019, [url](#), pp. 17-20

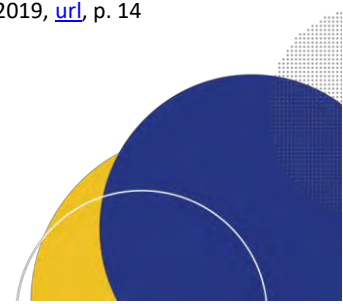
¹⁶⁵ UNAMI/UN OHCHR, The Right to Education in Iraq, February 2020, [url](#), p. 11; HRW, Iraq: Not a Homecoming, 14 June 2019, [url](#); NRC, Paperless People of Post-Conflict Iraq, 2019, [url](#), p. 5

¹⁶⁶ NRC, BARRIERS FROM BIRTH Undocumented children in Iraq sentenced to a life on the margins, 30 April 2019, [url](#), p. 14

¹⁶⁷ HRW, Iraq: Not a Homecoming, 14 June 2019, [url](#)

¹⁶⁸ HRW, Iraq: Not a Homecoming, 14 June 2019, [url](#)

¹⁶⁹ DCAF, Critical Security Issues in Iraq, 6 March 2020, [url](#), p. 7



IDPs and returnees with perceived ISIL association fear being arrested and detained by security forces while seeking security clearance.¹⁷⁰ In February 2020, UNAMI reported that officers were wilfully ‘denying clearance, tearing up applications, destroying expired documents, and in some cases, arresting individuals seeking new documentation’ when an applicant was found to have a relative on the authorities’ list of individuals with links to ISIL suspects.¹⁷¹ Human Rights Watch also observed cases where PMUs confiscated security clearances.¹⁷² Moreover, according to reports, local *mukhtars*, lawyers and aid workers were also reported to be at risk of being labelled as ISIL supporters by security forces and beaten, threatened and arrested if they tried to assist perceived displaced ‘ISIL families’.¹⁷³

Some undocumented families have made a *tabriya*, a criminal complaint against family members accused of ISIL affiliation, since 2016, in order to get access to security clearance.¹⁷⁴ One *mukhtar* interviewed by Human Rights Watch in August 2019 said he, along with other *mukhtars*, were ‘ordered’ not to ‘stamp women’s documents if their husbands had joined’ ISIL unless these women made a *tabriya*.¹⁷⁵ In 2019, Human Rights Watch observed that ‘most families with relatives suspected of ISIS affiliation that Human Rights Watch interviewed in 2019 had been able to obtain security clearance through *tabriya*’.¹⁷⁶ However, according to the NGO, ‘some communities and local armed groups reject *tabriya* and put a blanket ban on any family with ISIS links returning’.¹⁷⁷ A 2020 Norwegian Refugee Council (NRC) report highlighted the potential negative consequences for Iraqi women who made a ‘*tabriya*,’ stating that ‘this procedure leaves a woman exposed to social rejection, expulsion from both the spouse’s and her own family and even violent repercussions from the accused’s relatives and others.’¹⁷⁸

An alternative to security clearances mentioned in 2019 by Human Rights Watch is the issuance by Karma town, in Anbar governorate, of ‘special pink identity cards’ intended for 200 families of perceived IS members, allowing them to come home and travel, but also ‘marking them permanently’.¹⁷⁹

Families with missing identity documents have reportedly been marginalised and denied basic services, including access to education¹⁸⁰, healthcare¹⁸¹, the ‘state justice system and social welfare as well as to formal employment,’ as well as ‘government schemes for compensation for damaged housing, and opportunities to own or rent properties’.¹⁸² According to NRC, who interviewed residents and officials in Ninewa, Anbar, and Salah Al-Din, civil IDs were not required for routine medical visits, but a civil ID is required for surgeries or major procedures.¹⁸³ NRC’s report on undocumented Iraqis stated that a combination of the civil ID and security clearance was required to pass through checkpoints, giving rise to fear of arrest or detention at check points among those without documentation.¹⁸⁴

¹⁷⁰ NRC, Paperless People of Post-Conflict Iraq, 2019, [url](#), p. 21; HRW, World Report for 2019 : Iraq , 14 January 2020, [url](#)

¹⁷¹ UNAMI/UN OHCHR, The Right to Education in Iraq, February 2020, [url](#), p. 12

¹⁷² HRW, Iraq: Not a Homecoming, 14 June 2019, [url](#)

¹⁷³ HRW, Iraq: Not a Homecoming, 14 June 2019, [url](#); NRC, BARRIERS FROM BIRTH Undocumented children in Iraq sentenced to a life on the margins, 30 April 2019, [url](#), p. 23

¹⁷⁴ HRW, Iraq: Not a Homecoming, 14 June 2019, [url](#)

¹⁷⁵ HRW, Iraq: School Doors Barred to Many Children Affects Thousands Who Lived Under ISIS Rule, 28 August 2019, [url](#)

¹⁷⁶ HRW, World Report for 2019 : Iraq , 14 January 2020, [url](#)

¹⁷⁷ HRW, Iraq: Not a Homecoming, 14 June 2019, [url](#)

¹⁷⁸ NRC, Broken Home, Women’s housing, land and property rights in post-conflict Iraq, May 2020, [url](#), p. 11

¹⁷⁹ HRW, Iraq: Not a Homecoming, 14 June 2019, [url](#)

¹⁸⁰ HRW, Iraq: Not a Homecoming, 14 June 2019, [url](#); UNHCR/UNAMI/UN OHCHR, The Right to Education in Iraq, February 2020, [url](#); NRC, Paperless People of Post-Conflict Iraq, 2019, [url](#)

¹⁸¹ NRC, Paperless People of Post-Conflict Iraq, 2019, [url](#), p. 13.

¹⁸² NRC, Paperless People of Post-Conflict Iraq, 2019, [url](#), pp.5, 6; See also, UN OHCHR, End of Mission Statement by the United Nations Special Rapporteur on the human rights of internally displaced persons, Ms. Cecilia Jimenez-Damary, upon conclusion of her official visit to Iraq – 15 to 23 February 2020, 27 February 2020, [url](#)

¹⁸³ NRC, Paperless People of Post-Conflict Iraq, 2019, [url](#), p. 13

¹⁸⁴ NRC, Paperless People of Post-Conflict Iraq, 2019, [url](#), p. 17

Moreover, NRC noted that a high number of people who lived in areas formerly held by ISIL were still missing death certificates or missing person certificates, which are required in order to issue other essential civil documents such as birth certificates or new civil IDs for children whose father is missing or dead, or required by women, for instance, when they wish to claim unpaid salaries of their spouses¹⁸⁵, remarry or inherit property.¹⁸⁶ In its April 2019 area-based assessment (ABA)¹⁸⁷ of Al-Salam municipality of Mosul, REACH stated that less than 1 % of participants surveyed had lost civil documents, and found that when replacing civil documentation, some residents faced barriers, 'primarily a long waiting time, being asked for informal payments, and their name being similar to the names of individuals perceived to have been affiliated with ISIL'. For those households unable to register, the consequences were reported to be inability to register children for school, movement restrictions, inability to register for aid, and difficulties in accessing employment. All documentation could be replaced in Mosul except for the national ID, which required travel to Baghdad.¹⁸⁸

2.3.1 Undocumented children born under ISIL and/or of ISIL fathers

Thousands of children born in areas, which were under ISIL control between 2014 and 2017, and/or having parents suspected of ISIL affiliation, have been missing birth certificates and civil documentation.¹⁸⁹ In 2019, NRC estimated that 870 000¹⁹⁰ were still displaced, among which at least 45 000, or one in every five children¹⁹¹ living in camps, were missing birth certificates.¹⁹² Undocumented families have also been denied birth certificates for their newborn children.¹⁹³ Undocumented children are reported to be at risk of statelessness, as well as difficulties to access essential services, including education and healthcare.¹⁹⁴ As a result, NRC stated that undocumented children 'are at high risk of being sentenced to a life on the margins of Iraqi society – creating a neglected generation'.¹⁹⁵

Access to education for undocumented children

In 2019, according to NRC, 'almost one in every five Iraqi households who reported having children who lacked papers said their children were denied access to education.' This is said to be especially the case in Anbar, 'where nearly a third of respondents whose children were missing documentation

¹⁸⁵ NRC, Paperless People of Post-Conflict Iraq, 2019, [url](#), p. 21

¹⁸⁶ HRW, Iraq: Not a Homecoming, 14 June 2019, [url](#)

¹⁸⁷ REACH's ABA survey included qualitative data collection through interviews with community leaders, subject-matter experts, and community discussion groups. The quantitative component was a household-level needs assessment in all neighbourhoods of Mosul al-Salam municipality conducted with 400 households consisting of 1,805 individuals. REACH, MOSUL AL AREA BASED ASSESSMENT MOSUL AL-SALAM AREA-BASED ASSESSMENT: March-April 2019, 9 April 2019, [url](#), p. 8

¹⁸⁸ REACH, MOSUL AL AREA BASED ASSESSMENT MOSUL AL-SALAM AREA-BASED ASSESSMENT: March-April 2019, 9 April 2019, [url](#), p. 22

¹⁸⁹ NRC, BARRIERS FROM BIRTH Undocumented children in Iraq sentenced to a life on the margins, 30 April 2019, [url](#), p. 4;

HRW, Iraq: School Doors Barred to Many Children Affects Thousands Who Lived Under ISIS Rule, 28 August 2019, [url](#)

¹⁹⁰ NRC, BARRIERS FROM BIRTH Undocumented children in Iraq sentenced to a life on the margins, 30 April 2019, [url](#), p. 3

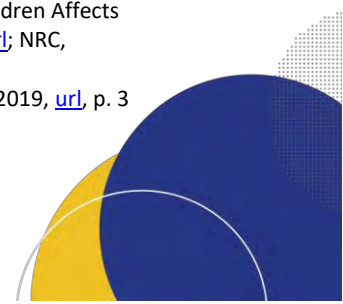
¹⁹¹ NRC, BARRIERS FROM BIRTH Undocumented children in Iraq sentenced to a life on the margins, 30 April 2019, [url](#), pp. 3, 4

¹⁹² NRC, Paperless People of Post-Conflict Iraq, 2019, [url](#), p. 5

¹⁹³ HRW, Human Rights Watch Submission to the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) of Iraq's periodic report for the 74th CEDAW Session, September 2019, [url, p. 4](#); NRC, Paperless People of Post-Conflict Iraq, 2019, [url](#), p. 13

¹⁹⁴ UNAMI/UN OHCHR, The Right to Education in Iraq, February 2020, [url](#), pp. 11-13; HRW, Human Rights Watch Submission to the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) of Iraq's periodic report for the 74th CEDAW Session, September 2019, [url](#), p. 4; HRW, Iraq: School Doors Barred to Many Children Affects Thousands Who Lived Under ISIS Rule, 28 August 2019, [url](#); HRW, Iraq: Not a Homecoming, 14 June 2019, [url](#); NRC, Paperless People of Post-Conflict Iraq, 2019, [url](#), p. 5

¹⁹⁵ NRC, BARRIERS FROM BIRTH Undocumented children in Iraq sentenced to a life on the margins, 30 April 2019, [url](#), p. 3



were unable to register their children in school, compared to 20 % in Salah Al-Din and 14 % in Ninewa'.¹⁹⁶ Human Rights Watch recorded for instance that in a primary school located near an IDP camp close to Mosul, at least '1,080 children of school age [were] living next door to the school [...] but only 50 of these children, all with valid documentation, were enrolled at the school.'¹⁹⁷ NRC noted that undocumented children who attend school are 'at higher risk of being forced to drop out or not being able to graduate later on'.¹⁹⁸

Human Rights Watch noted that despite a 2018 directive issued by the Ministry of Education allowing 'children missing civil documentation to enrol in school [...], officials are instructing school principals and aid groups providing support services for education that undocumented children are still barred from enrolling in government schools'.¹⁹⁹ In February 2020, UNAMI observed that the directive 'does not appear to have been widely disseminated or explained' to families²⁰⁰ and teachers.²⁰¹ Its directives were described as 'unclear'²⁰², 'at times contradictory'²⁰³ and complicated²⁰⁴, particularly due to lengthy administrative procedures²⁰⁵ and not helpful to families unable to get civil documents 'due to denial of security clearance or an absent parent'.²⁰⁶ Teachers interviewed in Mosul also told UNAMI that they feared allowing undocumented children access to school due to the stigmatisation of people missing civil documents, perceived as associated with ISIL. Families also expressed 'reluctance' and fears that 'their child being labelled as associated with ISIL' might be 'vulnerable to revenge attacks'.²⁰⁷

Furthermore, in February 2020, UNAMI explained that undocumented 'children and young adults' who lived under ISIL control are struggling from an 'accumulated knowledge gap'. A number of them are 'entering adulthood without any post-primary schooling' and express 'a growing feeling of abandonment and hopelessness'.²⁰⁸

2.3.2 Access to birth certificates and health care for undocumented women

In 2019, NRC showed that a number of women lacking civil documentation have struggled to obtain birth certificates²⁰⁹ or to deliver in a hospital, as 'the civil IDs of both the new-born's father and mother [are required]', as well as in certain cases the 'state-issued marriage certificate'. One respondent in the NRC study said that in Mosul specifically, medical professionals may suspect undocumented people who go to hospital of being affiliated with ISIL.²¹⁰ For instance, NRC reported the case of a pregnant IDP from west Mosul who did not have 'a valid civil ID or a marriage certificate' and was denied access to hospital as a result. NRC explained that she was subjected to threats by medical personal 'to keep her new-born in the hospital until the father presented himself' as they suspected her husband to be part of ISIL. As a result, she 'had to give birth at home without a doctor or midwife support'. Later, NRC noted that she could not obtain civic documentation for her child and failed to

¹⁹⁶ NRC, Paperless People of Post-Conflict Iraq, 2019, [url](#), p. 12

¹⁹⁷ HRW, Iraq: School Doors Barred to Many Children Affects Thousands Who Lived Under ISIS Rule, 28 August 2019, [url](#)

¹⁹⁸ NRC, Paperless People of Post-Conflict Iraq, 2019, [url](#), p. 13

¹⁹⁹ HRW, Iraq: School Doors Barred to Many Children Affects Thousands Who Lived Under ISIS Rule, 28 August 2019, [url](#)

²⁰⁰ UNAMI/UN OHCHR, The Right to Education in Iraq, February 2020, [url](#), p. 12; According to NRC 'Strikingly, only 1% of all respondents [parents interviewed by the NGO] believed that children could attend school without documentation' NRC, Paperless People of Post-Conflict Iraq, 2019, [url](#), p. 12

²⁰¹ UNAMI/UN OHCHR, The Right to Education in Iraq, February 2020, [url](#), p. 12

²⁰² NRC, BARRIERS FROM BIRTH Undocumented children in Iraq sentenced to a life on the margins, 30 April 2019, [url](#), p. 22

²⁰³ NRC, BARRIERS FROM BIRTH Undocumented children in Iraq sentenced to a life on the margins, 30 April 2019, [url](#), p. 22

²⁰⁴ According to NRC, 'types of civil documents education officials reported being required to formally attend school also varied.' NRC, Paperless People of Post-Conflict Iraq, 2019, [url](#), pp. 11,12

²⁰⁵ Oxfam, Protection Landscape in Diyala and Kirkuk Iraq, 5 March 2020, [url](#), pp. 12, 13

²⁰⁶ UNHCR/UNAMI/UN OHCHR, The Right to Education in Iraq, February 2020, [url](#), p. 12

²⁰⁷ UNHCR/UNAMI/UN OHCHR, The Right to Education in Iraq, February 2020, [url](#), p. 12

²⁰⁸ UNHCR/UNAMI/UN OHCHR, The Right to Education in Iraq, February 2020, [url](#), p. 13

²⁰⁹ NRC, Paperless People of Post-Conflict Iraq, 2019, [url](#), p. 14

²¹⁰ NRC, Paperless People of Post-Conflict Iraq, 2019, [url](#), p. 13

obtain medical assistance for her sick child.²¹¹ In April 2019, NRC observed that in Hawija city, in Kirkuk governorate, ‘children without birth certificates [were] not receiving vaccinations’ causing families to rely on ‘individual efforts from some local clinics and NGOs’. NRC quoting an Iraqi medical professional said that ‘lack of vaccinations has led to ‘the emergence of new types of diseases such as Measles’ which had not been present before ISIL.²¹²

²¹¹ NRC, Paperless People of Post-Conflict Iraq, 2019, [url](#), p. 13

²¹² NRC, No documents, no future, 30 April 2019, [url](#)

3. Redress and state protection

3.1 Access to effective redress measures

3.1.1 For enforced disappearances and extrajudicial killings

According to Human Rights Watch's reports, since 2016, 'authorities in Baghdad and in the Kurdistan Region have done little to punish officers implicated in enforced disappearances.'²¹³ Moreover, 'despite requests, the government failed to disclose which security and military structures have a legal mandate to detain people, and in which facilities.'²¹⁴

Regarding extrajudicial killings and torture, the same source noted that despite commitments by the Iraqi government in 2017, 'authorities apparently took no steps in 2019 to investigate these abuses.'²¹⁵

3.1.2 For torture allegations in detention and pre-detention facilities

Regarding Iraq's legal framework, UNAMI and OHCHR stated that 'while the Federal Anti-Terrorism Law is silent on fair trial rights and procedural guarantees, Article 13 of the KRI Anti-Terror Law stipulates that accused persons should be treated fairly in accordance with the law during interrogation, including through the provision of a lawyer.' The same source further noted that 'torture and inhuman treatment are also explicitly prohibited. However, contrary to international law, Article 13 of the KRI Anti-Terror Law allows for confessions extracted under duress to be used in court if they are supported by other evidence.'²¹⁶

In May 2020, Geneva-based human rights NGO Alkarama²¹⁷ noted in their submission to the UN Human Rights Committee, that 'allegations of torture are rarely considered in court and investigated, medical expertise is almost inexistent, and perpetrators are usually left unpunished'. The same source observed that Iraq's legal framework 'contributes to impunity' as 'the Anti-Torture bill does not establish a minimum prison sentence, except if the torture leads to death. The Criminal Code, in its Article 332, determines that a public official who cruelly treats a person may be punished by a period of detention not exceeding 1 year plus a fine not exceeding 100 dinars, or by only one of those penalties.'²¹⁸

Human Rights Watch reported in April 2019 that Iraq's High Judicial Council investigated 275 complaints regarding the use of torture against investigative officers by the end of 2018 in both terrorism and non-terrorism cases and resolved 176 of the cases, however, it remained unclear what the outcomes of these investigations were.²¹⁹

²¹³ HRW, Iraq: Human Rights Watch Submission to the Working Group on Enforced or Involuntary Disappearances, 17 May 2020, [url](#)

²¹⁴ HRW, World Report for 2019 : Iraq, 14 January 2020, [url](#)

²¹⁵ HRW, World Report for 2019 : Iraq, 14 January 2020, [url](#)

²¹⁶ UNAMI/UN OHCHR, Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL, January 2020, [url](#), pp. 5-6

²¹⁷ Alkarama is a Geneva-based NGO that was established to assist those in the Arab world who are subjected to extrajudicial disappearance, torture, and arbitrary detention. Alkarama, Our Work, n.d., [url](#)

²¹⁸ Alkarama, UN Human Rights Committee: Iraq; Submission to the List of Issues to be taken up in connection with the consideration of Iraq's sixth periodic report by the Human Rights Committee, 26 May 2020

[url](#), p. 7

²¹⁹ HRW, Iraq: Appeals Courts Ignoring Torture Claims Overturning Acquittals in Terrorism Cases, 25 September 2019, [url](#)

3.1.3 Access to judicial and security assistance

In a May 2020 report, NRC noted that women who are perceived to be affiliated to ISIL fear the reprisals by the Iraqi authorities rather than see them as a recourse to claim their housing, land and property rights and resolve disputes.²²⁰ Moreover, women interviewed by NRC consistently expressed their fear ‘to approach the relevant authorities to obtain the civil documents necessary to make a claim on an asset’, and described the process as ‘predatory’.²²¹ According to Human Rights Watch, without a security clearance, which is often denied by the Iraqi authorities themselves, Iraqis cannot ‘enter a government building, including a courthouse’ and cannot ‘seek judicial remedy’ to their issues.²²² Human Rights Watch further reported that ‘many lawyers who sought to help these [suspected ‘ISIL families’] get security clearance have been threatened, beaten and arrested,’ and as such, have been unwilling to provide assistance to a family once they learn that a relative is suspected of ISIL affiliation.²²³ Oxfam also noted in February 2020, that ‘people with perceived ISIL affiliation have little or no access to [...] legal remedies.’²²⁴

3.1.4 Access to redress measures against sexual violence and abuses

Referring to the general situation of gender-based violence in Iraq, according to the UN Humanitarian Needs Overview 2020, women and girls ‘continue to experience domestic violence, sexual violence, forced marriage and denial of resource, with many deprived of basic rights’. The same source further reported that ‘livelihoods opportunities and shelter services for Gender-Based Violence [GBV] survivors is limited’. Many GBV survivors refuse referral to specialised services due to fear of stigmatisation, mistrust in available services and avenues for legal redress, as well as the potential for further violence. Limited capacity and resources of national protection systems and a decline in the number of women’s centres, have also had negative effects on survivors’ access to services.²²⁵

In December 2019, the Center for Civilians in Conflict (CIVIC) described various ‘reporting mechanisms for IDPs to complain and report abuses’ in camps. However, many victims do not report sexual abuses, and therefore allegations ‘are not investigated’.²²⁶ In a report published in March 2020, Oxfam mentioned the role of Iraq’s Preventing Sexual Exploitation and Abuse Taskforce, as well as various mechanisms in order to collect allegations and investigate claims of sexual violence in Iraq, without specifying their efficiency for victims to access effective redress measures.²²⁷ According to Iraqi journalist Dlovan Barwari NGOs are prevented from ‘helping the victims due to the fear of being accused of helping IS members’.²²⁸

3.1.5 Civilians’ access to effective channels to report incidents

In December 2019, in its report on Kirkuk governorate, CIVIC wrote that, regarding complaint mechanisms for civilians, there was a ‘lack of adequate channels for civilians to report incidents of civilian harm.’ Civilians who were interviewed by the NGO affirmed that ‘their work has not led to

²²⁰ NRC, Broken Home, Women’s housing, land and property rights in post-conflict Iraq, May 2020, [url](#), p. 11

²²¹ NRC, Broken Home, Women’s housing, land and property rights in post-conflict Iraq, May 2020, [url](#), p. 11

²²² HRW, Iraq: Not a Homecoming, 14 June 2019, [url](#)

²²³ HRW, Iraq: Not a Homecoming, 14 June 2019, [url](#); for more information, see 2.3 – Restricted access to civil documentation and security clearance

²²⁴ Oxfam, Protection Landscape in Diyala and Kirkuk Iraq, 5 March 2020, [url](#), p. 36

²²⁵ UNOCHA, Humanitarian Needs Overview - Iraq 2020, November 2019, [url](#), p. 52

²²⁶ CIVIC, “WE JUST WANT SOMEONE TO PROTECT US” - Civilian Protection Challenges in Kirkuk, December 2019, [url](#), p. 27

²²⁷ Oxfam, Protection Landscape in Diyala and Kirkuk Iraq, 5 March 2020, [url](#), p. 26

²²⁸ VoA, Report: Iraqi Forces Sexually Abuse IS Female Relatives in Mosul, 17 February 2019, [url](#); Iraqi Network for Investigative Journalism, بتطرف جديد وجيل يهدد.. وجيل يغتصاب ودعارة: يدفعن الضريبة: اغتصاب ودعارة.. وجيل يهدد بتطرف جديد [Women in ISIL Families pay the price: rape and prostitution... And a generation is again threatened by radicalization], March 2019, [url](#)

changes in policy or any disciplinary action against officials in violations.’²²⁹ In Kirkuk, due to numerous security actors, civilians were reportedly ‘confused’ and did not know ‘to whom they should report concerns’.²³⁰ According to CIVIC, ‘civilians rarely use these mechanisms because they are not familiar with them, because they believe they are ineffective, or because they fear retaliation if they denounce a member of the security forces’.²³¹

3.2 Access to amnesty

According to Amnesty International, ‘the General Amnesty Law [n°27/2016] for individuals sentenced to prison terms and to death excludes 13 types of crimes, including terrorist crimes [...], thereby excluding the majority of individuals convicted under the 2005 Anti-Terrorism Law.’ The same source writes :

‘The General Amnesty Law further stipulates that amnesties are contingent upon plaintiffs or the relatives of the victims withdrawing their complaints. For the 13 excluded crimes, the General Amnesty Law explicitly grants the right to judicial review in cases where individuals were convicted on the basis of “confessions” extracted under duress and in cases where judicial proceedings were initiated on the basis of evidence provided by a secret informant or “confessions” by other suspects. In practice, this places the burden of proof on defendants and presumes that procedures were respected during the trial, for example that court documents and verdicts registered complaints of torture by the detainees. However, according to information available to Amnesty International, fair trial procedures are often not respected.’²³²

Al-Jazeera reported in July 2019 that some ISIL suspects convicted in Iraqi courts ‘may be entitled to release under the General Amnesty Law’. In order to be eligible, ‘the person convicted would have to provide evidence showing that they joined ISIL against their will and did not commit a serious offence.’ However, Senior Iraq Researcher Belkis Wille, quoted by Al-Jazeera, explained that in practice, it is very complicated for ‘people to prove they were forced to work [for ISIL] because the bar has been set so high’ and that this law is rarely applied by judges.²³³ Human Rights Watch referred to a senior counter-terrorism judge in Nineveh who expressed his refusal to apply the law ‘because he thought no one who provided any support to ISIL deserved an amnesty’.²³⁴

3.3 Relocation possibilities

NRC writes that ‘key human rights are also denied to people without papers, such as freedom of movement, and the risk of arbitrary detention and arrest is significantly increased’, such as when passing through checkpoints in former ISIL-held areas, a fear mentioned by respondents in NRC’s study.²³⁵ Similarly, Bobseine’s 2019 report stated that IDP return processes are opaque, and based on obtaining security clearances which require approaching security forces in their area; without such a security clearance and documentation, ‘Iraqis are not allowed to move freely within their own country, and usually cannot get a job or qualify for any government service benefits such as health care’; clearance is also required to obtain birth/death certificates. She also writes that Sheikhs of local tribes may also block or facilitate returns, while ‘relocating to other towns and cities is made difficult

²²⁹ CIVIC, “WE JUST WANT SOMEONE TO PROTECT US” - Civilian Protection Challenges in Kirkuk, December 2019, [url](#), p. 21

²³⁰ CIVIC, “WE JUST WANT SOMEONE TO PROTECT US” - Civilian Protection Challenges in Kirkuk, December 2019, [url](#), p. 21

²³¹ CIVIC, “WE JUST WANT SOMEONE TO PROTECT US” - Civilian Protection Challenges in Kirkuk, December 2019, [url](#), p. 21

²³² AI, Iraq: The Road to Justice –A Long Way to Go, March 2019, [url](#), p. 5; Original Arabic Text of the General Amnesty Law available at: Iraq, Official Journal of the Iraqi Republic, n°4417, 2016, [url](#)

²³³ Al Jazeera, Iraq government employees face prosecution for working under ISIL, 9 July 2019, [url](#)

²³⁴ Al Jazeera, Iraq government employees face prosecution for working under ISIL, 9 July 2019, [url](#)

²³⁵ NRC, Paperless People of Post-Conflict Iraq, 2019, [url](#), pp. 6, 17

by additional security and screening processes, sometimes required by local authorities or tribal actors.²³⁶

According to USDOS, authorities restricted the movement of displaced persons and did not permit some residents of IDP camps to leave, causing barriers to livelihoods, education, and services. Additionally, 'many parts of the country liberated from ISIS control suffered from movement restrictions' particularly from checkpoints by government forces, while returnees' permits to return to areas of origin were not always complied with by local forces. Those who did return faced destruction of property, lack of services, livelihoods, and security concerns, often leading to secondary displacement or return to camps. IDPs, particularly those with a perceived ISIL affiliation, 'faced hostility from local government officials and populations, as well as expulsion,' and in other cases prevented returns.²³⁷

²³⁶ Bobseine, H., Tribal Justice in a Fragile Iraq, [url](#), 7 November 2019, p. 16

²³⁷ USDOS, Country Reports on Human Rights Practices for 2019 – Iraq, March 2020, [url](#), pp. 32-33

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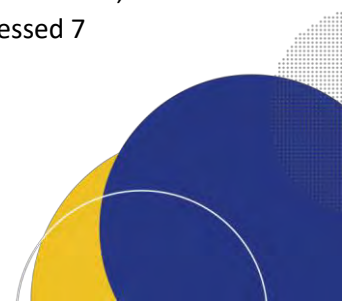
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Annex 2: Terms of Reference

☐ Treatment

- Treatment of individuals perceived to be affiliated with ISIL – structure by different actors (Government of Iraq, pro-government militias, KRG, by tribal leaders and the community)
- Legal prosecution: legislation applied, ‘wanted lists’ and extent of arrests, adherence to the requirements to due process and fair trial, representation by lawyers (treatment of lawyers and lack of qualified representation); pre-trial detention (length, physical standards), mistreatment, torture, implementation of punishments, specifically death penalty, implementation of amnesties if any.
- Reports of treatment, including: disappearances, killings, arrests, abuses, denial of return to the areas of origin, destruction of property/infrastructure, confiscation of documents, limitations of social services, discrimination, secondary displacement due to evictions, others.
- Treatment of family members of those with a perceived ISIL connection: including reports of treatment as above and freedom of movement, etc.
- Treatment of undocumented children (born under ISIL and/or of ISIL fathers): possibility to acquire documentation, statelessness or risk thereof, enrolment in school, access to other services, etc.

☐ Redress

- Access to effective redress measures, including whether persons with a perceived connection to ISIL, focusing on Sunnis Arabs in particular, lodge police or judicial complaints; effectiveness of lodging a complaint
- Whether a person with perceived connection to ISIL, focusing on Sunni Arabs in particular, can relocate to another area to avoid/escape targeting



Publications Office
of the European Union

doi: 10.2847/726036