



INSTITUTE FOR INTERNATIONAL LAW & HUMAN RIGHTS

**Iraq's Minorities and Other Vulnerable Groups:
Legal Framework, Documentation and Human Rights**

May 2013

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Iraq's Minorities and Other Vulnerable Groups: Legal Framework, Documentation and Human Rights
1st edition 2013

Printed in Baghdad, Iraq.

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Acronyms

AIM	Alliance of Iraqi Minorities
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CoR	Council of Representatives
DIBs	Disputed Internal Boundaries
FGM	Female Genital Mutilation
GBV	Gender-based Violence
GoI	Government of Iraq
HWR	Human Rights Watch
IDMC	Internal Displacement Monitoring Centre
IDP(s)	Internally Displaced Person(s)
IILHR	Institute for International Law and Human Rights
IMO	Iraqi Minorities Organization
IRIN	Integrated Regional Information Networks
KDP	Kurdistan Democratic Party
KRG	Kurdistan Regional Government
LGBTI	Lesbian, Gay, Bisexual, Transgender, Intersex
MHRG	Mandaean Human Rights Group
MRG	Minority Rights Group International
MoDM	Ministry of Displacement and Migration
MoFA	Ministry of Foreign Affairs
MoI	Ministry of Interior
NGO	Non-Governmental Organization
PMO	Prime Minister's Office
PUK	Patriotic Union of Kurdistan party
RCC	Revolutionary Command Council (defunct)
UN	United Nations
UNAMI	United Nations Mission to Iraq
UNHCR	(the Office of the) United Nations High Commissioner for Refugees
USCIRF	US Commission on International Religious Freedom
USD	United States Dollar

Executive Summary

Iraq's challenges to building security, stability, and a nation state premised on the rule of law are numerous and complex. Recent patterns reveal an overall downturn in violence and notable, though limited, progress to address the crimes the Ba'ath regime inflicted on the country's minority population. These improvements indicate the strength of Iraq's diverse ethno-religious history, but also demonstrate the slow and uneven pace of meaningful reforms to protect and preserve minority populations.

Iraq's ethnic and religious minorities, along with other vulnerable populations, continue to face disproportionate risks to lives, cultural traditions, and property. As international emphasis shifts away from Iraq and towards other crisis areas in the Middle East and North Africa, it is important to emphasize that, despite an overall decrease in violence and important progress to reintegrate and support some minority communities, minorities and other vulnerable populations continue to be targets of threats and violence based on religion, ethnicity, perceived ideology, and perceived sexual orientation. As a result, members of minority communities and other vulnerable populations continue to flee the country seeking safety and protection.

Iraq's population today remains exceptionally religiously and ethnically diverse. However, numbers of ethno-religious minorities remaining in the country continue to decrease through emigration and flight as the government tolerates systematic and egregious violations of religious freedom and human rights. Notably, the central government and the Kurdish Regional Government have made gains in improving the situation of ethnic and religious minorities—including increased protection for Christian churches and public displays of solidarity with the community; efforts to re-naturalize Faili Kurds; and public declarations on the importance of protecting Iraq's religious and ethnic diversity.

While these efforts mark an improvement since 2009 and 2010, critical challenges remain. The central government still has not developed systematic reforms to combat discrimination and protect the rights of minority components and other vulnerable populations; accountability for perpetrators of targeted violence remains elusive; and community members report ongoing violations of their rights at the hands of agents from both the central and Kurdish Regional governments. Treatment of ethno-religious minorities and other vulnerable groups prompted the US Commission on International Religious Freedom to recommend designating Iraq a "country of particular concern" under the American International Religious Freedom Act in 2012.¹

Prior to 2003, minority components made up as much as 15 percent of Iraq's population. While numbers are inexact due to the absence of any systematic effort to measure Iraq's

¹ U.S. Commission on International Religious Freedom 2012 Annual Report, 4, March 2012, *available at* <http://www.uscirf.gov/images/Annual%20Report%20of%20USCIRF%202012%282%29.pdf>. Though the USCIRF recommended the designation, Iraq is not currently listed as a Country of Particular Concern.

population and decades of government suppression of some groups under the Ba'ath regime, members of minority communities in Iraq are estimated to have decreased by at least half today.

Despite improvements in security, minorities and other vulnerable populations continue leave Iraq due to, *inter alia*, an unstable political and security situation, targeted violence based on racial, ethnic, religious or gender bias, *de jure* and *de facto* discrimination, and a lack of institutional support and protection at most levels of government. As the states that receive Iraqi minority refugees respond to these movements of people and families, they require better understanding of the country's living situation, cultural and historical context, and realistic legal and identity options available to Iraqi minorities and other vulnerable populations in order to better evaluate claims for protection.

This report is the result of a research and documentation effort that seeks to capture and describe the current situation and ongoing challenges Iraqi minorities and other vulnerable populations face. This report provides an overview of the current conditions facing minority communities and vulnerable populations within Iraq, as well as useful information on Iraq's legal and regulatory framework as it relates to citizenship, nationality, and identity documentation.

Specifically, this report describes the historical background and cultural and religious characteristics of sixteen populations and communities, and explicates and disaggregates specific improvements and challenges affecting Iraq's vulnerable populations today. While some communities have seen an improvement in their situation and report a cautious optimism for the future, others fear the complete extinction of their religious, linguistic, and cultural history due to continued persecution. Broadly put, minority communities and other vulnerable populations report a continuing lack of meaningful mechanisms to protect their members from targeted violence; systemic discrimination in law and practice; practical limitations on the exercise of political, civil, social, cultural, and economic rights; and challenges to access to and use of identity documents.

While the majority of groups examined herein are ethnic or religious minority components, this report also investigates the situation of other non-ethno-religious populations, such as (perceived) lesbian, gay, bisexual, transgender and intersex persons, and persons whose style of dress or other ascribed characteristics do not conform with traditional gender norms. **IILHR does not suggest that (perceived) LGBTI or gender non-conforming persons are minority components. Rather, this report seeks to examine the situation of ethnic and religious minority components, as well as the situation of *other* populations likely to seek asylum abroad under international protection mechanisms.**

Examined populations are listed in English alphabetical order. and include:

- Baha'is
- Bedouin

- Black Iraqis
- Circassians
- Christians (Assyrian, Chaldean, Armenian, and others)
- Faili Kurds
- Jews
- Kaka'i
- Lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals
- Mandaean-Sabeans
- Palestinian refugees living in Iraq
- Roma (Dom)
- Shabaks
- Turkmen
- Women (with specific profiles or in specific circumstances)
- Yezidis

This report considers the situation of many of Iraq's vulnerable populations, including but not limited to ethno-religious minorities. However, this report is not exhaustive, nor is there any hierarchy implied in the order in which information is presented. Rather, the communities discussed herein include those identified under the Iraqi legal framework, which recognizes some traditional minority communities within the state,² as well as other vulnerable groups identified by the international and Iraqi civil society community as facing either *de jure* or *de facto* discrimination in the exercise of their rights, or persecution by state or non-state actors based on (perceived) ethnicity, religion, political opinion, sexual orientation, or other characteristics. **Many other individuals and communities not addressed in this report also may require protection, and their non-inclusion herein should have no bearing on the legitimacy of their claims under international protection law.**

This report is intended for a broad audience, but seeks specifically to inform and support the assessment of asylum claims within countries to which Iraqi refugees apply for protection, and to complement other sources, including UNHCR's Eligibility Guidelines,³ country of origin reports, and other sources. **Though Iraq's cultural, religious and historical context frames the situation of minorities and other vulnerable groups today, the information presented here is limited to that which would inform**

² The Iraq Directory of 1936 identified the "Israelite community," Arabs, Kurds, Turkmen, Muslims, Christians, Baha'is, Yezidis and Mandaean Sabeans as Iraqi components. The Ba'ath regime ranked Iraq's components in hierarchical order. Though no such rank order or official identification process exists under Iraq's current legal framework, common perceptions focus on "official components." Distinctions between "official" and "unofficial" minority components largely align with the distribution of electoral seat quotas, with components who do not have a quota, such as black Iraqis, suggesting that legal recognition may be required to access a host of rights and protections.

³ United Nations High Commissioner for Refugees (UNHCR), *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Iraq*, 31 May 2012, HCR/EG/IRQ/12/03, [hereinafter UNHCR Eligibility Guidelines, 2012].

asylum claims processes abroad, and is not intended to provide a historical or cultural analysis of the specific relationships between Iraq's diverse peoples.

Iraq's Demographic Landscape

It is important to stress that there are simply no reliable numbers for Iraq's demographic landscape. Ongoing challenges with violence, internal migration, emigration, lack of government capacity, and the politicization of identity make the collection of reliable demographic data on many minority communities virtually impossible at this time. No inclusive census has been held since 1987 (the 1997 census did not include the three Kurdish governorates). Though the Government of Iraq (GoI) passed a new census law in 2008, no census has yet been held due to political tensions between Arabs and Kurds over disputed territories in the north, and between Kurds and some ethnic and religious minorities living in the northern region—particularly in Ninewa governorate. As such, demographic data presented in this report are often estimates from community leaders, Iraqi NGOs and CSOs, or international organizations rather than from governmental or other sources.⁴

According to GoI statistics provided in 2010, 97 percent of Iraq's population is Muslim, with Shia'h Muslims constituting a 60 to 65 percent majority. Shia'h Muslims are predominantly Arab but also include **Turkmen** (approximately 2 million), **Faili Kurds** (no accurate numbers available, upwards of 300,000 in Iraq and Iran), **Shabak**, a small number of **Circassians**, and other groups.⁵ Arab, Kurdish and a small number of Turkmen, Circassians (2,000-15,000), and other Sunni Muslims constitute 32 to 37 percent of the population.

Approximately 3 percent of the Iraqi population is composed of:

- **Christians:** 800,000 (down from 1.4 million) in total, with an estimated 60 percent Chaldean, 40 percent Syriac and Assyrians, and approximately 16,000 Armenians;
- **Yezidis:** 500,000-750,000 in total, with approximately 142,000 in the disputed Sinjar area in Ninewa governorate;
- **Mandaean-Sabeans:** 3,500-5,000, down from 70,000 before 2003;
- **Baha'is:** 1,000-2,000;
- **Shabaks:** 200,000-500,000;
- **Kaka'is** (also called **Ahl-e Haqq** and **Yarsan**): about 200,000; and

⁴ The problem of collecting demographic data on ethnicity, religion, and geographic location of Iraq's minority communities may be found at all levels of assessment and reporting; the US Department of State, Bureau of Democracy, Human Rights and Labor's International Religious Freedom Reports, for example, similarly rely on data estimates from NGOs and community members, as do reports by Minority Rights Group International. Conversations with UNHCR and IOM representatives in Baghdad reveal ongoing challenges to collect accurate demographic data and a lack of baseline for many estimates.

⁵ US Department of State, Bureau of Democracy, Human Rights and Labor, *International Religious Freedom Report for 2011: Iraq*, 2011, available at <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper>.

- **Jews:** perhaps less than 10 individuals in Baghdad and, reportedly, some additional families in Basra.

Regarding other historic components, community leaders estimate that there are approximately 1.5 to 2 million **black Iraqis**. The Iraqi census of 1997 estimated the number of **Bedouin** at 100,000. Of **Palestinian refugees** living in Iraq, most having been born in the country, only about 11,000 remain,⁶ down from a peak of at least 30,000 in 2003. There are no accurate figures for the number of **Roma (Dom)** in Iraq, (also known as **Ghagar**), though some estimate there are between 60,000 and 200,000 in the country.⁷

At the end of 2011, the International Displacement Monitoring Centre (IDMC) reported that an estimated 2.3 to 2.6 million people remained displaced throughout Iraq, including those displaced under the Saddam Hussein regime during the Ba'ath era.⁸ Sporadic increases in displacement since 2006 continue to affect mainly minority communities. By the end of 2011 for example, over half of Iraq's estimated 1.4 million **Christians** had fled their places of origin to live elsewhere in Iraq, mainly in the Kurdistan Region or the Ninewa plain. Among minorities fleeing the country, their departure risks devastating the cultural, religious and linguistic heritage of some communities. Among Iraq's **Mandaean-Sabean** community, for example, over 90 percent have left the country.

Challenges Confronting Minorities and Other Vulnerable Groups

Though the overall security situation in Iraq has improved since the peak of violence in 2006-2008, developments have been uneven and conditions for vulnerable populations remain distressing. Some of **Iraq's religious and ethnic minorities—as well as minority women and LGBTI individuals—remain at risk for targeted violence, political disenfranchisement, and social and economic marginalization. Those communities living in the Disputed Internal Boundaries (DIBs) area in Ninewa,**

⁶ According to the United Nations High Commissioner for Refugees (UNHCR), the Ministry of Interior registered 10,500 Palestinians in Iraq in 2008, and noted a smaller population of approximately 1,000 persons in Ninewa and a small number in Suleymaniyah. See UNHCR, "Update of UNHCR Aide-Memoire of 2006: Protection Considerations for Palestinian refugees in Iraq," July 2012, available at <http://www.unhcr.org/refworld/docid/500ebee2.html>. According to other estimates however, the population of Palestinians has fallen to 7,000 individuals. See Euro-Med Observer, "Palestinian Refugees Under Attack in Iraq," 6 July 2012, available at <http://www.euromid.org/marsad/index.php?action=main/readcontent&lang=en&cat=1&id=318>.

⁷ See UNHCR Eligibility Guidelines, 2012, p. 147, n. 779; see also Iqbal Tamimi, "The Roma of Iraq—a forgotten community," London Progressive Journal, 18 September 2011, available at <http://londonprogressivejournal.com/article/845/the-roma-of-iraq-a-forgotten-community>.

⁸ This number is higher than UNHCR's estimate for IDPs, 1.33 million as of January 2012. IDMC notes that the differences may derive from various factors, including the fact that figures for post 2006 refer only to registered IDPs, which is voluntary and contingent upon documentation which IDPs often lack. Research on access to and use of documentation conducted by IILHR indicates that such requirements may present a significant under-estimate of the numbers of IDPs actually living within Iraq.

Kirkuk, and parts of Diyala and Salahaddin remain at particular risk because religious and ethnic identity in these areas have become increasingly politicized.

Despite notable security improvements and important steps to support and reintegrate some minority groups, investigations throughout 2012 and early 2013 by the Institute for International Law and Human Rights (IILHR), its partners and associates in Iraq and abroad, and secondary research sourced from 2010 to early 2013, reveal the ongoing problem of targeted violence including frequent bombings, arbitrary arrest and detention, torture, intimidation, discrimination, displacement and marginalization facing Iraq's cultural, religious and ethnic minorities, as well as other vulnerable populations.

The ongoing persecution and marginalization of Iraq's vulnerable populations occurs for a host of reasons and remain significant factors in emigration. These reasons range from **political instability and the ongoing territorial disputes between Arabs and Kurds, to religious and ethnic bias and intolerance, to long-standing patterns of discrimination, to criminal profit.**⁹ Though there has been a marked reduction in total levels violence since 2008 and incidents were relatively similar over 2010 and 2011, data from 2012 and early 2013 reveal a marked backslide which analysts attribute more to an entrenched conflict and rising sectarian tensions than to a transformation in the security situation.¹⁰ Overall deaths in 2012 increased by over three hundred killings as compared with 2011, with June 2012 the most violent month in three years and December the least.¹¹ **Most notably for Iraq's components, 43 percent of deaths in 2012 occurred in just two areas: the capital of Baghdad, and Ninewa, where 90 percent of minorities live.**¹²

Minority Women and Children

Although little disaggregated data is available for the situation of minority women, numerous reports by local NGOs and international organizations reveal that **minority women and children** represent the most vulnerable group in Iraqi society, both as members of minority communities and as women and children. This effectively makes for "double" discrimination and increases the risk of exploitation and violence.

⁹ Much of the evidence presented herein supports the findings of past assessments of the situation of Iraq's ethnic and religious minorities conducted by Minority Rights Group International, Human Rights Watch, UNHCR, UNAMI, and others. This report therefore emphasizes the entrenched and pervasive nature of the challenges faced by Iraq's vulnerable populations and the continuing inability or unwillingness of the GoI and KRG to adequately protect and defend Iraq's minority communities and other vulnerable groups.

¹⁰ An estimated 4,471 civilians were reported killed in 2012, compared to 4,136 in 2011 and 4,073 in 2010. See <http://www.iraqbodycount.org/analysis/numbers/2011/>.

¹¹ Iraq Body Count, "Iraqi Deaths from Violence in 2012," 1 January 2013, available at <http://www.iraqbodycount.org/analysis/numbers/2012/>.

¹² *Id*; Reportedly, Ninewa suffered 834 deaths in 2012, with an estimated governorate population of 3,270, 422. Baghdad suffered 1,086 deaths in 2012. Population estimates are provided by Iraq's Central Organization for Statistics and Information Technology, "Estimated Population for the Year 2011, available at http://cosit.gov.iq/AAS2012/section_2/8B.htm.

Women in Iraq face high levels of gender-based violence (GBV), including female genital mutilation (FGM) in the north, domestic violence, sexual violence and harassment, and “honor-based” violence. They are also at risk for forced and early marriages and human trafficking. Crimes against women and children continue to be perpetrated with impunity, with few prosecutions for rape and other acts of violence, harassment, and other crimes. These problems, as well as the ongoing threat of ethnic and religious violence and systemic patterns of discrimination in law and society, have limited women’s freedom of movement, their right to express their religious and ethnic identity through the way they dress, economic opportunity, and access to health services and education.¹³ The Kurdish Regional Government has passed several important laws to improve the situation of women, and the central government has developed a Directorate of Violence against women. However, implementation is slow and cumbersome, and interventions continue to center on reconciliation over prosecution or social services support.

Iraq’s Legal and Regulatory Framework

Under the Iraqi legal framework, the potential for discrimination in law and practice heightens the sense of insecurity among minority components and other vulnerable groups. This insecurity, combined with other circumstances, may form the basis for a reasonable fear of persecution. Minority community leaders argue that the Iraqi legal framework does not adequately recognize or protect Iraq’s components and other vulnerable populations on several levels, including political representation; recognizing and protecting components’ historical, cultural and religious contributions to Iraqi society; the equitable establishment of endowments or cultural centers; and legal protections against discrimination, intimidation, and human rights violations.¹⁴

Regardless of the *de jure* protections outlined in the national Constitution and the Kurdish Regional Government (KRG) draft Constitution, **the Iraqi state and the KRG remain unable or unwilling to protect Iraq’s minority community and other vulnerable populations.**¹⁵ Some components, including Christians, Turkmen, Yezidi, and others, continue to face discrimination or persecution at the hands of state and regional officials and Islamist militants, particularly in the disputed territories.

¹³ See Mumtaz Lalani, Minority Rights Group International, *Still Targeted: Continued Persecution of Iraq’s Minorities*, June 2010; Human Rights Watch, “Iraqi Kurdistan: Law Banning FGM Not Being Enforced,” 29 August 2012; US Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2011: Iraq*, 2011.

¹⁴ Reported to IILHR in a joint consultation with Iraqi components held in Hamdaniya in Ninewa Governorate, January 2013. Represented groups included Yezidis, Chaldean, Assyrian and Armenian Christians, Shabaks, Baha’is, and Kaka’is.

¹⁵ The U.S. Commission on International Religious Freedom 2012 Annual Report, 95, March 2012 notes that “The Iraqi government continues to tolerate systematic, ongoing and egregious religious freedom violations.”

Mandaean Sabians, Roma, and other communities also face ongoing targeted attacks by criminal gangs and private individuals based on religious intolerance, or perceived wealth or perceived immorality. Though state officials have publically condemned some attacks, perpetrators are rarely held accountable.

Iraq's 2005 Constitution prohibits discrimination on the basis of gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion, or economic or social status. The draft Constitution for the KRG¹⁶ contains similar prohibitions on discrimination, adding protections for language, age, and disability. The draft also recognizes equality between men and women.¹⁷

Though the state and the KRG have made some progress in protecting minorities and other groups, neither has adopted legal or practical mechanisms to implement a functional protection framework. Additionally, the state has not made meaningful progress in reforming discriminatory or potentially discriminatory provisions in Iraqi law, nor has it provided adequate recourse to justice, compensation, or alternative arrangements to address past or ongoing persecution and discrimination against vulnerable populations.

The Iraqi legal framework is in many ways a model for the region and new laws passed in 2011 and 2012 provide important protections for women and vulnerable populations. However, large bodies of law—particularly the Penal Code and Personal Status Code—discriminate against women and fail to protect them from many instances of violence. Nor do women exercise the same legal rights as men with regard to divorce, other family issues, and protection from crime. **The penal law considers “honor” a mitigating excuse for violence against women, and allows rapists to escape punishment by marrying victims.**

Among non-Muslim components who voluntarily or were forcibly converted to Islam, the Civil Status law requires that **minor children follow in the religion of the parent who embraces the Islamic religion.** This provision leaves no remedy for non-Muslim parents to pass their religious identity onto children once the adult has been registered as Muslim, and prevents children from choosing their own religion as adults. This problem is compounded by regulations founded on Shari'ah Law which **prohibit individuals from converting away from the Muslim faith.** This is particularly problematic for minorities forcibly converted under the Ba'ath regime or who registered as Muslim who seek new identity documents reflecting their true faith. **To date, members of the Kaka'i, Baha'i, Christian, Mandaean Sabean, and Yezidi faiths report that, where families have been forced to adopt Islam for the purposes of identity**

¹⁶ Draft as of 2009, on file with IILHR. Renewed discussions about a referendum on the draft Constitution began in early January 2013, with highly politicized arguments over control of the disputed territories (particularly areas in the governorates of Wassit, Diyala, Salahaddin, Kirkuk and Ninewa which the Kurds claim). See <http://ikjnews.com/?p=3318>.

¹⁷ On file with IILHR.

documentation, they have been unable to change their religious designation despite the legal right to practice their faiths. As a result, where threats to life or freedom are based on religious or ethnic status, some applicants may be unable to demonstrate such status through documentation.

Within Iraq, these and other circumstances have forced some members of vulnerable communities to hide their religious or ethnic identity, or sexual orientation. As such, some asylum-seekers may not articulate that his or her religious, ethnic, or sexual orientation status contributes to the subjective assessment of whether actual or expected measures against life or freedom on the basis of that status may be taken.

Recommendations

To the Iraqi Government:

- 1. Reform the Iraqi identity documentation process to make it more transparent, accountable, and less rigid.** For example, devolving authority to Iraqi consulates and embassies as the final authorities on passport and other identity documents would be a practical step to relieve the burdens faced by Iraqis seeking to reclaim lost identities and establish nationality. Similarly, devolving authority for documentation within the Ministry of Interior would better manage the identity documents process. Other countries have devolved authorities in this way in order to more efficiently and effectively process claims from abroad.
2. Consider declaring an amnesty on all forms of registration for citizenship and nationality, allowing Iraqi citizens to register in the place where they are currently living, based on available documentation in the possession of applicants. An amnesty, while difficult, would enfranchise and empower more Iraqi citizens, allow for increased refugee returns, and overcome challenges that arise through the continued linking of identity claims to the 1957 census. Reliance on 1957 census data disenfranchises families who were not registered at that time and further complicates existing procedures.
- 3. Develop clear anti-discrimination legislation as called for in Iraq's Constitution to better protect the rights of the vulnerable.**
4. Consider other important legislative initiatives to more fully implement Iraq's Constitution, including legislation to implement the Constitution's Article 125 which calls for local administration rights for minority populations.
5. Ensure the continuing political and financial independence of the new High Commission for Human Rights and support its ability to document human rights abuses and propose recommendations for improved protection mechanisms.
6. Reform Iraq's Penal Code and Personal Status Code to reflect the needs of vulnerable populations, including women, and eliminate discrimination against women and non-Muslims within the legal framework.¹⁸
- 7. Provide adequate security and decentralized administration in the areas contested between the Kurdistan Regional Government and the Federal Government in Baghdad, cooperating and coordinating movements of security forces from both the KRG and the central government.** This includes security

¹⁸ For specific recommendations on reforming the legal framework, please see Institute for International Law and Human Rights, *Women and the Law in Iraq*, 2010, and *Minorities and the Law in Iraq*, 2012, both available for download at: www.iilhr.org.

coordination in disputed districts, as well as joint patrols and checkpoints in these districts. The Federal Government should ensure that minorities and other vulnerable populations are included in security forces and their leadership; and ensure that other actors, including intelligence and Assayish units, fall under appropriate command and control and include minority representation.

8. Cease discriminatory resource and service allocation where there is a significant minority presence, halting efforts to manipulate such groups or enlist them to a particular side in political disputes. Provide for increased political representation among members of minority components and other vulnerable groups.

9. Provide all possible assistance to the returning Iraqi refugee community, in particular those who represent minorities and other vulnerable groups, coordinating with UN mechanisms and host countries where possible. Assistance should address reported challenges in reclaiming property and access to jobs among people who do not affiliate with political parties, as well as reforms to improve the efficiency and adequacy of the Public Distribution System. Ensure that Iraqi refugees have the opportunity to vote in upcoming provincial council and national elections.

10. Work to develop a peaceful resolution of disputed internal boundaries that respects the religious, ethnic and cultural identities of Iraq's minority components and other vulnerable groups.

To the Kurdish Regional Government:

1. Ensure that regional laws and regulations as they relate to minority rights, nationality and identity are in harmony with those of the Federal Government, Iraq's international human rights treaty obligations, and international good practices.

2. Provide adequate security and decentralized administration in the areas contested between the Kurdistan Regional Government and the Federal Government in Baghdad, cooperating and coordinating movements of security forces from both the KRG and the central government. This includes security coordination in disputed districts, as well as joint patrols and checkpoints in these districts. The Kurdish Regional Government should ensure that minorities and other vulnerable populations are included in security forces and their leadership; and ensure that other actors, including intelligence and Assayish units, fall under appropriate command and control and include minority representation.

3. Cease discriminatory resource and service allocation where there is a significant minority presence, halting efforts to manipulate such groups or enlist them to a

particular side in political disputes. Provide for increased political representation among members of minority components and other vulnerable groups.

4. Provide all possible assistance to the Iraqi refugee community, in particular those who represent minorities and other vulnerable groups, coordinating with the Federal Government in Baghdad, UN mechanisms and host countries where possible; and ensure that Iraqi refugees (including those internally displaced in the Kurdistan Region) have the opportunity to vote in upcoming provincial council, regional and national elections.
5. Adopt robust anti-discrimination legislation reflecting the national Constitution's equal protection clause and international standards. **Develop and implement robust mechanisms to ensure that individuals will not be discriminated against or intimidated regarding access to services or employment on the basis of race, ethnicity (particularly among those not identifying as Kurdish), nationality, religion, gender, language, political party affiliation, sexual orientation, origin, color, religion, sect, belief or opinion, or economic or social status.**
6. Work to develop a peaceful resolution of disputed internal that respects the religious, ethnic and cultural identities of Iraq's minority components and other vulnerable groups.

To Refugee Host Countries and the International Community:

1. Assist relevant Iraqi parties to reach a durable settlement on the disputed territories, power sharing and constitutional reform, security and the role of Peshmerga, Assayish, police, and other security forces, and practical and legislative arrangements on hydrocarbon legislation.
2. Ensure that all Iraqi citizens that have taken refuge in host countries have access to support and services in harmony with domestic law and international best practices, providing special emphasis on the needs of Iraqi minorities and other vulnerable groups.
3. **Adjust asylum criteria, background checks, and other policies, while accelerating resettlement efforts, to recognize the unique dangers that confront Iraqi minorities and other vulnerable populations**, including adverse conditions at home and inconsistent identity documentation.
4. Encourage the Iraqi Government to provide a better legal, policy, service, and security framework to combat discrimination inside Iraq and provide for orderly return of refugees, thereby mitigating the reasons for refugee flight from the country.
5. Offer financial support to host countries, IOM and UNHCR, make such assistance transparent and monitor program implementation, express readiness to accept resettlement of Iraqis found by UNHCR to be especially vulnerable, refrain from

returning refugees to unsafe areas in Iraq and conform to repatriation advice issued by UNHCR.

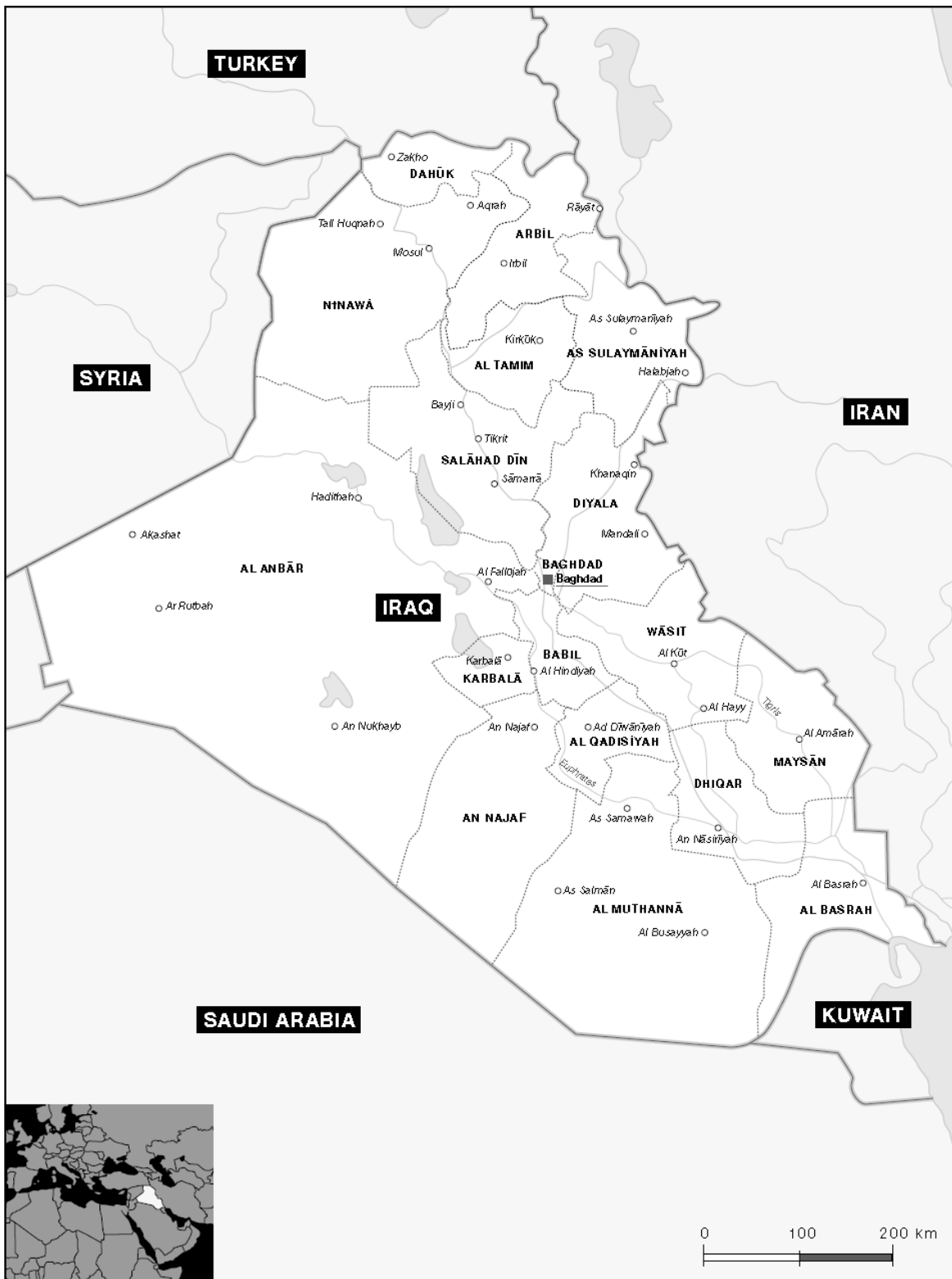
6. Develop comprehensive support for integration efforts targeting religious, ethnic, or other identity elements rather than broader policies of dispersal. For many of Iraq's smallest components, dispersal in asylum may actually speed the disintegration of cultural, religious, and linguistic ties and risk the destruction of whole communities. **Comprehensive, long-term integration support should include not only focused help to adapt to new surroundings, but also goals to support community cohesion and cultural preservation.**

7. Encourage responsible investment in infrastructure and development within Iraq, particularly in Ninewa and the disputed territories, to promote economic growth within the state and facilitate peace-building mechanisms.

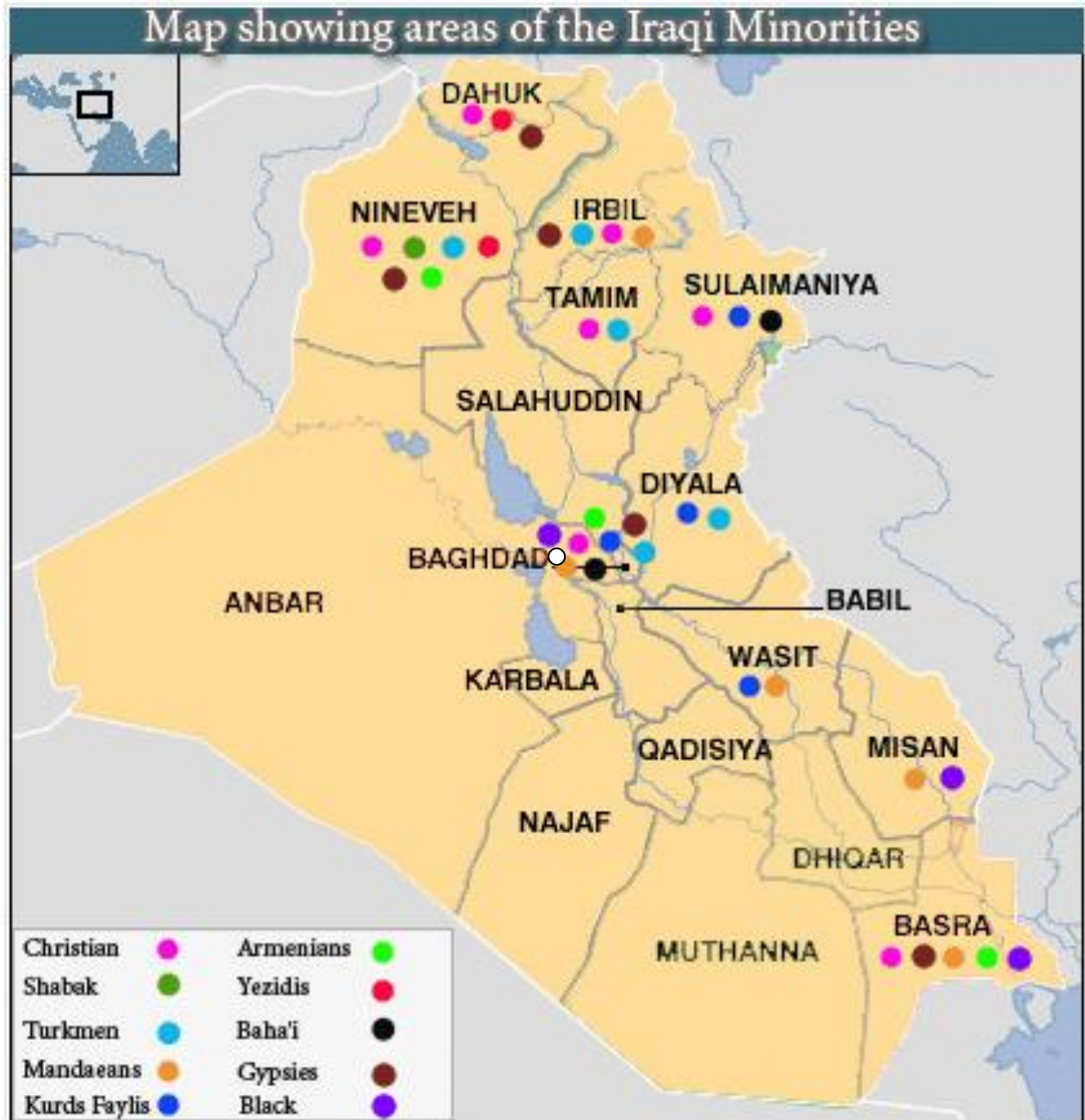
8. Encourage the resolution of the question of refugee status for Palestinians living in Iraq to facilitate relief and the issuance of passports or internationally recognized travel documents.

Maps

Map 1: Map of Iraq

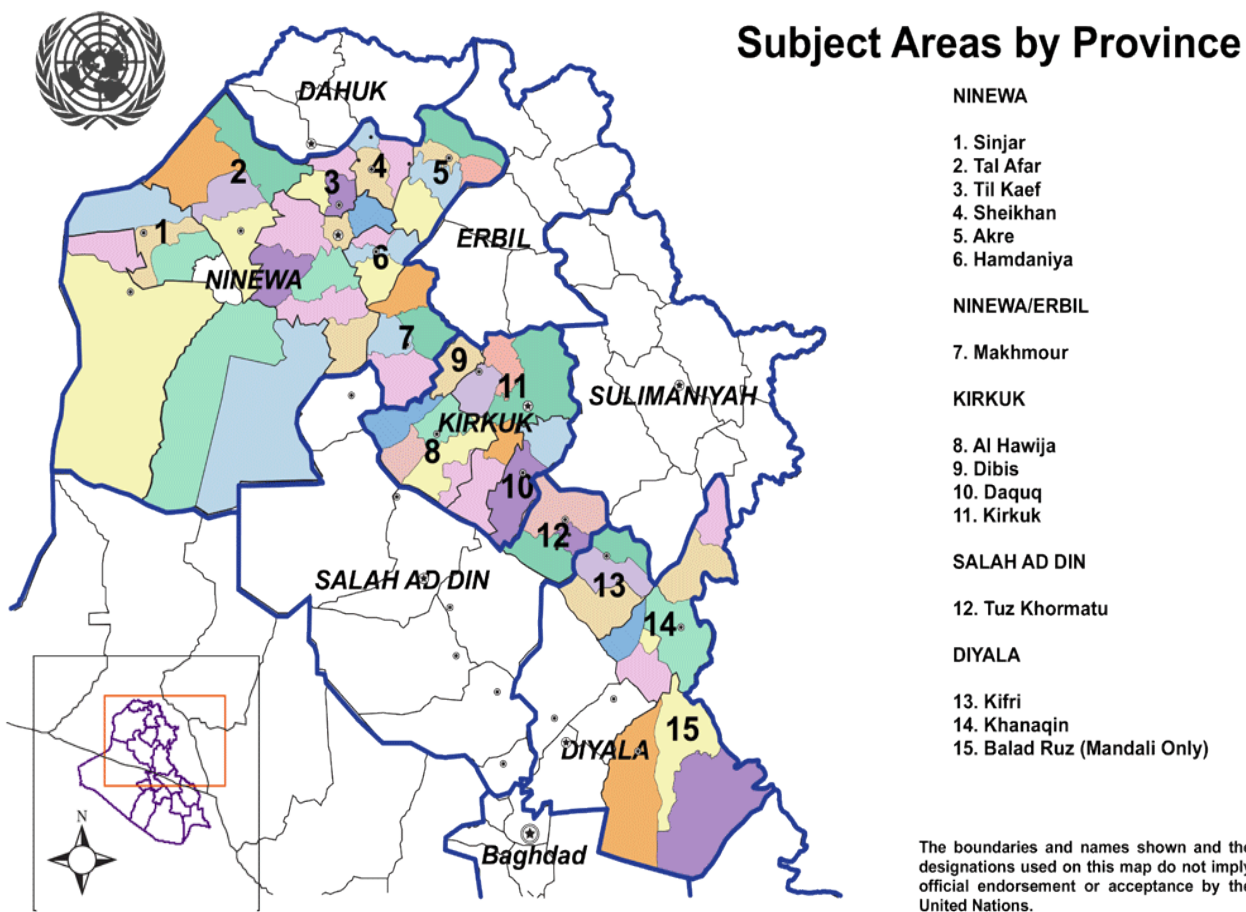


Map 2: Distribution of 10 Iraqi components



Source: Iraqi Minorities Council, <http://www.minoritiescouncil.org/>.

Map 3: Northern and Central Iraq Disputed Internal Boundaries (DIBs) area



Note: The boundaries identified in this map do not imply official endorsement by the United Nations nor any official Iraqi or Kurdish body. Its reproduction herein does not imply any endorsement by IILHR. The information is intended solely as a general representation of the disputed areas, where many of Iraq's components reside.

About this Handbook

This project seeks to produce a plain language handbook that can serve as a reference document on the landscape of Iraq's components and other vulnerable populations. It also examines improvements and challenges in terms of human rights and humanitarian needs, and legal and practical issues related to accessing nationality and identity documentation. The goal of this report is to elucidate the situation on the ground in a manner that may be helpful for immigration officers, national stakeholders, and the international community in addressing protection mechanisms for minorities and other vulnerable Iraqi groups.

This report also seeks to complement other guidelines and reporting, including UNHCR's Eligibility Guidelines,¹⁹ country of origin reports, and other sources. The populations and communities considered herein are not exhaustive, nor is there any hierarchy implied in the order in which information is presented. Many other individuals and communities not addressed in this report also likely require protection, and their non-inclusion herein should have no bearing on the legitimacy of their claims.

Erin Houlihan, Legal Advisor at the Institute for International Law and Human Rights, served as primary researcher and author of this report. IILHR's Iraq Director **Najim Al Khaphaji**, along with **Athra Dakheel**, conducted extensive research and coordinated with Iraqi civil society groups and leaders. Editorial support and project oversight was provided by IILHR's Executive Director, **William Spencer**. **Jibrán Mansur**, Language Services Coordinator, oversaw translation. **Kathryn McDonnell** served as Graphics Coordinator. IILHR received significant support and information for this report from the international community and numerous Iraqi civil society organizations and individuals who answered questionnaires, engaged in interviews and consultations, and provided documentation on various incidents and challenges facing Iraq's vulnerable communities.

For their support of the research, analysis, drafting and design that went into this report, IILHR would like to thank, in no particular order:

- International Organization for Migration (IOM)
- United Nations High Commissioner for Refugees (UNHCR)
- Minority Rights Group International
- Iraqi Refugee Assistance Project
- Yezidi Human Rights Organization International
- Mandaean Human Rights Group International
- International Federation for Iraqi Refugees
- William Warda and Louis Marcus of Hammurabi Human Rights Organization
- Mr. Raad Jabar and The Alliance of Iraqi Minorities
- Dr. Hunan Qaddo and Louis Climis and Iraqi Minorities Council

¹⁹ See UNHCR Eligibility Guidelines, 2012, p. 31.

- Ansar Al Hureya Humanity Organization
- Noruz Organization
- Mr. Waleed Faris and Gift Human Rights Organization
- The late Mr. Jalal Dhiyab and Freedom Supporters Society²⁰
- Mr. Nisan Kromy Rzooqi, Mayor of Hamdaniya
- Dr. Duraid Hikmat Zoma, Minorities Advisor to the Governor of Ninewa
- Mr. Faris Abdul Ahad, Advisor to the Governor of Ninewa

In addition to the above named, other individuals and organizations provided extensive support and considered analysis. For security reasons, their names are not listed here, but IILHR is grateful for their invaluable support and participation in consultation groups and interviews.

In gathering and analyzing data for this report, IILHR conducted extensive research from a broad range of sources (including human rights reports, civil society reports and press releases, academic journals, news outlets, country reports, Iraqi legislation, international conventions, and other sources), with field-based research forming the core of our approach. Minority communities and vulnerable populations examined herein are recognized in the Iraqi legal framework or identified by local or international NGOs as facing persecution, discrimination, or marginalization based on gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion, or economic or social status.

Data gathered for this report were obtained from the following key sources:

- Interviews in Baghdad, Hamdaniya, and Erbil with representatives from minority communities and other vulnerable populations from throughout Iraq;
- Discussions with the Iraqi diplomatic missions regarding access to and use of identity and nationality documentation;
- Roundtables with minority representatives in Ninewa governorate and Baghdad;
- Discussions with members of the Iraqi parliament, GoI and KRG, local government officials, NGOs, and civil society activists;
- Consultations with Iraqi diaspora and members of the international community;
- Surveys and questionnaires on the past and present situation of the target populations distributed through Iraqi NGO networks; and
- Desk research from primary and secondary sources.

²⁰ Sadly, Mr. Jalal was murdered in a targeted assassination in late April 2013. Reportedly, he was driving with two colleagues when armed men drove up beside his vehicle and shot him. The other men in the car with Mr. Jalal were not targeted. It is unclear why Mr. Jalal was murdered, though colleagues suggest the killing may be based on his civil society activities or his symbolic use of the Obama presidency to advocate for increased political rights for black Iraqis. The loss of Mr. Jalal is a loss not only for the black Iraqi community, but for the country of Iraq and human rights advocates everywhere. He will be missed.

About IILHR

The Institute for International Law and Human Rights (known as IILHR) is a 501(c)(3) non-profit charity registered in Washington, D.C., and Brussels, Belgium. IILHR helps states in the early stages of democracy develop the capacity to strengthen the rule of law and build respect for human rights. With a staff of diplomats, parliamentarians, human rights activists and attorneys, IILHR has a strong track record of implementing successful programs that help local partners strengthen support for human rights and the rule of law. Members of IILHR's staff have participated in legal, legislative and civil society capacity-building programs in the Middle East, South Asia, Africa, and Central and Eastern Europe.

IILHR has been a strong, supportive presence in Iraq since July 2005. It collaboratively engages with leaders of both the Iraqi government and civil society to strengthen approaches to human rights issues by a) developing draft legislation; b) working to enact that legislation; c) helping local partners in and out of government to develop the capacity to advocate about specific issues as well as to assess, develop and draft legislation; and d) building consensus on priorities, tactics and strategies for achieving stronger systems of law and human rights protection.

Examples of IILHR's work include extensive participation in drafting more than 70 analyses legislative and constitutional issues. IILHR has also provided commentary on approaches to a broad spectrum of issues, including Women's Care, the establishment of the Human Rights Commission, Social Services development, Freedom of Information and Minority Rights.

Currently, IILHR actively supports human rights in Iraq through several ongoing government and civil society initiatives. As well as work on gender issues, including collaboration on a draft law on domestic violence and publication of an assessment of Iraq's legal framework, *Women and the Law in Iraq*, IILHR works with the U.S. Institute of Peace to bring together minority civil society leaders and parliamentarians from across the country, forge links among minority members of parliament, and conduct outreach on minority issues in Iraq—seeking to build capacity to pursue a legislative and advocacy agenda for the benefit of minority rights. IILHR published *Minorities and the Law in Iraq*, a sister assessment of Iraq's legal framework, in June 2011.

IILHR also plays a lead role in advising and mentoring the development of the Human Rights Commission as an institution that will protect and support the human rights of Iraqi citizens. In October 2012, IILHR published *Iraq's High Commission on Human Rights: Bylaws, Regulations, and Legal Framework*, which is a comparative analysis of potential operating frameworks for the new commission. IILHR is also undertaking rule of law and justice projects, including a program on safeguarding and protecting judicial archives and records throughout Iraq.

Challenges Common to All Minority Groups

Though the overall security situation in Iraq has improved since the peak of violence in 2006-2008, developments have been uneven and conditions for vulnerable populations remain challenging. **Iraq's religious and ethnic minorities—as well as minority women and LGBTI individuals—remain at risk for targeted violence, arbitrary arrest and detention, torture, harassment, intimidation, displacement, political disenfranchisement, and social and economic marginalization. Those communities living in the Disputed Internal Boundaries (DIBs) remain at particular risk.**

Investigations by IILHR, its partners and associates in Iraq and abroad, and secondary research sourced from 2010 to early 2013, reveal the systemic nature of these ongoing problems, but also note improvements in some areas.

Persecution and marginalization of Iraq's vulnerable populations occurs for a host of reasons and are significant factors in the choice of community members to emigrate outside the country. These reasons range from political instability and the ongoing territorial disputes between Arabs and Kurds, to religious and ethnic bias and intolerance stoked by renewed sectarian tensions, to long-standing patterns of discrimination, to criminal profit.²¹ Though there has been a marked reduction in total levels violence since 2008, data from 2012 reveal a marked backslide which analysts attribute more to an entrenched conflict and rising sectarianism than to a transformation in the security situation.²² Most notably for Iraq's minority components, 43 percent of deaths in 2012 occurred in the capital of Baghdad, and in Ninewa government, where 90 percent of minorities live.²³

Iraq's vulnerable populations continue to face distressing levels of threats, violence, and discrimination. In October 2012 alone, over 13 targeted attacks against **Shabaks** were reported by *Shabak News*, along with a car bomb targeting a Shabak village on December 17, 2012.²⁴ In December 2011, between 300 and 1,000 rioters attacked legally operating **Yezidi** and **Christian** businesses in the Dohuk province, burning and destroying 26

²¹ Reports to IILHR, Baghdad 2012; see Amnesty International, *Iraq: human rights abuses against Palestinian refugees*, 1 October 2007, MDE 14/030/2007, available at:

<http://www.unhcr.org/refworld/docid/47009e3b2.html>; see also; Tom Charles, "An Ongoing Nakba: the Plight of Palestinian Refugees in Iraq," 6 February 2012, available at, <http://www.jadaliyya.com/pages/index/4264/an-ongoing-nakba-the-plight-of-palestinian-refugee>.

Palestinians historically received significant support from the Government of Iraq in lieu of international relief. See UNRWA, *Report of the Director [UNRWA]*, UN Doc. A/1905, 28 Sept. 1951, paras. 8, 90.

²² Reports to IILHR, 2012 and 2013.

²³ Iraq Body Count, January 2013. Reportedly, Ninewa suffered 834 deaths in 2012, with an estimated governorate population of 3,270, 422. Baghdad suffered 1,086 deaths in 2012. Population estimates are provided by Iraq's Central Organization for Statistics and Information Technology, "Estimated Population for the Year 2011, available at http://cosit.gov.iq/AAS2012/section_2/8B.htm.

²⁴ Reports to IILHR by Dr. Hunan Qaddo; see also Shabak News, <http://www.shabaknews.com/>.

liquor stores, a massage parlor, four hotels, and a casino. To date, no perpetrators have been arrested and no one has been compensated for lost and destroyed property.²⁵ Targeted violence and intimidation against these communities continued into 2012, including the arbitrary arrest and detention of multiple **Yezidi** human rights activists by KRG security forces in Sinjar in northern Iraq.²⁶ Some Yezidi community members report pressure from Kurdish authorities to identify as indigenous Kurds rather than ethnic Yezidis. Particularly in Sinjar, Yezidi human rights activists report difficulty accessing healthcare, clean water, adequate housing, arable land, or economic opportunity.²⁷

Palestinian refugees living in Iraq also report human rights violations at the hands of government authorities and security forces, though the number and nature of such incidents have markedly decreased since 2006. Community members report low-level harassment, arbitrary arrest and detention, torture while detained, and unfair trials.²⁸ The community also worries that it may face a growing humanitarian challenge since the Iraqi Government has reportedly limited support since 2003. The government will not grant Palestinians refugee status.²⁹ **Black Iraqis, Roma, and Bedouin** also report economic and social discrimination. Among **Roma**, women and children face a high risk of sexual exploitation, and women face extra-judicial execution if accused of prostitution.³⁰ Numerous incidents of Kurdish authorities discriminating against minorities, including **Turkmen, Yezidis and Christians** in the disputed territories, were reported in 2012. Incidents include pressure to join the PUK party in Suleymaniyah province and the KDP in Erbil and Dohuk provinces.³¹ **Turkmen** in the disputed

²⁵ Reports to IILHR by Hammurabi Human Rights Organization and Yezidi Human Rights Organization International; see also US Department of State, Democracy, Human Rights and Labor, *International Religious Freedom Report for 2011*, available at <http://www.state.gov/j/drl/rls/irf/religiousfreedom/#wrapper>.

²⁶ IILHR interviews with Yezidi activists, 2013; see also Yezidi Human Rights Organization International, <http://www.yezidihumanrights.org>.

²⁷ Some members of the Yezidi community in Sinjar and other areas of Ninewa report systematic intimidation by Kurdish security forces and government authorities, including arbitrary arrest, torture, and denial of basic services. Reportedly, there is limited access to women's healthcare facilities in the Sinjar district, forcing Yezidi women to travel to Dohuk in the KRG to receive pre-natal care and give birth (Mosul is also an available venue, remains a dangerous area). Children born in Dohuk reportedly receive identity documents indicating Kurdish ethnicity. This pressure reportedly stems efforts to expand Kurdish presence in Ninewa.

²⁸ See Human Rights Watch, "Iraq: Protect Palestinians in Iraqi Prisons," 13 December 2012, available at <http://www.hrw.org/news/2012/12/13/iraq-protect-palestinians-iraqi-prisons>.

²⁹ IILHR interviews, 2012; see Amnesty International, "Iraq: human rights abuses against Palestinian refugees," 1 October 2007, MDE 14/030/2007, available at: <http://www.unhcr.org/refworld/docid/47009e3b2.html>; see also; Tom Charles, "An Ongoing Nakba: the Plight of Palestinian Refugees in Iraq," 6 February 2012, available at, <http://www.jadaliyya.com/pages/index/4264/an-ongoing-nakba-the-plight-of-palestinian-refugee>. Palestinians historically received significant support from the Government of Iraq in lieu of international relief. See UNRWA, *Report of the Director*, UN Doc. A/1905, 28 Sept. 1951, paras. 8, 90.

³⁰ IILHR interviews, 2012 and 2013.

³¹ IILHR interviews, 2012 and 2013 confirming ongoing practices, as reported in US Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2011: Iraq*, 2011, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=186428#wrapper>.

territories also face an increased threat of violence since late 2012, particularly in Tuz Khurmatu in northeastern Salahaddin governorate, due to increased fighting between GoI and KRG security forces.³²

For **Mandaeen-Sabeans**, a reported 300 families fled Iraq in 2011³³ under continuing threat of violence, kidnapping, and ongoing intimidation. As reported by Mandaean Human Rights Group, at least 11 Mandaean were killed in targeted attacks in 2010, 2 more by September 2011,³⁴ and at least 7 incidents (involving 13 people) of kidnapping, murder, and intimidation through targeted violence in 2012.³⁵ **Fayli Kurds** returning to Iraq from Iran and elsewhere report challenges to reclaim confiscated property, access services and employment, and in some cases, reintegrate into society.³⁶ Some also report difficulty navigating procedures to reclaim citizenship and obtain Iraqi documents. For **Baha'is**, despite a 2007 order cancelling a 1975 prohibition on the issuance of national identity cards to those claiming the Baha'i faith, only a handful of Baha'is have actually been issued cards since government regulations prevent those who took documents identifying them as Muslim from reclaiming their Baha'i faith on official documents. A 1970 law banning the practice of the Baha'i faith remains valid, though unimplemented in practice.

Among **lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals**, threats, beatings, kidnappings and murders throughout 2012 were part of generalized antipathy to Iraq's "emo" community. Incidents included the March 2012 bombing of a Basra café where "emo" youth gather and, most notably, the public beating and murder of "Brown Suyyufi."³⁷ The Ministry of Interior reported at least 55 murders of "emo" teenagers throughout Iraq,³⁸ with most violence against (perceived) LGBTI individuals

³² See reports on fighting around Tuz Khurmatu area: Dawn.com, "Iraq Town Caught in Middle of Territory Row," 3 January 2013, available at <http://dawn.com/2013/01/03/iraqi-town-caught-in-middle-of-territory-row/>; Al Jazeera, "Deadly Suicide Bombs Strike Iraq's North," 16 January 2012, available at <http://www.aljazeera.com/news/middleeast/2013/01/2013011672241755601.html>. For an overview of the area, see United Nations Interagency Information Analysis Unit, "Salah al-Din Governorate Profile," July 2009, available at <http://www.aljazeera.com/news/middleeast/2013/01/2013011672241755601.html>.

³³ US Commission on International Religious Freedom 2012 Annual Report, available at <http://www.uscirf.gov/images/Annual%20Report%20of%20USCIRF%202012%282%29.pdf>.

³⁴ The US State Department's International Religious Freedom Report for 2011 reported that only two Mandaean Sabeans were killed in 2010.

³⁵ See Mandaean Human Rights Group, *The Mandaean Human Rights Report: Update on the Situation of Mandaean in the Middle East*, December 2012, on file with IILHR.

³⁶ IILHR interviews 2012; see also Rudaw, "Fayli Kurds Struggle in Iraq," 26 January 2012, available at <http://www.rudaw.net/english/news/iraq/4357.html>.

³⁷ IILHR survey of transgender Iraqi refugee; see also Shafaq News, "The 'Emo' of Iraq defy the 'blocks', religion refuses killing them and the government does not comment," 10 March 2012, available at www.shafaq.com/en/reports/2434-the-qemoq-of-iraqi-defy-the-qblocksq--religion-refuses-killing-them-and-the-government-does-not-comment.html.

³⁸ Shafaq News, "The 'Emo' of Iraq defy the 'blocks', religion refuses killing them and the government does not comment," 10 March 2012, available at www.shafaq.com/en/reports/2434-the-qemoq-of-iraqi-defy-the-qblocksq--religion-refuses-killing-them-and-the-government-does-not-comment.html.

focused in Sadr City in Baghdad and in Babel province. Perpetrators of violence are mainly extremists.³⁹

The political instability that has plagued the new government since 2010 has further fostered an environment of insecurity, fueling not only a sense of impunity, but also paralyzing movement on a number of long-standing issues that impact minority communities, including disputes over territory between the KRG and GoI, the division of power between the central government, regions and governorates; and implementing legislation called for in the 2005 Constitution, including enabling legislation for the Federal Supreme Court and Higher Judicial Council, anti-discrimination legislation, local administration legislation, and other laws.

Despite the ongoing challenges facing Iraq's vulnerable populations and limited but notable improvements in security, the GoI and the Kurdish Regional Government have not implemented effective mechanisms to protect and support these groups; in some reported cases, central and Kurdish government and security officials are complicit in acts of intimidation and persecution against populations discussed herein, particularly among those living within the DIBs area. Additionally, the GoI reports that dozens of armed groups with thousands of members remain active in Iraq, with groups largely split among sectarian lines (mainly Sunni or Shia'h). Some groups operate independently, while others are openly or secretly aligned with political parties or have themselves transformed into political parties (though often without giving up arms).⁴⁰

Additionally, criminal gangs have reportedly taken advantage of the weak law enforcement capacities of the Iraqi state and the environment of intolerance to target vulnerable populations for financial, political, or ideological gain. UNHCR reports that these groups engage in extortion, kidnappings, killings, forced prostitution and human trafficking. In terms of violence against women, perpetrators are often members of the victim's family, community, or tribe committing "honor crimes," early and forced marriages, domestic violence, female genital mutilation and trafficking.

³⁹ IILHR interview with transgender Iraqi refugee.

⁴⁰ UNHCR Eligibility Criteria, 2012, p 9.

The Situation of Minority Women

Women in Iraq face challenges with gender-based violence and discrimination in law and practice, including equal rights under the law, access to employment, and participation in decision-making positions in parliament, government, and in social and cultural contexts. **Women from Iraq's minority groups often face the dual challenge of being targeted both for their sex and their ethnic or religious identity.**

For example, though not widespread, some non-Muslim women whose religion does not require a head covering report harassment and threats by conservative Muslim groups and individuals to conform to dress codes perpetrators perceive as being in line with the Islamic faith.⁴¹ Women of all faiths also report challenges accessing documents for themselves and their children without the presence of a male relative, such as birth registration for children. Single women in particular report problems at the directorate level when registering children because some authorities require a marriage certificate and identification documents from both parents, or a death certificate if a parent is deceased. Though in some cases such requirements are not legally or procedurally mandated, individual officials in some ministries and directorates reportedly require submitting documentation in the presence of a male. Given the destruction of documents over years of war and the significant numbers of IDPs in Iraq over the last 10 years, this demand is particularly burdensome for single women and widows.⁴²

Among components living with high levels of poverty, such as **black Iraqis** in the south, the **Roma** (Dom), and other groups, community members report high rates of domestic violence within families, with little or no support for women to escape their abusers. Though the KRG region has made some progress by passing a domestic violence law and establishing the Directorate for Tracing Violence Against Women, the national government has not yet developed legislation and a framework for supporting survivors and bringing perpetrators to justice.⁴³ Domestic violence and other violence against women is a common problem in Iraq, remains significantly underreported, and is rarely

⁴¹ See, Mumtaz Lalani, Minority Rights Group International, *Still Targeted: Continued Persecution of Iraq's Minorities*, 5, June 2010, available at <http://www.minorityrights.org/download.php?id=956>; and US Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2011: Iraq, 2011*, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=186428#wrapper>.

⁴² US Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2011: Iraq, 2011*, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=186428#wrapper>.

⁴³ The Government of Iraq has not yet passed a comprehensive anti-domestic violence bill. An expert committee under the Council of Ministers has been tasked with developing a bill, but the issue has largely been tabled. In 2012, the GoI established the Family Protection Directorate under the Ministry of Interior tasked with developing Family Protection Units (FPUs) affiliated with police stations. The FPUs are tasked with responding to complaints of gender-based violence, providing victim services, and referring perpetrators to the police. A pilot program was started in Baghdad (2 FPUs) and Basra (1 FPU). As of January 2013, the units remain under-resourced and lack sufficient training on GBV and related issues.

prosecuted. For women from many minority components, underreporting of violence is likely linked to additional challenges related to their minority status—such as persecution by authorities or broader problems with access to justice.

Gender-Based Violence

As noted elsewhere, though Iraq's legal framework is a model for the region in many ways, it also discriminates against women particularly in the area of violence against women. **The Penal Code, for example, recognizes “honorable motives” as a mitigating excuse for violent crime against women, excuses rapists who marry their victims, and discriminates in punishment for adultery and other crimes linked to family relations.** The Iraqi legal system also prioritizes family privacy and the sanctity of the home, thereby discouraging the investigation of reports of domestic abuse (currently recognized only under general assault provisions), forced marriages, marriage for ransom, suicide or murder related to domestic violence, and other problems common to women. Spousal rape is not recognized under Iraqi penal law.

Domestic violence is a particular challenge as a husband is legally entitled to punish his wife “within certain limits prescribed by law or custom.” In practice, existing laws on sexual and other crimes against women are widely under-enforced.⁴⁴ Iraqi NGOs report that incidents of domestic violence against women go largely unreported and, when reported, largely unpunished. Even police officers charged with addressing complaints of domestic violence within Family Support Units in Baghdad report preferring mediation or resolution through family or tribal intervention to prosecution.⁴⁵

A domestic violence law adopted in the KRG criminalizes forced marriage, forced divorce, marriage of minors, forced prostitution, battering, assault, and other forms of family violence, including Female Genital Mutilation (FGM). The impact of the domestic violence law and levels of enforcement in practice remain to be examined, but positive signs have emerged. However, virtually no effort has reportedly been made to educate about and enforce the provisions banning FGM.⁴⁶

⁴⁴ US Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2011: Iraq*, 2011, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=186428#wrapper>.

⁴⁵ IILHR interview with head of Al Karq Family Protection Unit, Baghdad, 2012. See also US Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2011: Iraq*, 2011, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=186428#wrapper>.

⁴⁶ See Human Rights Watch, “Iraqi Kurdistan: Law Banning FGM Not Being Enforced,” August 2012, available at <http://www.unhcr.org/refworld/docid/504758812.html>.

FGM

Female Genital Mutilation (FGM) is reportedly widely practiced in northern and parts of central Iraq, though empirical studies to date suffer from under-representative sampling that does not fully disaggregate for membership in a minority component.

The Kurdistan Ministry of Health conducted a survey in 2010 of 5,000 women and girls and found that 41 percent of those interviewed had been cut. A separate 2010 survey by a non-governmental organization found that 74.8 percent of Kurdish women interviewed reported that they had undergone FGM.⁴⁷ Among those surveyed, 94.8 percent were Sunni Muslims. Of the Shia'h interviewed, 23.1 percent reported that they had undergone the procedure.⁴⁸ A similar follow-up study in 2012 focused on the Kirkuk area found that 65.4 percent of **Kurdish women**, 25.7 percent of **Arab women**, and 12.3 percent of **Turkmen women** interviewed had suffered FGM. Though data indicated that Shia'h are less likely to undergo the process, results suggest that at least some **Faili Kurds** may to engage in the practice, particularly as many Kurdish participants reportedly perceived FGM as a cultural rather than religious tradition. Members of the **Kaka'i** community also report high levels of FGM, reporting that they "believe in cutting very strongly and consider it part of the religion."⁴⁹ Disaggregated data on the practices of **Shabaks** and **Yezidis** is not available at this time, though anecdotal information and interviews indicate that FGM is rare or not practiced in these communities. **Baha'is** report that FGM is not performed in their community, nor has it been reported among **Christians**.

According to the World Health Organization, "Female genital mutilation (FGM) comprises all procedures that involve partial or total removal of the external female genitalia, or other injury to the female genital organs for non-medical reasons." Female genital mutilation violates the rights of women to life, health and bodily integrity, non-discrimination, and the right not to be subjected to cruel, inhuman, and degrading treatment. Additionally, since the practice predominantly targets girls under 18, FGM also violates children's rights to health, life, physical integrity, and non-discrimination."⁵⁰ In Iraq, the continued tolerance of FGM violates multiple international human rights conventions to which the state is a party. The practice may also present a reasonable fear of physical harm among Iraqi women, particularly those living in the northern regions.

⁴⁷ The WADI study included 120 interviews in the governorates of Erbil, Suleymaniyah and Kirkuk and found a mutilation rate of 63% in Erbil, 77.9% in Suleymaniyah, and 81.2% in Kirkuk, with significant differences in rates of FGM among age cohorts. See WADI, *Female Genital Mutilation in Iraqi-Kurdistan*, 2010, available at http://www.stopfgmkurdistan.org/study_fgm_iraqi_kurdistan_en.pdf.

⁴⁸ WADI, *Female Genital Mutilation in Iraqi-Kurdistan*, 2010, available at http://www.stopfgmkurdistan.org/study_fgm_iraqi_kurdistan_en.pdf.

⁴⁹ IILHR interviews, 2012. See also US Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2011: Iraq*, 2011, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=186428#wrapper>.

⁵⁰ Human Rights Watch, "Iraqi Kurdistan: Law Banning FGM Not Being Enforced," August 2012, available at <http://www.unhcr.org/refworld/docid/504758812.html>.

According to the German NGO Wadi (Development Now), the practice also occurs in other parts of the country, such as Basra in the south.⁵¹ To date there have been no focused empirical studies of FGM in the south of Iraq.

Honor Killings

In 2010, the KRG Ministry of Interior published a statement documenting 102 incidents of women burned around Erbil governorate alone.⁵² Reportedly, women who committed self-immolation had been previously victimized, but police investigated only a small number of women's burn cases.⁵³ Further, the KRG reported that during 2010, 76 women in the region were killed or committed suicide, while 330 were burned or self-immolated.⁵⁴ Local civil society groups report that these numbers are likely low estimates.⁵⁵ A 2010 report from the Iraqi Ministry of Human Rights reported 249 murders of women, including honor crimes, though without further breakdowns in the data.⁵⁶

In 2012, multiple cases of honor killings were reported, though reliable aggregated data remains unavailable. In June 2012, Nigar Rahim, a 15 year old, was raped by one brother and murdered by another. After the rape, Niger was put under the protection of the Directorate for Tracing Violence Against Women in the KRG and gave birth to a child produced from the rape. In June 2012, the Directorate turned Niger over to another brother after he signed a statement promising not to harm her. This brother later killed her.⁵⁷

The underreporting of incidents of honor killings stem not only from a lack of prosecution under the Penal Code (which mitigates murder done with "honorable

⁵¹ US Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2011: Iraq*, 2011, available at

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dlid=186428#wrapper>.

⁵² US Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2011: Iraq*, 2011, available at

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dlid=186428#wrapper>.

⁵³ US Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2011: Iraq*, 2011, available at

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dlid=186428#wrapper>.

⁵⁴ US Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2011: Iraq*, 2011, available at

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dlid=186428#wrapper>.

⁵⁵ US Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2011: Iraq*, 2011, available at

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dlid=186428#wrapper>.

⁵⁶ Yara Bayoumy and Aseel Kami, "Honor Killings' require tougher laws, say Iraqi women," Reuters, 6 March 2012, available at <http://www.reuters.com/article/2012/03/06/us-iraq-women-idUSTRE82510920120306>.

⁵⁷ See eKurd.net, "Rape and killing of 15 year old Nigar Rahim in Iraq's Kurdistan," 18 August 2012, available at <http://www.ekurd.net/mismas/articles/misc2012/8/state6428.htm>.

motives”), but also because the crimes are often presented as suicides or because police and justice sector officials continue to look to honor killings as tribal justice.⁵⁸

Human Trafficking

Trafficking in women and girls continues to present a major problem in Iraq, and anecdotal reports indicate that trafficking in forced prostitution and bonded labor may be increasing in some parts of the country. This is reportedly owed in part to pervasive corruption and an overall increase in criminal activity.⁵⁹ **Among women from minority components who are internally displaced, the risk of trafficking is particularly high;⁶⁰ an estimated 83 percent of all IDPs living in Iraq are women.**⁶¹ In 2012, the US State Department Trafficking in Persons (TIP) report designated Iraq as a Tier 2 Watch List country for the fourth year in a row due to the fact that the government did not fully comply with the minimum standards for eliminating human trafficking. The TIP report noted that the government of Iraq did not demonstrate evidence of substantial efforts to punish traffickers or to proactively identify victims. Iraq was not placed on the Tier 3 Watch List because it has adopted a written plan to combat trafficking.⁶² The plan was not implemented in 2012.

In April 2012, the government of Iraq passed an anti-trafficking law, but made negligible efforts to prosecute or punish traffickers under the new law or broader legal framework. Victims of forced prostitution continued to be punished under the Penal Code without recognition as victims of trafficking and no systematic protection services were offered to victims of any kind.⁶³ As a result, reports indicate that some victims of trafficking continue to be incarcerated, fined, or otherwise penalized for unlawful acts committed as a direct result of being trafficked, such as engaging in prostitution.⁶⁴ According to the

⁵⁸ Discussions with Al Amal Association, Baghdad 2012.

⁵⁹ US Department of State, *Trafficking in Persons Report: Iraq*, 190, June 2012, available at <http://www.state.gov/documents/organization/192595.pdf> (beginning on page 190).

⁶⁰ US Department of State, *Trafficking in Persons Report: Iraq*, 190, June 2012, available at <http://www.state.gov/documents/organization/192595.pdf>; see also Linda Lavendar, *Human Trafficking in Iraq: 2003 and Beyond*, Civil Military Fusion Center, May 2012, available at <https://www.cimicweb.org/cmo/medbasin/Holder/Documents/ro15%20CFC%20Monthly%20Thematic%20Report%20%2814-May-12%29.pdf>.

⁶¹ See Linda Lavendar, *Human Trafficking in Iraq: 2003 and Beyond*, Civil Military Fusion Center, May 2012, available at <https://www.cimicweb.org/cmo/medbasin/Holder/Documents/ro15%20CFC%20Monthly%20Thematic%20Report%20%2814-May-12%29.pdf>.

⁶² US Department of State, *Trafficking in Persons Report 2012*, 190, June 2012.

⁶³ US Department of State, *Trafficking in Persons Report: Iraq*, 191, June 2012, available at <http://www.state.gov/documents/organization/192595.pdf> (beginning on page 190).

⁶⁴ US Department of State, *Trafficking in Persons Report: Iraq*, 191, June 2012, available at <http://www.state.gov/documents/organization/192595.pdf> (beginning on page 190).

Trafficking in Persons report, Ministry of Interior officials have repeatedly denied that women incarcerated for prostitution could also be victims of trafficking.⁶⁵

For the year 2011, the International Organization for Migration (IOM) assisted in 36 incidents of trafficking in Iraq and provided assistance to 65 additional cases where Iraq was the destination country.⁶⁶ Reports indicate that 2011-2012 saw an increase in forced prostitution in the city of Tikrit, with women between the ages of 15 to 22 years from Baghdad, Kirkuk, and Syria sold to traffickers in Tikrit for the equivalent of USD 1,000-5,000. These victims are then replaced or sold again every two or three months.⁶⁷

Additionally, women and girls remain subjected to involuntary servitude and sexual exploitation through forced marriages and temporary marriages (*muta'a*), in which the family of the girl receives money in exchange for permission to marry the girl, or the girl is given in payment for a debt.⁶⁸ Often, women who flee such marriages are vulnerable to further forced servitude or sexual exploitation; reportedly, recruiters sometimes rape women and girls on film and blackmail the women into prostitution. Traffickers also often recruit in prisons by posting bail and then forcing women into prostitution via debt bondage.⁶⁹

De Jure and De Facto Discrimination

As noted elsewhere, women in Iraq face discrimination under the law and in practice. Though the Constitution provides that men and women are equal under the law, Iraq's legal framework patently discriminates against women in some areas, particularly under the Penal Code. The Personal Status Code also denies women the same rights as men in ending marriage, inheritance, and other areas. Though Iraq's legal system is, in many ways, a model for the region and has historically advanced women's rights in many areas, entrenched political and cultural divides since 2003 have slowed reforms and enabled violence against women and other crimes and patterns of discrimination to occur with impunity.

⁶⁵ US Department of State, *Trafficking in Persons Report: Iraq*, 192, June 2012, available at <http://www.state.gov/documents/organization/192595.pdf> (beginning on page 190).

⁶⁶ International Organization for Migration, *IOM 2011 Case Data on Human Trafficking: Global Figures & Trends*, February 2012, available at <http://ec.europa.eu/anti-trafficking/download.action;jsessionid=rc1GPLSD3X2MQMTyFpT5YmplykC54Jzzyo2L4CSQTLtzxFPZgRiF!-471497004?nodeId=0c594432-d910-421a-864f-45f546ae3abb&fileName=IOM+Global+Trafficking+Data+on+Assisted+Cases+2012.pdf>.

⁶⁷ US Department of State, *Trafficking in Persons Report: Iraq*, 190, June 2012, available at <http://www.state.gov/documents/organization/192595.pdf> (beginning on page 190).

⁶⁸ US Department of State, *Trafficking in Persons Report: Iraq*, 190, June 2012; see also US Department of State, *Trafficking in Persons Report: Iraq*, 195, June 2011.

⁶⁹ US Department of State, *Trafficking in Persons Report: Iraq*, 190, June 2012.

Discrimination in Law

Iraq's Penal Code of 1969 and subsequent laws sanction violence against women and honor crimes. It also applies differential penalties for women accused of crimes of a sexual nature.⁷⁰

Article 41(1) grants **a legal right to a husband to punish his wife**, including physical abuse, despite violating the equal protection clause of the Constitution,⁷¹ Articles 9 and 26 of the ICCPR, and Articles 2(b) and (c), 4, 5, and 15 of CEDAW. The Penal Code further sanctions violence against women by **providing a mitigating excuse for murder and other violent crimes committed with "honourable motives,"** thus allowing perpetrators of honor crimes to escape punishment.⁷²

Article 398 exonerates perpetrators of rape who marry their victims, thereby forcing the victim of serious assault into marriage with her offender.

A valid 2001 RCC Order **punishes prostitutes with life imprisonment** with no mitigation for women victims of trafficking or other crimes.⁷³ International observers report that women victims of sex trafficking continue to be punished under this law. The Penal Code also discriminately punishes women for the commission of **adultery**, whereas punishment of men adulterers is limited to acts committed within the conjugal home. Article 379 voids actions for adultery with the death of the complainant, increasing the risk of violence against women whose husbands stand accused of adultery.

To date, the central government has not outlawed the practice of Female Genital Mutilation and KRG efforts to enforce its prohibition have been negligible.

The Personal Status Code also presents challenges for women and contains discriminatory provisions. **For non-Muslim women in particular, the Personal Status Code applies Islamic Shari'ah principles where there is no applicable legislation on an issue.**⁷⁴ The Code also allows for polygamous marriages,⁷⁵ which is particularly problematic given that the law makes it easier for husbands to divorce wives than for wives to divorce husbands.⁷⁶ The threat of an easy divorce forces many women to agree to their husbands' taking additional wives.

⁷⁰ See Institute for International Law and Human Rights, *Women and the Law in Iraq*, 9, December 2010, available at www.iilhr.org.

⁷¹ This Penal Code provision discriminates against women in violation of Article 14 of the Iraqi Constitution, as well as Article 29(4) which states that "all forms of violence and abuse in the family... shall be prohibited." See *Id.*

⁷² See Penal Code No. 111 (1969), art. 128 and 409; see also RCC Order No. 6 of 2001.

⁷³ Article 3 of RCC Order No. 234 of 2001. See IILHR, *Women and the Law in Iraq*, 47.

⁷⁴ Iraqi Personal Status Law No. 188 (1959), art. 1.

⁷⁵ Iraqi Personal Status Law No. 188 (1959), art. 3.

⁷⁶ Iraqi Personal Status Law No. 188 (1959), art. 34(1) and 37.

Women also face discrimination on religious grounds since the Personal Status Code allows a Muslim man to marry a woman who practices “one of the religions of the Book,” but prohibits Muslim women from marrying non-Muslim men.⁷⁷

Discrimination in Practice

In addition to *de jure* discrimination, women in Iraq also face *de facto* discrimination, both as women and as members of religious or ethnic minorities. Throughout the country, women report increasing pressure to wear headscarves and dress conservatively, particularly in conservative and rural areas but also in some Baghdad neighborhoods.⁷⁸ Women in the Kadhimiya area of Baghdad have reportedly been refused entry to the neighborhood unless they are wearing a headscarf and *abaya*.⁷⁹ Reportedly, female students have also been questioned at the gates of Mosul University about not wearing a headscarf.

This pressure also extends to public offices. In late 2011, the Higher National Committee for the Advancement of Women, chaired by the State Minister for Women's Affairs, issued guidelines on dress codes for women public employees that encourage (though do not explicitly require) modest clothes that reflect the values of Islam.⁸⁰ Many female government employees report being pressured to wear, or questioned about not wearing, headscarves.⁸¹ Civil society groups regard the dress code as a step toward forcing women into veils.

In terms of social activities and freedoms, women also reported that conservative Muslim Iraqis publicly harassed or intimidated them for engaging in activities such as driving a car, walking the street with friends, and wearing trousers or jewelry. The harassment sought to force women to remain at home, wear headscarves, and adhere to a conservative interpretation of Islam.”⁸²

⁷⁷ Iraqi Personal Status Law No. 188 (1959), art. 17.

⁷⁸ US Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2011: Iraq*, 2011, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=186428#wrapper>.

⁷⁹ See, Charles Recknagel and Moyad al-Haidari, “Baghdad Neighborhood Imposes Strict Dress Code on Women,” Radio Free Europe, 9 September 2012, available at <http://www.rferl.org/content/baghdad-neighborhood-imposes-strict-dress-code-on-women/24702541.html>. IILHR visits to Kadhimiya neighborhood in January 2013 confirm an increasingly strict dress code for women.

⁸⁰ See Kholoud Ramzi, “Not short, tight or shiny: new dress code could see women forced into veils,” Niqash, 26 January 2012, available at <http://www.niqash.org/articles/?id=2981>.

⁸¹ US Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2011: Iraq*, 2011; see also Hammurabi Human Rights Organization, *Report of Hammurabi Human Rights Organization About the Situation of Iraqi Minorities*, 2011.

⁸² US Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2011: Iraq*, 2011, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=186428#wrapper>.

In addition to threats and intimidation forcing non-Muslim or non-conservative women to wear a veil or behave according to a conservative view of Islam, women also face the systemic under-enforcement of laws across a spectrum of issues, from protecting women victims of violence or trafficking, to enabling women to register the birth of children or acquire passports for children. As noted elsewhere, though Iraqi women have the same right as Iraqi men to register the birth of children or obtain travel documents for children, ministry officials at the directorate level repeatedly refuse to provide such documents without the presence of a male relative. Women victims of violence are also regularly forced to reconcile with their abusers or marry their rapists while the perpetrators escape punishment. For women victims of sex trafficking, government offices refuse to recognize that prostitutes can be victims. As a result, these women often face prosecution and life imprisonment if caught or risk coming forward. To date, the government has made minimal steps to improve the *de facto* situation of women in Iraq.

Economic Challenges

Women in Iraq experience economic discrimination in access to, and in terms of, employment, occupation, credit, and pay equity for performing similar work or managing similar businesses as men.⁸³ For women from minority communities, discrimination is likely doubly burdensome and based not only on gender but on ethnic or religious identity as well. Only 13 percent of all women in Iraq aged 15 or older participate in the labor force.⁸⁴ **International observers note that women in Iraq face a range of constraints to increased participation in private sector employment, including: economic barriers to participation related to finance, property, jobs, transportation, and other resources; access to educational opportunities, training and healthcare; *de jure* and *de facto* legal and procedural barriers such as traditional division of labour, discrimination, marriage, divorce, and property; limits to public participation and representation in decision making forums; crime and insecurity; and other restrictions such as limitations on movement, requirements for male consent, and other issues.**⁸⁵ Minority women are at particularly risk for such limiting factors.

The unstable security situation disproportionately affects women's ability to work outside the home and may be particularly challenging for non-Muslim women. UNDP-Iraq reported in 2012 that the physical and mental health implications of the high levels of

⁸³ US Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2011: Iraq*, 2011, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dlid=186428#wrapper>.

⁸⁴ Iraq Knowledge Network, *Labor Force Factsheet*, December 2011, available at <http://www.iauiraq.org/documents/1582/LB%20Factsheet-English.pdf>.

⁸⁵ Reported to IILHR by World Bank Private Sector Development expert; see also UNDP Iraq, *Women's Economic Empowerment: Integrating Women into the Iraqi Economy*, June 2012; ICRC, *Households Headed by Women in Iraq: A Case for Action*, August 2011.

psychological stress experienced by Iraq's women since 2003 negatively impacts economic activity.⁸⁶ Security threats also limit economic opportunity and create obstacles for registration with government aid agencies. Among women heads of household interviewed by ICRC in 2011, 43 percent were displaced because of violence, some having moved three or four times.⁸⁷ Additionally, weak labor laws and a broader legal and social framework that assumes male stewardship of the household limits economic opportunity for women and leaves many women vulnerable to arbitrary dismissal.⁸⁸ Minority women and non-Muslim women may face a particularly high risk of arbitrary dismissal on religious or ethnic grounds.⁸⁹

Women's economic opportunity is also hindered by a lack of educational opportunities, reportedly due to a traditional preference to educate boys over girls. In single-parent and particularly women-headed households, girls are often required to stay at home and work for the family. Schools may also be at too great a distance from home for girls to travel safely according to parents, and limited family resources are often diverted to boys over girls for educational purposes.⁹⁰

These and other factors contribute to the low participation of women in the Iraqi labor force, and to the high incidence of poverty among women heads of household. Almost half the women heads of household surveyed by ICRC in 2011 lived in poor conditions with only basic amenities. About 10 percent of those surveyed resorted to illegal squatting in abandoned buildings and faced a constant threat of eviction.⁹¹ To alleviate poverty, a stipend program for widows established by the central government provides a monthly allowance to slightly more than 4,000 families. However, the program is underfunded and reportedly challenged by confusing bureaucratic procedures and processing delays. These issues reportedly limit access to the program, leaving thousands of women-headed families without support.

⁸⁶ UNDP Iraq, *Women's Economic Empowerment: Integrating Women into the Iraqi Economy*, June 2012.

⁸⁷ ICRC, *Households Headed by Women in Iraq: A Case for Action*, August 2011.

⁸⁸ US Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2011: Iraq*, 2011, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=186428#wrapper>; UNDP Iraq, *Women's Economic Empowerment: Integrating Women into the Iraqi Economy*, June 2012.

⁸⁹ See Hammurabi Human Rights Organization, *Report of Hammurabi Human Rights Organization About the Situation of Iraqi Minorities*, 2011.

⁹⁰ UNDP Iraq, *Women's Economic Empowerment: Integrating Women into the Iraqi Economy*, June 2012.

⁹¹ ICRC, *Households Headed by Women in Iraq: A Case for Action*, August 2011.

Access to and Use of Identity Documents

Citizenship in Iraq

Constitution of 2005

When ratified in 2005, the Constitution provided broad rights of citizenship for Iraqis, to be regulated by law. **Article 18** provides that citizenship is the right of every Iraqi and is the basis of nationality, noting that anyone born to an Iraqi father or mother shall be considered an Iraqi. Further, Article 18 states that no Iraqi citizen by birth may have his or her citizenship withdrawn for any reason, and that any person who has had his citizenship withdrawn shall have the right to demand its reinstatement. This provision thus promised to restore citizenship to Fails Kurds, Jewish Iraqis, and other groups denaturalized under the Ba'ath regime. However, as discussed below, the rights articulated in the Constitution were limited by law as applied to Jewish Iraqis, and continue to prevent Palestinians from obtaining citizenship under any circumstances.

Nationality Law No. 26 of 2006

The Iraqi Nationality Law is a largely progressive, inclusive law in comparison to its predecessors. It does away with distinctions between Arabs and non-Arabs for the naturalization process and repeals RCC decision No. 666 of 1980 which revoked the citizenship of between 220,000 and 300,000 Fails Kurds. However, the law remains explicitly discriminatory against **Jewish Iraqis and Palestinians** who remain unable to naturalize.⁹²

Regarding Iraqis denaturalized under the former Ba'ath regime, **Article 18** of the Nationality Law establishes the right to restore Iraqi nationality for those “denaturalized on political, religious, racist or sectarian grounds ... subject to submission of an application to this effect.” Though this article enables many communities targeted by the Ba'ath regime to regain citizenship, **the application process is cumbersome and requires documented proof of Iraqi origins. Among people whose families were not included in the 1957 census, required documentation may prove difficult to produce.**⁹³ This requirement may prove problematic for vulnerable populations and

⁹² Iraqi Nationality Law No. 26 (2006), art. 6(2) states that “Iraqi nationality shall not be granted to Palestinians as a guarantee to their right to return to their homeland.” This article is common to the region, but serves to deprive Palestinians—many of whom were born in Iraq—fundamental rights to participate in public life and benefit from services afforded to citizens should they so wish to naturalize.

⁹³ IILHR interviews with members of minority components and discussions UNHCR, IOM, and international NGOs working with minority components reveal a mixed picture for access to documentation. Anecdotal evidence suggests that ease of access varies significantly from governorate to governorate, often depending on local policies or personalities within the local personal status and nationality offices. In Thi-Qar, for example, large numbers of Bedouin report no problems accessing documentation, despite many families not being registered in the 1957 census. In Basra, anecdotal reports indicate that families from

particularly for individuals who have lost documents after decades of living outside Iraq, including many forcibly expelled **Faili Kurds**,⁹⁴ **Baha'is** born in the past 30 years,⁹⁵ **Roma**, and others.⁹⁶

Article 18 (and **Article 14** which restores nationality to the children of denaturalized Iraqis) **explicitly excludes the restoration of nationality to Iraqi Jews or their children** denaturalized under Law No. 1 of 1950⁹⁷ and Law No. 12 of 1952, which deprived Jewish Iraqis of their Iraqi nationality and confiscated their property.

Article 4 of the Nationality Law provides that **children born outside Iraq** to an Iraqi mother and an unknown or stateless father may apply for Iraqi citizenship within one year of coming of age. However, this strict time limit presents a **burden for young people who may have difficulty proving birthdates or mother's citizenship due to**

minority components that were not registered in the 1957 census, particularly among black Iraqis and Roma, access to documentation may prove more challenging.

⁹⁴ The Iraqi Ministry of Displacement and Migration reported in early February 2013 that "about 97 percent of the Faili Kurds have regained their documents leaving a small part." See Kurd Net, "The displacement ministry restores the nationality to 97% of Faili Kurds," 4 February 2013, available at <http://www.ekurd.net/mismas/articles/misc2013/2/kurdsiniraq203.htm>. While this estimate indicates significant progress, the Ministry has revealed no information about a baseline for how many Faili Kurds required re-naturalization at the start of the process. Given this, international experts have questioned the reported 97 percent re-naturalization progress. Faili Kurd community members reported to IILHR that perhaps several hundred families (or several thousand people) remain without documents, particularly among those living in camps across the border in Iran who have applied for re-naturalization but have not yet heard back from the Iraqi government. These numbers could not be independently verified.

⁹⁵ In 1975, the Iraqi government banned the Baha'i faith and prohibited the issuance of identity cards to Baha'i people. As a result, many Baha'i born after 1975 lived without identity and citizenship documents unless they registered as Muslim. Minority Rights Group International reports that approximately 1,000 Baha'is currently in Iraq have no citizenship documents, including passports. Interviews conducted by IILHR with members of the Baha'i community in Iraq confirm the ongoing problem of undocumented Baha'is throughout Iraq, but community members indicate that most Baha'is registered as Muslim in order to access basic services and therefore possess documents. Reportedly, only three to four individuals have benefited from the repeal of the law banning civil status documents to Baha'is. The Ministry of Interior reports that, for Baha'is who registered as Muslims, it is illegal to alter documentation to a non-Muslim faith. See US Department of State, Bureau of Democracy, Human Rights, and Labor, *2007 Country Reports on Human Rights Practices: Iraq*, 11 March 2008, available at <http://www.state.gov/j/drl/rls/hrrpt/2007/100596.htm>.

⁹⁶ Reportedly, some Iraqi Embassies actively assist Iraqi nationals to navigate processes to acquire necessary documentation and allow interviews and information about place of birth, former place of residence, family, and other data to confirm Iraqi origins. It is unclear whether this level of support and the use of informal information is consistent across embassies.

⁹⁷ Iraqi Law No. 1 (9 March 1950) "Supplemental Ordinance Cancelling Iraqi Nationality" applied to Iraqi Jews. Section 1 stipulates that "the Council of Ministers may cancel the Iraqi nationality of the Iraqi Jew who willingly desires to leave Iraq for good pending putting his signature on a special form in the presence of an official whom the Minister of Interior designates." See also Iraqi Law No. 5 of 1951 (10 March 1951) entitled "A Law for the Supervision and Administration of the Property of Jews who have Forfeited Iraqi Nationality," and Iraqi Law No. 12 (1952), supplementary to Iraqi Law No. 5 of 1951 (27 January 1952).

past violence and displacement. As a result, many such youth are unable to obtain necessary citizenship documents.⁹⁸

Issuance of Documentation by Iraqi Embassies

The Iraqi *Guide to Consular Affairs Abroad* (the *Guide*) outlines the work of Iraqi consuls in issuing documents relating to birth, death, marriage, nationality, passports, visas, and other consular issues.⁹⁹ For Iraqis abroad seeking to reinstate citizenship after forced denaturalization, or seeking to obtain documentation to aid in asylum claims, the rules and procedures outlined in the *Guide* are instructive for understanding the limitations and challenges Iraqis abroad may face in procuring documentation or remedying violations against citizenship rights committed by the past regime. Though the *Guide* outlines procedures and lists official documents applicants must produce, reportedly some embassies facilitate alternative proofs of Iraqi origins through interviews and cross checking, particularly for applicants whose families were not registered in the 1957 census or who have had records confiscated or destroyed. Reportedly, practices vary from embassy to embassy.

Issuance of Birth and Death Certificates

In issuing birth certificates, the Iraqi *Guide to Consular Affairs Abroad* requires the presence of the father or the presentation of a marriage contract to prove paternity.¹⁰⁰ The Civil Status information for the child will reflect the Civil Status identity of the father.¹⁰¹ As noted elsewhere, this requirement is potentially problematic for several reasons. First, some families who fled under the former regime or after 2003 were unable to take necessary documentation with them (such as marriage certificates). Second, some of Iraq's ethnic and religious minorities were forced to convert to Islam under threat of violence by non-state actors or through state action. Others identified as Muslim in order to access basic services and engage in social and economic life.

Though some prohibitions against the Baha'i faith and other groups discriminated against under the Ba'ath regime have been lifted, Shari'ah law prohibits conversion away from Islam. As such, Baha'is and others who obtained Muslim identity documents are unable to register their actual faiths today. Thus, the requirement that the civil status of children reflect that of their father perpetuates discrimination against some non-Muslim Iraqis and may limit their ability to demonstrate membership in a non-Muslim minority group for the purposes of asylum claims.

⁹⁸ Institute for International Law and Human Rights, *Minorities and the Law in Iraq*, 54, June 2011, available at www.iilhr.org.

⁹⁹ Abdil Razak Hammoudi Ahmed, Iraqi Ministry of Foreign Affairs, *Guide to Consular Affairs Abroad*, 2012.

¹⁰⁰ Ministry of Foreign Affairs, *Guide to Consular Affairs Abroad*, 2012, § 1, ch. 1(3), p. 7, "Instructions for the Issuance of Birth and Death Certificates."

¹⁰¹ *Id.*

Additionally, consuls are reportedly not allowed to issue Iraqi birth certificates if the father has changed his name or death certificates if the decedent has changed his or her name, regardless of documentation of the change.¹⁰² This may be problematic for individuals who fled under the Ba'ath regime or after 2003 through the use of human smugglers and false documents. Members of the Christian community report, for example, that under the Saddam regime, some families fled using human smuggling networks that would smuggle the family or individual out of Iraq (commonly to Turkey) and provide him or her with false documentation of foreign citizenship.¹⁰³ Reportedly, some of these families seeking to return to Iraq or to reestablish Iraqi citizenship have found it difficult to register children born abroad or the death of family members abroad. There is no evidence to indicate that these challenges are widespread.

Obtaining a Civil Status Identity Card (Jinsiya)

In order to obtain a Jinsiya card for the first time or to replace a damaged or lost card, an applicant abroad submits a detailed written request to an embassy, and a completed application form (see Form 1 below). The form must be completed by the male or female head of the family, a guardian, or a representative attorney. It is unclear whether married women are considered “heads of the family” for this purpose or whether they need sponsorship by a male relative.¹⁰⁴ An unmarried woman requires a guardian to support her application.

Where an applicant is seeking to replace a lost Jinsiya card, he or she must submit an additional signed, stamped statement and a thumb print, as well as a copy of the lost Civil Status Identity card or a certified copy of the Jinsiya of the applicant's father, brother, or un-married sister. Where the applicant is seeking to replace a damaged Jinsiya, an additional statement is also required, as well as the damaged identity card.

After collecting the necessary information, the Embassy sends the application package to Baghdad, where the Nationality and Civil Status Office checks the information against the register of the 1957 census. This is then forwarded to the Foreign Ministry, which returns documentation back to the Embassy concerned.¹⁰⁵ This reliance on the 1957 census may

¹⁰² *Id.* at 8.

¹⁰³ IILHR interviews, 2012.

¹⁰⁴ Reportedly, the Ministry of Foreign Affairs has stated that married women who are guardians of their children are considered “heads of household” for the purposes of obtaining documents for children. In practice however, anecdotal reports to IILHR from CSOs and judges indicate that married women may face significant challenges obtaining such documents without a male relative or husband despite judicial orders supporting them. Reportedly, challenges rest more with particular Directors General who demand the presence of a male relative, rather than with official law or procedures. Some judges report that DGs have ignored judicial orders confirming the right of married women to obtain personal status, nationality, and travel documents without a male relative. Though such problems are rare, they remain ongoing.

¹⁰⁵ Ministry of Foreign Affairs, *Guide to Consular Affairs Abroad*, 2012, § 1, ch. 2(1).

be problematic for members of minority communities whose relatives were not registered in the census, such as many Roma or Bedouin families, black Iraqis, and other groups discriminated against under the Ba'ath regime. Reportedly, some embassies allow alternatives to prove Iraqi origin through interviews and cross-checking and do not strictly rely on 1957 census records.

For children born abroad requesting Jinsiya cards for the first time, Iraqi parents must provide documentation of marriage registered with the Directorate of Nationality and Civil Status, and an Iraqi birth certificate.¹⁰⁶ In some cases, production of a marriage certificate may also prove problematic, particularly where religious marriages were not recognized by the state.¹⁰⁷

¹⁰⁶ *Id.* Reportedly, to obtain an Iraqi birth certificate abroad, parents present their own documentation and a copy of the birth certificate from the country where they are registered.

¹⁰⁷ Reportedly, families may obtain "Outside Marriage Certification" by presenting at a court and then the Civil Status Department. However, IILHR interviews and research indicate that knowledge of such processes is not widespread among minority communities with high numbers of unregistered religious marriages. Instead, reports on situations where outside marriages have been registered focus on the kindness of particular judges rather than any official process. Unregistered marriages remain a key challenge facing some communities within Iraq, according to reports from black Iraqi's, Baha'is, and Kaka'is,

FORM 1: Civil Status Identity (Jinsiya) Application Form

Price 250 ID	Ministry of interior General Directorate of Nationality Directorate of civil Status Affairs	Model no.1
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Form of obtaining Civil Status Identity

Photos													Record location Page no. Register no. Governorate
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To the Department of Civil Status in

Pursuant to the provisions of Article 45 of the amended Civil Status law No. 65 of 1972 please provide me and my family the Civil Status Identity

no.	Name	Distinguishing marks of Identity holder				Identity number and issuance date	no.	Name	Distinguishing marks of the identity holder				Identity Number and issuance date
		Eye color	skin color	Hair color	Length cm				Eye color	skin color	Hair color	Length cm	
1							7						
2							8						
3							9						
4							10						
5							11						
6							12						

Name in full, job title and signature of the concerned servant

Verifying the applicant	Confirmation of receiving the Identity	Applicant Signature Name in full Address Date Stamp of the embassy
Name in full and signature of the person received the Identity		

Civil Status identity no.2

Obtaining an Iraqi Nationality Certificate

In order to obtain an Iraqi Nationality Certificate, Iraqis abroad fill out an application form and provide necessary fingerprints and photographs. The consul then verifies the information and stamps it with the official seal. Additionally, an applicant must provide:

- A color copy the father's or mother's Nationality Certificate;
- A color copy of the applicant's Civil Status Identity card, or that of the mother or father;
- A written, signed statement, with a thumb print, explaining the reason for requesting the document; and
- If the applicant is a child, the marriage contract of the father and mother, as well as birth data certified by the consul.

The applicant must also authorize a relative living in Iraq or an attorney to travel to the Directorate of Nationality and Civil Status at the Ministry of Interior, as well as to the relevant local Civil Status Office.¹⁰⁸ The authorized relative or attorney must obtain a certificate of judgment from the Directorate of Nationality indicating that the applicant is an Iraqi citizen. This determination is based on records from the 1957 census. He or she must then take this judgment to the relevant Civil Status Office to obtain a civil status identity document or verification. Finally, the authorized relative must take this documentation back to the Directorate of Nationality to register the applicant. These procedures within Iraq require the family member or attorney to present color copies of the following documents:

- The applicant's original Nationality Certificate (if damaged and requesting a replacement) or a color copy (if replacing a lost certificate);
- The applicant's Civil Status Identity document (Jinsiya);
- Iraqi Nationality Certificate of the applicants father, brother, or uncle;
- A recent photo of the applicant; and
- An additional form filled out by the applicant bearing his or her thumb print and stamped by the consul or embassy processing the request.¹⁰⁹

Once this process is completed, the Directorate of Nationality and Civil Status forwards the judgment of nationality and record of registration to the embassy or consulate through the Ministry of Foreign Affairs.

This process may be cumbersome for applicants denaturalized under the Ba'ath regime, or who changed names when fleeing Iraq, or whose extended family has since left Iraq or passed away, or who fled without copies of identity documents. These individuals may lack documentation for themselves or parents who fled under the Ba'ath regime, particularly where family members have died abroad. Additionally, for individuals or families who changed names after leaving Iraq, current identity documents may not align

¹⁰⁸ Ministry of Foreign Affairs, *Guide to Consular Affairs Abroad*, 2012, § 1, ch. 2(2).

¹⁰⁹ *Id.*

with 1957 census records. As noted above, birth and death records will not be issued by the Iraqi government if people have changed names.¹¹⁰

Restoring Iraqi Nationality¹¹¹

Under the 2006 Nationality Law, Iraqis denaturalized on political, religious, racist or sectarian grounds and their children have the right to reclaim Iraqi citizenship, though Jewish Iraqis are expressly barred from reclaiming citizenship. Applicants seeking to reclaim citizenship must make a personal appearance at the Ministry of Interior or, if abroad, at an embassy and authorize a representative within Iraq to follow up with Ministry departments. The applicant must provide:

- A written request for the restoration of nationality and an explanation. There is no official form for such a request, though the request must be supported by the specialized employee at the Embassy or General Consulate.
- A copy of the applicant's Iraqi Nationality Certificate, or a copy of the Nationality Certificate of the father, a brother, or a sister;
- The applicant's Civil Status Identity document, "or any other document;"
- A copy of the applicant's registration from the 1957 census, including all details;
- A copy of the applicant's foreign passport;
- A residence card or residence permit;
- Two recent photos
- Required fees, taxes, revenue stamps, and forms.¹¹²

For Iraqis denaturalized decades ago and, in some cases forced to flee Iraq with little more than basic clothing, it may prove difficult to provide the required documentation. The regulations do not make clear what "other document" would be recognized to prove identity or former Iraqi nationality for the application process, but reportedly some embassies actively support applicants who require alternative proofs.

Naturalization through an Iraqi Spouse

The requirements for husbands and wives of Iraqi citizens to acquire Iraqi nationality reflect gender discrimination within the Iraqi legal framework. Whereas the wife of an Iraqi man must only reside in Iraq for five years and be married up to the date of

¹¹⁰ The ease of access to documentation where families were not registered with the 1957 census or have changed names abroad reportedly varies from embassy to embassy and from governorate to governorate where information must be verified. Anecdotal reports and discussions with UNHCR indicate that the verification process in Thi-Qar, for example, is relatively straight forward even where there is missing documentation. Verification from Ninewa, Kirkuk, and other areas may prove more difficult depending on the local authorities. Procedures and requirements also vary across embassies, with anecdotal reports from Iraqis interviewed by IILHR indicating that embassies in Europe have sometimes proven more helpful or efficient than have some others in the MENA region. These reports could not be independently verified.

¹¹¹ Ministry of Foreign Affairs, *Guide to Consular Affairs Abroad*, 2012, § 1, ch 2, part C, p. 20.

¹¹² *Id.*

application (exempted in cases of divorce or widowhood where the marriage produced children), the husband of an Iraqi woman must meet more burdensome requirements which reflect those for naturalization for non-Iraqis, regardless of marital status with an Iraqi citizen.

The husband of an Iraqi wife must also reside in Iraq for five years prior to applying for naturalization, having entered Iraq legally (there is no such requirement for the wife of an Iraqi man). The husband must also show that he is “of good conduct and reputation” and has not been convicted of an offense or “dishonorable misdemeanor,” though it is unclear whether the conviction record is limited to Iraq. The husband must also prove he is employed and free of communicable disease. Again, there is no such requirement for the wife of an Iraqi man.

Obtaining a Non-Conviction Certificate¹¹³ (*Certificate of Good Conduct*)

In order to obtain a document certifying that an Iraqi citizen living abroad or an Arab or foreigner who previously resided in Iraq has not been convicted of a crime, individuals must submit a request to the consul, pay a small fee, and submit photographs, fingerprints, and other details. However, the applicant must also ask “a parent” to pay the fee directly to the Directorate of Criminal Evidence in Baghdad. It is unclear whether the applicant may have another representative other than a parent pay the fee, but the requirement potentially limits the ability of Iraqis outside Iraq from obtaining a certification of non-conviction where parents are deceased or are also living outside the country.

Obtaining a Passport from Within Iraq

In order to obtain a type A passport from within Iraq, Iraqis must complete an application form (available online on the website for the Directorate of Passport Affairs)¹¹⁴ and present themselves in person¹¹⁵ to either the Directorate of Passports in Iraq or to an embassy or consulate abroad. The application form must be completed in Arabic, English, or Kurdish¹¹⁶ and requires the following information:¹¹⁷

- Personal information

¹¹³ Ministry of Foreign Affairs, *Guide to Consular Affairs Abroad*, 2012, § 1, ch. 3.

¹¹⁴ The electronic format for obtaining an Iraqi Type A passport can be found at

<http://www.iraqinationality.gov.iq/eForm/%28S%28tihv3tflhyvosa55kptefcm5%29%29/Default.aspx>.

¹¹⁵ The Australian Embassy in Jordan reports that Iraqi officials note that applicants may send a proxy to apply for a passport on their behalf from within Iraq. Published regulations and instructions state that applicants must apply in person, but the Directorate of Passports may in practice allow for application by proxy. This procedure could not be independently verified.

¹¹⁶ According to the Ministry of Interior, Kurdish is an acceptable language for the application. However, though the *Guide to Consular Affairs Abroad* only acknowledges Arabic and English as acceptable languages.

¹¹⁷ See Republic of Iraq, Ministry of Interior, General Directorate for Nationality, Passports Affairs Directorate, available at http://www.iraqinationality.gov.iq/passport_en.htm.

- Complete address
- Identification documents

According to the Ministry of Interior, the form “must be filled out according to the information appearing on the ID (Civil Status identification/ Jinsiya) literally, otherwise the application will be rejected.”¹¹⁸ The Civil Status identification card must be less than 10 years old. If there is no surname on the Jinsiya card, the name of the third grandfather will be added. Additionally, financial data including bank account information must be provided for the payment of fees.

Applicants are instructed to take completed and printed forms and travel “to the subsidiary directorate of passports within the area of residence according to the official list prepared for this purpose by the above department or the Iraqi consulate, regarding Iraqis who are residing abroad in order to provide live fingerprint and the identification documents mentioned below:”

- ID (civil status identification/ Jinsiya);
- Iraqi Nationality Certificate;
- A housing card for Iraqis residing inside Iraq; as for those residing abroad, their residence ID is required instead of the housing and ration card;
- New ration card;¹¹⁹
- Two photos with a white background and measurements of (45x35) mm;
- Certified check for twenty five thousand (25,000) Iraqi Dinars or its equivalent in the local currency of the country where the application is processed, addressed to the Iraqi consulate abroad to cover fees; and
- Fingerprints provided at time of application.

According to the Ministry of Interior, Iraqi women do not have authority to obtain passports independent of male guardians, even where male guardians reside outside of Iraq.¹²⁰ Where a male guardian resides outside Iraq, he must indicate his approval for the issuance of passports for his wife and children residing within Iraq through the Iraqi Embassy in his country of residence, to be certified by the Foreign Ministry.¹²¹ These requirements violate CEDAW, to which Iraq is a party, and article 14 of the 2005 Constitution. In early 2012, judicial rulings ordered that Iraqi women did not require the approval or appearance of a male guardian to obtain passports. Despite these rulings,

¹¹⁸ *Id.*

¹¹⁹ Though the Passport Affairs Directorate indicates that, in addition to the Civil Status Identity card and Nationality Certificate, applicants are also required to provide a housing card and a ration card, these documents are not listed as requirements in the 2012 *Guide to Consular Affairs Abroad*.

¹²⁰ See Republic of Iraq, Ministry of Interior, General Directorate for Nationality, Passports Affairs Directorate, instructions 3-6 at http://www.iraqnationality.gov.iq/passport_en.htm.

¹²¹ Republic of Iraq, Ministry of Interior, General Directorate for Nationality, Passports Affairs Directorate, available at http://www.iraqnationality.gov.iq/passport_en.htm.

anecdotal reports to IILHR indicate that the Directorate of Passport Affairs continues to request the approval of male relatives for women applicants.¹²²

Instructions on the Ministry of Interior website address requirements for women of all ages and marital status:

A non-married Iraqi woman must obtain the approval of her guardian on granting her a passport noting that the guardian must submit his identification documents and must be present in person in the subsidiary passports department in order to provide his live fingerprint.

A married Iraqi woman must obtain the approval of her husband on granting her a passport noting that her husband must submit his identification documents and must be present in person in the subsidiary passports department in order to provide his live fingerprint.

An Iraqi woman who is under puberty must obtain the approval of her guardian on granting her a passport noting that the guardian must submit his identification documents and must be present in person in the subsidiary passports department in order to provide his live fingerprint.

A widowed or divorced Iraqi woman must obtain the approval of her guardian on granting her a passport noting that the guardian must submit his identification documents and must be present in person in the subsidiary passports department in order to provide his live fingerprint.¹²³

For children under 16 years, a guardian must similarly present his passport and identification documents, and provide fingerprints. For children under 12 years, the father's certificate of Iraqi nationality is necessary.

If a passport is damaged, lost, or stolen, the holder must inform the local police and obtain a "judicial decision" before an embassy may issue a transit passport.

Notably, these regulations constrain freedom to travel for many Iraqi women and violate international conventions and the principles of non-discrimination in the Constitution. The requirements are also challenging for Iraqis denaturalized under the Ba'ath regime, as many of the necessary documents (particularly those dating back generations) may be unavailable. Further problems may arise where Iraqis have changed names abroad. These documentary requirements do not account for the reality faced by many Iraqis and may prevent some individuals and families from obtaining passports and the freedom to travel.

¹²² IILHR interviews, 2012.

¹²³ Republic of Iraq, Ministry of Interior, General Directorate for Nationality, Passports Affairs Directorate, available at http://www.iraqnationality.gov.iq/passport_en.htm.

Obtaining a Passport from Outside Iraq

The process for obtaining a passport from outside Iraq is similar to that from inside Iraq, except that the applicant must pay USD 20 or its equivalent and pick up the passport from an Iraqi embassy or consulate, where the necessary fingerprints are provided. The applicant may also be required to provide a residence identification document.¹²⁴

Regarding the issuance of passports for women and children living outside Iraq, the *Guide to Consular Affairs Abroad* notes that the approval of a male guardian is not required because the women and children are already living abroad, since the purpose of the guardian's approval is to allow a man's wife and children to travel abroad.¹²⁵

Travel Documents for Palestinians

The 2006 Nationality Law prohibits the issuance of nationality documents to Palestinians in Iraq, regardless of whether individuals were born in Iraq or wish to obtain Iraqi nationality. This is in accordance with the Casablanca Protocol to which Iraq is an unreserved member.¹²⁶

In order to travel outside the country, Palestinians living in Iraq are issued travel documents organized by a series of Ba'ath era laws, particularly Law No. 65 of 1983. The travel document is reportedly granted to Palestinian refugees from 1948 only.¹²⁷ Iraqi diplomatic missions abroad do not presently issue such documents; they may only be obtained through the Directorate of Residence Affairs/ Department of Arab Affairs.

When a Palestinian with an Iraqi travel document living or traveling abroad requires his or her travel document renewed, extended in duration, or altered to include "a wife" or child, the consulate or embassy must contact the Ministry of Foreign Affairs and provide the applicant's:

- Travel document number,
- Date of issue,
- Place of issuance,
- Name of the holder, and
- The name of persons accompanying the document holder abroad.

The consul or embassy has no discretion in its handling of the document and is required to strictly comply with responses from the Ministry of Foreign Affairs' Consular

¹²⁴ See Information and Refugee Board of Canada *Response to Information Request: IRQ103919.E*.

¹²⁵ Ministry of Foreign Affairs, *Guide to Consular Affairs Abroad*, 2012, § 2, ch. 1.

¹²⁶ League of Arab States, *Protocol for the Treatment of Palestinians in Arab States* ("Casablanca Protocol"), 11 September 1965, available at <http://www.unhcr.org/refworld/docid/460a2b252.html>.

¹²⁷ See Ministry of Foreign Affairs, *Guide to Consular Affairs Abroad*, 2012, § 2, ch. 5.

Department to alter the document, or from the Directorate of Residence Affairs/
Department of Arab Affairs to renew or extend its duration of validity.

In order to extend, renew or alter the travel document, a Palestinian holder must authorize an attorney certified by the diplomatic mission abroad and the Ministry of Foreign Affairs to provide official letters and documentation to the Ministry of Displacement and Migration within Iraq, including documentation certifying that the individual is a refugee from the 1948 war and that he or she does not have passport issued by the Palestinian Authority.¹²⁸ This latter requirement requires a letter from the Embassy of the State of Palestine in Baghdad declaring that the applicant does not possess a Palestinian Authority passport.

¹²⁸ See Circular of Consular Department No. 6/2/general/22462 of 19 June 2011, as cited in the *Guide to Consular Affairs Abroad*, 2012.

Applicable Legal Framework

Iraq's 2005 Constitution prohibits discrimination on the basis of gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion, or economic or social status. However, though the state has taken steps toward improving protections and mitigating marginalization, the government has not adopted comprehensive legal or practical mechanisms to implement a protection framework. Though targeted violence has decreased, minority communities and other vulnerable groups report ongoing persecution and high levels of fear and insecurity.

Though progress has been made to combat human trafficking, address domestic violence, and support the political inclusion of some minority groups, there has been little meaningful progress in reforming discriminatory or potentially discriminatory provisions in existing law. Minority communities also note insufficient efforts to provide adequate recourse to justice, compensation, or alternative arrangements to address ongoing persecution and discrimination against vulnerable populations.

At this time, despite steps in the right direction, the Iraqi state and the Kurdish Regional Government remain broadly unable or unwilling to provide adequate protections for many Iraqis experiencing discrimination or persecution at the hands of state officials, Islamist militias, and private individuals.

Under the Iraqi legal framework, the potential for discrimination in law and practice heightens the sense of insecurity among Iraq's minority components and other vulnerable groups, such as (perceived) LGBTI persons and women. This insecurity, combined with other circumstances, may form the basis for a reasonable fear of persecution.

Terminology

In considering how to assess the cumulative effects of these circumstances in informing an individual's well-founded fear of persecution, a brief review of the terms "persecution" and "discrimination" as used in the international protection framework is helpful.

Persecution. According to the UNHCR, *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status* (2011), there is no universally accepted definition of persecution. However, **persecution entails both a subjective and an objective component.** Under the 1951 Convention Relating to the Status of Refugees, a threat to life or freedom on account of race, religion, nationality, political opinion or membership

in a particular social group is always persecution. Other serious violations of human rights for the same reasons are also persecution.¹²⁹

Whether acts or threats amount to persecution in an individual case depends not only on objective facts, but also requires consideration of the subjective feelings and opinions of the person concerned. Often, specific evidence about particular actions or threats is not available, so evaluation of the person's opinions or feelings that any actual or expected actions will be taken against him or her must be duly balanced against available information and the circumstances of each case.

Within Iraq, some members of vulnerable communities have been forced by circumstance to hide their religious or ethnic identity, or sexual orientation. As such, **individuals may fail to articulate that his or her religion, ethnicity, or sexual orientation status contributes to the subjective assessment of whether actual or expected measures against life or freedom on the basis of that status may be taken.** In interviews conducted with asylum-seekers outside Iraq, some members of minority communities report failing to identify themselves as Shabak, or Kaka'i, or gay, for example, in articulating their need for protection, though their status as such facilitates their well-founded fear of persecution.¹³⁰

Additionally, various forms of discrimination may combine with other adverse factors—such as a high incidence of arbitrary arrests, torture, or violence—to support a reasonable justification for claiming a well-founded fear of persecution on cumulative grounds.¹³¹

Discrimination. Some forms of inequitable treatment of various groups can amount to persecution where that treatment leads to consequences of a substantially prejudicial nature. Examples may include but are not limited to restrictions on religious freedom, the right or ability to earn a living, to access education, or to hold property.¹³²

Some measures of discrimination that do not otherwise appear serious may still give rise to a reasonable fear of persecution if they add to apprehension and insecurity about future safety and circumstances. Thus, such apprehension may, in light of broader circumstances, amount to persecution.¹³³

¹²⁹ UNHCR, *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status*, paras. 51-52, HCR/1P/4/Eng/R EV.3, reissued December 2011, Geneva, Switzerland, [hereinafter *UNHCR Handbook 2011*].

¹³⁰ Reported to IILHR by Minority Rights Group International, 2012.

¹³¹ UNHCR, *Handbook 2011*, para. 53.

¹³² UNHCR, *Handbook 2011*, para. 54.

¹³³ UNHCR, *Handbook 2011*, para. 55.

Iraqi Legal Framework

Iraq's legal framework is relatively progressive compared to other states in the region. However, gaps in legislation and the inability of the state to effectively implement legal protections have resulted in the disparate treatment of many vulnerable groups, including ethnic and religious minorities, and women. In addition to the Constitution and laws addressed here, other laws also potentially marginalize various vulnerable populations in Iraq. Their lack of inclusion herein does not preempt a discussion of the impact of other laws in practice, such as the Civil Code or the Criminal Procedure Code, on particular groups on a case by case basis.¹³⁴

Constitution of 2005

The 2005 Iraqi Constitution is the “preeminent and supreme law in Iraq.”¹³⁵ It offers robust guarantees for the equal treatment of all Iraqis¹³⁶ and rights to life, liberty, and security.¹³⁷ However, key provisions of the Constitution require implementation through legislation that has not yet been effected.

Some religious minority members cite conflicts between constitutional protections of religious freedom and **Article 2, which looks to the “established provisions of Islam” as a foundational source of law.** The Constitution also prohibits the enactment of laws that contradict Islam.¹³⁸

The centrality of Islam within the Constitution may adversely affect a range of rights of Iraq's non-Muslim religious minorities, groups whose status is not recognized in Islam (such as LGBTI individuals), and some women. Though the Constitution does guarantee religious rights to minority components, potential contradictions with provisions of Islam creates particular risk for religious freedom.

Article 41 calls for freedom in **personal status** according to religious sect, belief, or choice. Though this article is lauded by some religious minorities as opening the door for the future removal of discriminatory provisions in the current Personal Status Code, it is seen as problematic for some women who prefer the current Code's marginally secular approach to regulating family relations over what they fear would otherwise institute pure Shari'ah law in marriage, divorce, inheritance, child custody, maintenance, and other matters. Iraq's present Personal Status Code of 1959 is largely progressive compared

¹³⁴ For additional analysis of Iraq's other laws on minority components and women (including the Civil Code, the Law of Obligations, Court Procedures, the Labor Code and others), please see The Institute for International Law and Human Rights' *Minorities and the Law in Iraq* and *Women and the Law in Iraq*, both available at www.iilhr.org in Arabic and English.

¹³⁵ Article 13(1)

¹³⁶ Article 14

¹³⁷ Article 15

¹³⁸ Article 2; 2(1)(A)

to other states in the region. In 2003, Islamist members of the Interim Governing Council attempted to abolish the Personal Status Code in favor of Shari'ah law. The mobilization of Iraq's women's movement prevented the change, but instilled the well-founded fear that the implementation of Article 41 would undermine existing protections.

In linking personal status to religion, the Constitution potentially diminishes women's personal status rights and risks the further subordination of women in marriage, divorce, inheritance, child custody, maintenance, and identity by relying on Shari'ah rather than the current Code, which many women consider less discriminatory and more empowering for women than proposed alternatives.

Regarding **language rights**, **Article 4** establishes Arabic and Kurdish as official state languages, guarantees the right to educate children in the languages of other components, and makes Turkmen and Syriac official languages in "the administrative units in which they constitute density populations." This article does not clarify a density threshold for Turkmen and Syriac languages however, which is problematic given the density of Turkmen and Syriac speakers living with the Disputed Internal Boundaries (DIBs) areas. Language as a tool for ethnic or religious identification also risks adding to pressures for illegal demographic change within the DIBs area. Additionally, language rights as defined in the Constitution may lend legitimacy to discrimination against linguistic minorities by government officials and private individuals.¹³⁹ Actual discrimination against the language rights of minorities in Ninewa, Sinjar, and other areas of Iraq have been reported.¹⁴⁰

Article 125 guarantees the **administrative, political, cultural and educational rights for various nationalities** of Iraq to be organized by law. This article envisages sustaining minority self-government at the district and sub-district levels, which is particularly important in the north of Iraq where 90 percent of Iraq's minority components live.

In summary, Iraq's Constitution sets a strong foundation for non-discrimination and the protection of fundamental rights. In practice however, mechanisms to ensure the protection of these rights remain to be implemented. Notably, Iraq's Constitution does not guarantee non-discrimination or threats to life, liberty and security on the basis of sexual orientation. This gap in the legal framework provides no protections against the persecution of individuals who are or are perceived as gay, lesbian, bisexual, transgender, or intersex.

¹³⁹ *Id.*

¹⁴⁰ IILHR interviews with Syriac and Yezidi speakers, 2012.

Personal Status Law of 1959

Iraq's Personal Status Law regulates family relations in marriage, divorce, inheritance, child custody, maintenance, and other issues. When the Law was enacted in 1959, it was widely applauded as expanding women's rights beyond what was provided elsewhere in the region. When the Law was threatened with repeal in 2003, women's rights activists mobilized to defend its maintenance and resist the full adoption of Shari'ah law in matters of personal status. However, some aspects of the Law discriminate against women and minorities.

Article 2 states that **the Law applies to all Iraqis** except for those exempted by special law. This provision allows for the development of personal status laws for non-Muslim minorities. However, no such special laws have been enacted. **Article 1** states that where there is no applicable legislation on an issue, judgment shall be **guided by Islamic Shari'ah principles**.

Article 8 allows for **women to be married at 15 if a judge finds "urgent necessity."** Though Article 9 requires the consent of all parties to a marriage, the "urgent necessity" concept may result in girls being pressured to marry in cases of loss of virginity, whether consensual or through rape (particularly as Iraq's Penal Code allows men to escape punishment for rape if they marry their victims). **Article 3** grants the right to **polygamous marriages**. Polygamous marriage is problematic for some women in light of the Personal Status Law's unequal treatment of men and women in divorce rights. Divorce must be "performed according to Shari'ah,"¹⁴¹ and a man may divorce his wife "by pronouncing three repudiations."¹⁴² A woman does not have similar rights to divorce, but may only claim separation on the same grounds as husband. The unequal right to divorce and the ease with which husbands may divorce their wives may make it difficult for a wife to protest her husband's taking of an additional wife.

Article 17 allows a Muslim man to marry a woman who practices "one of the religions of the Book," but **prohibits Muslim women from marrying non-Muslim men**.

The discriminatory provisions of the Personal Status Law and the lack of exceptional laws regulating family relations for non-Muslim minorities have caused some Iraqi families to marry in religious services, but not register the marriage with state authorities.¹⁴³ As a result, children born from such marriages may not receive state-issued identification documents, which prevents them from enrolling in school and accessing other services. Legal recognition of a father's paternity is also problematic in some cases.

¹⁴¹ Article 34(1)

¹⁴² Article 37

¹⁴³ IILHR interviews, 2012.

Additionally, where one party to an unregistered marriage seeks to end the union, state law does not reach issues of maintenance, child custody, or other rights. The problem of unregistered marriages is not limited to religious minority groups. Black Iraqis in the south, often faced with poverty, reportedly have a high rate of unregistered marriages, resulting in a lack documentation within the community and challenges accessing services which require such documents.¹⁴⁴

Civil Status Law of 1972

Iraq's Civil Status Law (No. 65 of 1972) forms part of the larger Personal Status Code and remains problematic for the religious freedom of Iraq's religious minorities.

Article 20(2) states that **non-Muslims may convert to another religion in accordance with law**. However, Shari'ah law prohibits one from leaving the Islamic faith. Those who convert to Islam voluntarily or by force are thus unable to change their religion at a later time on identity documents. Given Iraq's history of discrimination against some groups (such as Baha'is), ongoing forced conversion through threat or violence, and voluntary conversions often linked to other factors (such as the inability of Muslim women to marry non-Muslim men), conversion to Islam for the purpose of official documents has been relatively common. **Among individuals who would like to be legally recognized as non-Muslim after a voluntary or forced conversion to Islam however, Iraqi law prohibits such change.** Even where laws requiring the forcible identification of some religious minorities as Muslim have been reformed, Iraqi authorities have refused to issue new identity documents because conversion away from Islam remains prohibited.¹⁴⁵

The Civil Status Law is also problematic for children and adults born to those who converted (voluntarily, by force, or in documentation only) to Islam. **Article 21(3)** states that **the minor children follow in the religion of the parent who embraces the Islamic religion**. This provision identifies children born to those who voluntarily or were forcibly converted to Islam as Muslim, regardless of the child's actual religion. The law does not provide such individuals with any legal means to change their religion as they reach adulthood.

¹⁴⁴ IILHR interviews, 2012.

¹⁴⁵ IILHR interviews, 2012; *See also* Mumtaz Lalani, *Still Targeted: Continued Persecution of Iraq's Minorities*, Minority Rights Group International, 5, June 2010, available at <http://www.minorityrights.org/download.php?id=956>; *see also* U.S. Embassy Baghdad, "Update on the Bahai: No Progress Yet on Identity Cards," cable reference id o6BAGHDAD2519, July 15 2006, available at <http://www.cablegatesearch.net/cable.php?id=o6BAGHDAD2519>.

Penal Code No. 111 of 1969

Iraq's Penal Code was largely preserved under Coalition Provisional Authority orders, which sought to eliminate Ba'ath era offenses relating to certain "publication offenses" and loosely defined national security offences.

Among refugees who have fled Iraq, many used false documents in order to facilitate departure. In these cases, the Penal Code presents an obstacle for return, as **Article 298 imposes a punishment of up to 15 years for anyone convicted of using forged official documents.** This may be particularly burdensome for vulnerable Iraqis and Palestinian refugees who fled the country after 2003 using forged documents.

Minority components also report that many of the Penal Code's provisions are under-enforced when minorities are the victims.¹⁴⁶ Reports in 2012 and early 2013 echo what Human Rights Watch reported in 2008:

Although the government publically condemns violence against minority groups, it has not taken sufficient measures to bolster security in areas where minorities are particularly vulnerable to attacks, and community leaders say that attacks are almost never thoroughly investigated. Iraqi security forces rarely apprehend, prosecute and punish perpetrators of such attacks, which has created a climate of impunity.¹⁴⁷

Additionally, some Penal Code articles discriminate against women and girls, heightening the risk of domestic violence, rape, and honor killings, which continue to be perpetrated with impunity and which are, in some circumstances, sanctioned under the law.¹⁴⁸

Article 372 makes punishable by a period of detention or a fine any attack, disruption, destruction, or publication negatively impacting the practices, creeds,

¹⁴⁶ See Human Rights Watch, "Iraq: Mass Arrests, Incommunicado Detentions," May 15, 2012, available at www.unhcr.org/refworld/docid/4fbcv3f12.html; see also United Nations Assistance Mission for Iraq, *Human Rights Report 2011*, May 2012, available at http://www.ohchr.org/Backup%20%281%29%20of%20Documents/Countries/IQ/IraqUNAMI-OHCHR_HR_Report2011_en.pdf (documenting detention conditions, due process issues, and violence against women and religious and ethnic minorities); see also Institute for International Law and Human Rights, *Minorities and the Law in Iraq*, 87, June 2011, available at www.iilhr.org.

¹⁴⁷ Human Rights Watch, "The Quality of Justice: Failing of Iraq's Central Criminal Court," December 14, 2008, available at <http://www.hrw.org/sites/default/files/reports/iraq1208webwcover.pdf>. Reports to IILHR indicated that, though measures have been taken to protect Christian churches and the Prime Minister has publically condemned targeted attacks on minority components, targeted violence, kidnapping, forced conversions, and harassment continue into 2012. Mandaean Human Rights Group, Hammurabi Human Rights Group, Iraqi Minorities Council, and other civil society organizations have all reported targeted attacks against community members in 2012 and early 2013.

¹⁴⁸ See Institute for International Law and Human Rights, *Women and the Law in Iraq*, 30, December 2010, available at www.iilhr.org.

property or sacred object of a religious minority in Iraq. By definition, this article purports to protect the religious rights of Iraq's non-Muslim minority components. However, the article has been used by authorities to arrest and detain journalists for publications deemed "offensive to Islam."¹⁴⁹ This use limits rights of freedom of speech by being arbitrarily applied to dissidents, activists, and the media,¹⁵⁰ and risks hindering the religious practice of components whose faith is deemed anathema to Islamic teaching. In terms of protecting the religious rights of minorities, the article has been under-enforced by Iraq's criminal justice system.¹⁵¹

Regarding discrimination against women in law and fact, the Penal Code of 1969 and subsequent laws sanction domestic violence and honor crimes, skew adultery laws toward prosecuting women, enable rapists to marry their victims to avoid punishment, and provide harsh penalties for women in prostitution even where women have been the victims of trafficking or otherwise forced into work in the sex trade.¹⁵²

Article 41(1) grants a legal right to **a husband to punish his wife**, including physical abuse. This article stands in violation of the 2005 Constitution¹⁵³ as well as Articles 9 and 26 of the ICCPR, and Articles 2(b) and (c), 4, 5, and 15 of CEDAW. Penal Code **Articles 128 and 409, as well as RCC Order No. 6 of 2001 provide a mitigating excuse for murder and other crimes committed with "honourable motives,"** sanctioning honor killings and other crimes within the law.

Article 398 exonerates perpetrators of rape who marry their victims, thereby forcing the victim of serious assault into marriage with her offender.

¹⁴⁹ See Reporters Without Borders, "Kurdish Authorities Arrest Magazine Editor to Appease Islamists," May 16, 2012, available at <http://www.unhcr.org/refworld/pdfid/4fba10172.pdf>; Journalistic Freedoms Observatory, "Indicators show that attacks on journalists are rising: 262 violations and attempts in one year," 2010, noting that, "On February 6, 2010, Dahuk police arrested the Editor of "Javdeer" weekly newspaper Abdel Rahman Bamarni, and his colleague Hochenk Sheikh Mohammed for publishing a poem by the latter on mosques and domes. Clerics criticized the poem in their Friday sermons as an abuse of Islam. The two journalists were then arrested on charges of defamation and insulting the Islamic religion, and detained for three days in the Zarka prison in Dahuk based upon an order issued by the Dahuk Court and lawsuit filed by a group of local religious scholars. The two journalists were charged in accordance with Article 372 of the Iraqi Penal Code, and released on bail after three days. Had they been convicted, Article 372 would have imposed three years of imprisonment on the two journalists."

¹⁵⁰ Article 19 and United Nations Development Program (UNDP), "Free Speech in Iraq: Recent Developments," 13, August 2007, available at <http://www.article19.org/data/files/pdfs/publications/iraq-free-speech.pdf>.

¹⁵¹ See bombings of the Syrian-Catholic Church of the Holy Family, the Syrian-Orthodox Church of St. Ephraim, and a Presbyterian church in Kirkuk, among others.

¹⁵² See Institute for International Law and Human Rights, *Women and the Law in Iraq*, December 2010, available at www.iilhr.org.

¹⁵³ This Penal Code provision discriminates against women in violation of Article 14 of the Iraqi Constitution, as well as article 29(4) which states that "all forms of violence and abuse in the family... shall be prohibited." See *Id.*

Article 3 of **RCC Order No. 234 of 2001 punishes prostitutes with life imprisonment** with no mitigation for women victims of trafficking or other crimes.¹⁵⁴ Article 377 discriminately punishes women for the commission of adultery, whereas punishment of men adulterers is limited to acts committed within the conjugal home. Article 379 voids actions for adultery with the death of the complainant. As Article 378 requires the complainant to be a spouse, women who bring adultery charges against husbands may be at increased risk for physical harm or intimidation.

To date, the central government has not outlawed the practice of Female Genital Mutilation. Though the KRG has outlawed the practice, efforts to enforce the law or protect victims or potential victims have been negligible.

Regarding **LGBTI persons and non-conforming “emo” youth**, the Penal Code does not expressly criminalize homosexuality,¹⁵⁵ but several broad and unspecific provisions provide police and prosecutors sweeping authority to punish people who look or act non-conforming, or whose conduct or speech they simply do not like. **Article 401 punishes “Any person who commits an immodest act”** [*fi’lan moukhillan bil haya*] **in public** with up to six months in prison. **Article 402 punishes “any person who makes indecent advances to another man or woman”** [*man talab oumouran moukhalifa lil aadab*] with up to three months in prison. Article 501 punishes “any person who washes themselves in a city, town or village in an indecent manner or appears in a public place in an indecent state of undress” by up to 10 days’ detention or a fine. Article 502 imposes the same punishment on “**any person who loiters in a public place or observes such a place with indecent intent or for an indecent purpose.**” LGBTI persons and “emo” youth who dress and act in gender non-conforming ways have reportedly been targeted by police under some of these laws, including being prohibited from gathering in groups in public or being beaten for dressing in tight, black, or non-conforming clothes.

Other provisions of the Penal Code could also be used to restrict free speech, freedom of association and assembly, or to limit the work of human rights defenders. **Article 200(2)** provides for up to seven years’ imprisonment **anyone who promotes any “movement” that seeks to “change the fundamental principles of the constitution or the basic laws of society.”** Article 210 **prohibits disseminating any information or idea that, among other things, “disturbs the public peace.”** Articles 403 and 404 allow for prison terms up to two years (under the first paragraph), and up to one year (under the second) for “**obscene or indecent” publication or speech.** Reportedly, in 2008, prosecutors in the Kurdish Region used paragraph 403 against publicly raising issues of homosexuality when an Erbil court sentenced a doctor and a freelance journalist to six months’

¹⁵⁴ This RCC Order supersedes the Combating Prostitution Law No. 8 of 1988 and originally made prostitution punishable by death. Coalition Provisional Authority Order No. 7 Section 3(1) amended the death sentence to a life sentence. See IILHR, *Women and the Law in Iraq*, 47.

¹⁵⁵ Article 393 of the Iraqi Penal Code No. 111 (1969) provides the only reference to homosexuality or sodomy, but is actually more an attempt at a gender-neutral rape statute than a criminalization of homosexual acts. The Code criminalizes non-consensual sexual acts but does not criminalize consensual homosexual sex.

imprisonment for indecent expression. Two years earlier the doctor had published an article in the independent weekly *Hawlati* about health issues for men who have sex with other men.¹⁵⁶

Together, these provisions in Iraq's Penal Code and gaps in protections for women, minorities, human rights defenders, and LGBTI and gender non-conforming persons create an environment of insecurity and impunity for some Iraqis. Women and ethnic and religious minorities report the under-enforcement of laws purporting to protect vulnerable populations, and the reliance on discriminatory laws to engage in violence against women and violations of rights to practice religion and engage in freedom of expression. LGBTI persons, "emo" youth and human rights activists report that the unspecified provisions of the code criminalizing some forms of speech and behavior have also been used to target vulnerable populations.

Election Laws

Iraq's National and Provincial Council election laws strive to include minority components and women through reserved seat quotas. Additionally, both laws contain non-discrimination provisions. However, the quota system established under the election laws limit recognition of Iraq's minority components to Christian, Yezidi, Mandaean-Sabean, and Shabaki groups.

Laws Regarding Baha'is

Law No. 105 of 1970 prohibits the Baha'i faith in Iraq. Despite running directly counter to constitutional guarantees of freedom of religion, the law remains valid. Reportedly, local governments in Suleymaniyah governorate and Erbil have tolerated the practice of the Baha'i faith through agreement with members of the Baha'i community. However, the legal framework continues to officially outlaw the faith.

Decision No. 358, issued by the Directorate of Civil Affairs in 1975 **prohibited the issuance of civil status records to members of the Baha'i faith.** As noted elsewhere, civil status records contain all information relevant to the civil status of Iraqi persons such as birth, marriage, divorce. Instead, Baha'is seeking to have civil status records of any kind had to identify as one of the three Abrahamic religions (Islam, Christianity or Judaism). **Decision No. 358 was repealed by the Ministry of Interior in 2007. However, regulations prohibiting the conversion away from the Islamic faith**

¹⁵⁶ See Human Rights Watch, *They Want Us Exterminated*, 17 August 2009, p. 29, available at <http://www.hrw.org/sites/default/files/reports/iraqo8ogwebwcover.pdf>, citing Reporters Sans Frontieres, "Doctor Jailed in Kurdistan for Writing about Homosexuality," December 2, 2008. Kurdish Regional Government president Masoud Barzani freed Hussein two weeks later as part of a seasonal spate of pardons: Reporters San Frontieres, "Kurdish President Pardons Doctor who Was Jailed for Writing about Homosexuality," December 8, 2008, both at http://arabia.reporters-sans-frontieres.org/article.php3?id_article=29508.

prevents Baha'is forced to register as Muslim in order to obtain civil status records from indicating their Baha'i faith. Their children continue to be registered as Muslim under the Civil Status Law No. 65 of 1972.

Laws Regarding Palestinian Refugees in Iraq

Palestinians have never been formally granted refugee status in Iraq and their legal status today remains undefined. Iraq is not a member of the 1951 Convention Relating to the Status of Refugees. However, Palestinians in Iraq were protected by Iraqi authorities under key provisions of the **Casablanca Protocol**¹⁵⁷ and received a relatively high standard of treatment under the Saddam Hussein regime. Laws regarding Palestinian rights issued under the Ba'ath era that were in force in 2003 remain valid law. In practice however, government officials have ceased to adequately enforce the law, preventing many Palestinians from accessing and enjoying their rights. These laws also present legal obstacles to return for Palestinians who have left Iraq.

Revolution Command Council decision No. 202 of 2001 provided that Palestinian residents in Iraq were to be “treated as Iraqi citizens in rights and duties” except the right to obtain Iraqi nationality. This decree complements Order No. 15108 of 1964, which provides that Palestinian refugees receive treatment equal to that of Iraqi citizens in receipt of salaries and benefits, annual cost of living allowances, leave time, and in the application of service laws, and Order No. 336 of 1969 which provides for equal treatment of Palestinians in recruitment, promotion, and retirement. A 1983 regulation requires Palestinians to seek approval from the directorate of labor and vocational training upon obtaining or changing a job.

Other laws organizing Palestinian rights in Iraq include Laws No. 25 of 1959, No. 26 of 1961, and No. 65 of 1983 on the issuance of **travel documents**, which were valid for 5 years and do not state the word “refugee.” Since 2003, new regulations reportedly require Palestinians to renew their valid travel documents every year, though the document remains valid for 5 years.¹⁵⁸

Articles 17 and 18 of the **Iraqi Political Refugee Act** No. 51 of 1971 present a potential obstacle to return for Palestinians who fled Iraq after 2003 when the community was targeted for violence, arbitrary arrest, torture, and economic and social discrimination. **Article 17 stipulates that refugees cannot leave Iraq without prior consent of the Minister of Interior**, and must provide information on their reason for travel outside Iraq and the duration of the trip; **Article 18 imposes punishment for illegally leaving**

¹⁵⁷ League of Arab States, *Protocol for the Treatment of Palestinians in Arab States* (“Casablanca Protocol”), 11 September 1965, <http://www.unhcr.org/refworld/docid/460a2b252.html>.

¹⁵⁸ IILHR interviews with Palestinian community members. UNHCR confirms that documents remain valid for 5 years but could not independently confirm whether Palestinians have been asked to update or renew their document on an annual basis.

the country through confiscation by authorities of all movable and immovable property.

Laws Regarding Jewish Iraqis

The Nationality Law of 2006 restores nationality to Iraqis stripped of citizenship in the Ba'ath era. Explicitly excluded from this provision are "Iraqis denaturalized by virtue of the provisions of **Law No. 1 of 1950** and **Law No. 12 of 1951**."¹⁵⁹ The 1950 law enabled the Council of Ministers to cancel the Iraqi nationality of any Iraqi Jew who willingly desired to leave Iraq. In effect, Jewish Iraqis were forcibly expelled, upon which time citizenship was cancelled. The 1951 Law addressed the confiscation of property and assets of Iraqi Jews who had left Iraq and thereby forfeited nationality. Reportedly, some homes owned by Jewish families throughout the country remain vacant and are protected against squatters by the Government of Iraq. However, Jewish Iraqis remain barred from returning to the country and may not exercise property rights.

Laws Raising Obstacles to Return¹⁶⁰

Article 10(1)(A) of the Passports Law No. 32 of 1999 imposes a sentence of 5 to 15 years imprisonment and confiscation of moveable and immovable property on any person who exits or attempts to exit, enters or attempts to enter, Iraq without a valid passport or travel document. **Article 10(1)(C)** of the same law imposes imprisonment on anyone who exits or enters the country through unofficial border points.

Article 298 of the Penal Code of 1969 punishes anyone convicted of using forged official documents with up to 15 years imprisonment. These laws apply to all Iraqis, but Palestinian refugees and other vulnerable components are at particular risk for having used forged documents to leave the country.¹⁶¹

As noted above, **Articles 17 and 18 of the Iraqi Political Refugee Act No. 51 of 1971** prevent obstacles specific to Palestinian refugees residing in Iraq, requiring them to obtain permission from the Ministry of Interior prior to leaving Iraq, punishable by confiscation of all moveable and immovable property.

¹⁵⁹ English translations of the 2006 Nationality Law refer to Law No. 12 of 1952. However, Iraqi regulations and supplements from 1952 refer to Law No. 12 of 1951.

¹⁶⁰ See UN High Commissioner for Refugees, "Update of UNHCR Aide-Memoire of 2006. Protection Considerations for Palestinian refugees in Iraq," July 2012, *available at* <http://www.unhcr.org/refworld/docid/500ebee2.html> for a discussion of legal obstacles to return specific to Palestinian refugees in Iraq.

¹⁶¹ IILHR interviews with Iraqi Embassy officials in Europe indicate that, while embassies do not systematically report whether a voluntary returnee utilized forged documents or otherwise violated Iraqi law regarding departure from Iraq, officials confirmed that articles of the Penal Code which punish the use of forged documents or departure from Iraq without appropriate authorizations remain in force and may be applied to returnees..

Current Status of Iraq's Minorities and Vulnerable Groups

While many of Iraq's vulnerable groups and minorities share many of the same concerns and challenges, Iraq's ethnic and religious demography is extraordinarily diverse and complex. In addition to the largest peoples—Shia'h Arabs, Sunni Arabs, Kurds and Turkmen—many other communities also have deep historical roots in the land and have contributed to the cultural and political development of the area. In addition to these components, other vulnerable persons and populations may also require international protection due to the current situation in Iraq.

Notably, some members of minority communities have advocated for “official recognition” as Iraqi components as a step to access rights and freedoms. However, Iraq has no current framework for “official” recognition of any ethnic or religious minority component, nor does international experience suggest that such a mechanism is desirable. On the contrary, such a practice would likely increase conflicts and challenges facing the spectrum of minority components. Despite this, some minority community leaders increasingly demand “official recognition” as a means to access electoral seat quotas, funding for the establishment of cultural or language centers, and other rights and protections. The Constitution recognizes the historical importance of Iraq's minority components “across the spectrum,”¹⁶² but also identifies some groups by name.¹⁶³ Among components that are not mentioned in the Constitution (such as black Iraqis or Circassians), some people argue that “official” recognition is desirable. This perception is likely linked to historical practice in Iraq, including Ba'ath era classifications of Iraq's components in hierarchical order, and records such as the 1936 Iraq Directory, which identified the “Israelite community,” Arabs, Kurds, Turkmen, Muslims, Christians, Baha'is, Yezidis and Mandaean Sabeans as components.¹⁶⁴

Baha'is

- Today, there are between 1,000 and 2,000 Baha'is in Iraq.
- Baha'is have faced significant historical persecution by the Iraqi state. In 1970, the government outlawed the practice of the Baha'i faith. In 1975, the Iraqi government stopped allowing Baha'is to register their civil status, including birth and marriage certificates, identity cards, and other documents. Many were forced to change their religious identity to “Muslim” in order to obtain documents for marriage, employment, education, food rations, and travel.

¹⁶² Iraqi Constitution (2005), Preamble.

¹⁶³ See Iraqi Constitution (2005), Preamble, identifying Sunni and Shia'h, Arabs and Kurds, Turkmen and Faili Kurds; art. 2 identifying Christians, Yezidis, and Mandaean Sabeans.

¹⁶⁴ Iraqi Ministry of Interior, *The Iraq Directory*, Dangoor's Printing and Publishing House, (Baghdad, 1936).

- In April 2007, the Iraqi Ministry of Interior revoked its regulation prohibiting the provision of identity documents to Baha'is and issued a small number of civil status records listing 'Baha'i as the religion.¹⁶⁵ However, the government has since stopped issuing the documents, claiming that Baha'is have been registered as Muslims since the 1970s and referencing a regulation prohibiting a Muslim from changing religion. The 1970 law banning the practice of the faith remains valid.¹⁶⁶

Background

Founded in Baghdad in 1863, the Baha'i faith is among the youngest of the world's religions. The religion's founder, Baha'u'llah (1817-92) denied that Mohammad was the last prophet and is regarded by Baha'is as the most recent Messenger of God. As a result, **many Muslims consider Baha'is to be heretics or apostates because they believe in a post-Islamic religion.**

The Baha'is in Iraq, who descend from a variety of ethnic backgrounds, have faced decades of persecution at the hands of the state and other actors, though they were an "official" component of Iraq society for over 30 years prior to the Ba'athist Coup in 1963; in 1936, they were officially recognized by the Ministry of Interior as an Iraqi component.¹⁶⁷ Under the Ba'ath regime however, the persecution of Baha'is and restrictions on their religious freedoms intensified. **In 1970, the Penal Code outlawed the Baha'i religion and its activities.**¹⁶⁸ This law has not been repealed. **In 1975, the Directorate of Civil Status prohibited the issuance of civil status records for members of the Baha'i faith,** including birth and marriage certificates, identity cards, and other documents. As a result Baha'is were unable to register their children in school, register marriages, and seek adequate employment. Though the law did not denationalize Baha'is, the ban on civil status identity documents made access to other documents, such as passports and nationality cards, difficult or impossible to obtain. Many were forced to change their religious identity to Muslim in order to obtain documents for employment, education, food rations, and travel. Today, there are between 1,000 and 2,000 Baha'is in Iraq.¹⁶⁹

¹⁶⁵ US Embassy Baghdad, 24 September 2009, Reference ID 09BAGHDAD2567, available at <http://www.cablegatesearch.net/cable.php?id=09BAGHDAD2567>.

¹⁶⁶ There is some debate among Iraqi jurists about the status of laws that contradict the Constitution, as the 1970 law clearly does. Some argue that, according to Article 2, laws that contradict the Constitution are automatically invalid. However, there is little evidence that this rule is consistently applied, and little agreement as which particular laws may be now invalid. Many such contradictory laws continue to be invoked for arrests, prosecutions and convictions. As such, though 1970 law has not been used to persecute Baha'is since 2003, community members note that the current climate of tolerance could change at any moment since the law remains technically valid.

¹⁶⁷ Iraqi Ministry of Interior, *The Iraq Directory*, Dangoor's Printing and Publishing House, (Baghdad, 1936)

¹⁶⁸ Iraqi Law No. 105 (1970).

¹⁶⁹ See Preti Taneji, *Iraq's Minorities: Participation in Public Life*, Minority Rights Group International, 8, November 2011; see also, US Embassy Baghdad, September 24, 2009, Reference ID 09BAGHDAD2567, available at <http://www.cablegatesearch.net/cable.php?id=09BAGHDAD2567>.

In April 2007, the Directorate of Civil Affairs revoked its regulation¹⁷⁰ prohibiting the provision of national identity documents to those claiming the Baha'i faith. In May 2007, the Ministry issued a small number of identity documents to Baha'is, listing "Baha'i" as the religion.¹⁷¹ However, the government has since stopped issuing such documents, claiming that Baha'is have been registered as Muslims since the 1970s and citing government regulations barring Muslims from changing religion.¹⁷² Without this official identity card, Baha'is who did not identify as Muslim cannot register marriages, acquire passports, or obtain jobs. For Baha'is who opted for Muslim identity cards, they remain unable to change their status. For children of Baha'is registered as Muslim, the Civil Status Law of 1972 requires that they be similarly registered as Muslim, thus perpetuating the inability of Baha'is to officially register their faith over generations.¹⁷³

Approximate Demographics and Location

As the Baha'is in Iraq descend from Arabs, Kurds, and other ethnic groups in the area, they have historically lived throughout Iraq, including Baghdad, Diyala, Basra, Kirkuk, Mosul, and Suleymaniyah, among other areas. In the late 1950s, most Baha'is in the Suleymaniyah area left during conflicts between Arabs and Kurds. In the 1970s, a series of arrests under the new law banning the Baha'i religion spurred a large number to leave Iraq.¹⁷⁴ Since 2003, many Baha'is have returned to Suleymaniyah and Erbil, but community members report that, socially, they are still considered foreigners rather than returning families.

Security

Baha'i community members report that though death threats and kidnappings have been rare, a few families have faced violence or threats, particularly in unstable areas and the disputed territories.¹⁷⁵

Challenges with Human Rights in Practice

The key challenge facing the Baha'i community in Iraq today is the legal bar on religious freedom and the refusal of government authorities to recognize the Baha'i identity

¹⁷⁰ Regulation 358 of 1975.

¹⁷¹ US Embassy Baghdad, September 24, 2009, Reference ID 09BAGHDAD2567, available at <http://www.cablegatesearch.net/cable.php?id=09BAGHDAD2567>.

¹⁷² *Id.* See also; US Department of State, 2011 Report on International Religious Freedom, July 30 2012, available at <http://www.state.gov/j/drl/rls/irf/2011/nea/192885.htm>.

¹⁷³ IILHR interviews, 2012 and 2013; see also US Department of State, Bureau of Democracy, Human Rights, and Labor, *International Religious Freedom Report for 2011*, 2011, available at <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper>.

¹⁷⁴ IILHR interviews with Baha'i community members, 2013. Baha'i community members report that a group of Baha'i men and women were arrested in 1975 under Law No. 105, many of whom were jailed for over 10 years; some faced life imprisonment.

¹⁷⁵ IILHR interviews, 2012.

despite repealing the 1975 law. Community members report that officials with “good hearts and honorable consciences” have helped some Baha’is in the past by registering marriages and births, enrolling children in school, and helping with other life events despite the prohibitions under the law, but that this has been restricted to the kindness of individual judges and officials rather than a common practice.¹⁷⁶ Hundreds of families remain unable to access basic services and exercise their rights for lack of appropriate documentation.

Religious Freedom

Law No. 105 of 1970 banned the practice of the Baha’i faith. This prohibition remains valid law. The 1975 ban on the issuance of identity documents to Baha’is has been repealed, but no Baha’is (or their children) who were forced to identify as Muslim in order to engage in public life have been able to declare their Baha’i faith. The government cites rules under Shari’ah law prohibiting a Muslim from converting away from Islam. To date, only a handful of Baha’is have had their identity restored.

Prior to the 1970 law and continuing after its passage, the government of Iraq confiscated property owned by Baha’i families, and all property owned by official representatives of the Baha’i religion. Iraqi officials note that since the religion remains prohibited, there is no legal representative of the Baha’i faith to receive the property and process the paperwork. The government has not articulated any plans to return the property in the future. Reportedly, about 50 percent of the personal property confiscated from Baha’i families has been returned. Other property remains under the jurisdiction of the Commission for Resolving Property Disputes.

Political Rights

Baha’is are extremely active members of their local and religious communities and engage in civil activities and relations with government officials to the benefit of the faith and community. However, partisan political activity is forbidden in the Baha’i faith.

Economic, Social and Cultural Rights

The 1970 ban on the Baha’i religion and the conversions to Islam resulting from the 1975 ban on Baha’i identity documents has had far-reaching consequences for Baha’i participation in public life.

Families who did not register as Muslims have been legally unable to register children in school, register marriages, obtain passports, and access other documents. Where marriages are not recognized under Iraqi law, children produced from such marriages are considered illegitimate. Upon the death of a parent, these

¹⁷⁶ IILHR interviews, 2012.

children legally do not inherit and face broader challenges enrolling in school and accessing other services.

Internally Displaced

The secrecy in which the Baha'i community has lived for the past three decades has made it very difficult for community members and international observers to trace the internal movements of Baha'i families. Few Baha'i families are registered with international agencies as internally displaced persons.

Issues Relating to Immigration and Asylum

Relying on the Baha'i religion to seek asylum is reportedly prohibited under the religion. Though Baha'i may face violence or other threats to life and ideals based on religion, few will likely note their faith as a reason for persecution, as this would be considered shameful. . Legal restrictions on the issuance of Baha'i identity documents will likely prevent those who do seek asylum from demonstrating their faith or identity through documentation.

Bedouin

- Though Bedouin face few *de jure* barriers to accessing citizenship and identity documentation, variation in official practices between governorates, as well as practical and cultural obstacles, impact rates of documentation within the community.¹⁷⁷ UNHCR reports that more information is needed about rates of statelessness among Bedouin, as compared to the situation of access to citizenship and documentation.
- To date, the Government of Iraq has done little to improve access to or quality of services for Bedouin peoples, who largely live in tents or other impermanent structures without access to running water, electricity, healthcare or adequate housing.
- As of the last Iraqi census of 1997, Bedouins were estimated at 100,000, though this number is probably largely inaccurate due to decades of government neglect.¹⁷⁸

Background

Little is known about the Bedouin of Iraq. They include numerous large and small tribes living a traditional nomadic life, but many have also developed a more settled life, seeking improved living standards, better healthcare, and broader integration into public life. Most Iraqi Bedouin reportedly live throughout the western and southern areas of the state. **Bedouin suffer from disproportionately high rates of illiteracy, poverty, and unemployment.** The government of Iraq has made negligible progress in addressing the human rights and humanitarian needs of Bedouin peoples, some of whom face challenges in accessing documentation, including citizenship documents.¹⁷⁹ Though the government has made progress to address statelessness in Iraq in recent years, reliable maps of statelessness and access to documentation, and a comprehensive strategy to address the problem remain in development.

¹⁷⁷ Information shared by UNHCR Iraq. While Bedouin face few formal or legal barriers to citizenship, the application of laws and procedures are inconsistent at the governorate level. Reportedly, this inconsistency has left some Bedouin families unable to obtain proof of identity, nationality, birth or marriage due to stigmatization, discrimination, and practical barriers such as distance, financial means, and in some cases, reluctance to be registered.

¹⁷⁸ Radio Free Europe, "Iraqi Census Takers to Focus on Bedouin," 14 May 2010, *available at* http://www.rferl.org/content/Iraqi_Census_Takers_To_Focus_On_Bedouin/2041952.html.

¹⁷⁹ IILHR discussions with UNHCR Iraq experts on statelessness indicate that, at least in Thi-Qar, large numbers of Bedouin appear to possess identity and nationality documents, though Bedouin report inconsistency in access to documents, including nationality cards. There are few legal barriers to accessing citizenship or obtaining other documents, but reports indicate that Directors General in different governorates may facilitate or hinder access to documentation, including citizenship, for particular families. UNHCR reports that more information is needed on the rate of statelessness and access to documentation among Bedouin beyond Thi-Qar.

The Iraqi Central Bureau of Statistics defines the Bedouin as people with no permanent residence, usually living in tents, and constantly moving across the desert in search of water and places for their livestock to graze.¹⁸⁰ Similarly, many Iraqis from other sects see the Bedouin as travelers who do not need citizenship documents or protections for other rights, such as the right to education.

Approximate Demographics and Location

In the last Iraqi census, the government estimated the number of Bedouin at 100,000, though observers consider this likely to be a low estimate. Reportedly, Bedouin live throughout Iraq but are mainly concentrated along the west and south of the country. Large numbers of Bedouin reportedly live in Thi-Qar on the outskirts of Nassiriyah, though community members elsewhere in Iraq have had little interaction with international observers.

Challenges with Human Rights in Practice

Bedouin in Iraq report high levels of poverty and challenges accessing services such as clean water, electricity, and adequate shelter. Threat of eviction is also common as families often live on squatted land. A recent UNHCR Iraq visit with community members in Thi-Qar governorate found that all interviewed families possessed citizenship and identity documents and reported no *de jure* barriers to registration. Families report that, due to high rates of poverty, access to education for Bedouin children is limited.¹⁸¹ Little is known about the situation of Bedouin community members elsewhere in Iraq.

Economic, Social and Cultural Rights

The Bedouin community faces high rates of poverty and a precarious living situation. Many families live on squatted land and face threats of eviction. Unemployment among the Bedouin community is high compared to other Iraqi components. Reportedly community members commonly earn money by selling garbage and tending other people's livestock. Many families do not appear to have access to adequate foodstuffs. Though some Bedouin children attend school, other reports indicate a low enrollment rate due to poverty. Bedouin reportedly have access to the Iraqi healthcare system and do not report stigmatization or discrimination.¹⁸²

Humanitarian Situation

Some Bedouin continue to live a nomadic lifestyle, but many have settled in more urban areas seeking better economic opportunities and improved access to services. Even

¹⁸⁰ Radio Free Europe, "Iraqi Census Takers to Focus on Bedouin," 14 May 2010, *available at* http://www.rferl.org/content/Iraqi_Census_Takers_To_Focus_On_Bedouin/2041952.html.

¹⁸¹ Information shared by UNHCR Iraq.

¹⁸² Information on the situation of Bedouin in Thi-Qar (Nassiriyah) shared by UNHCR Iraq.

where Bedouins attempt to settle, they often do not own the land on which they live, which hinders the development of permanent housing and infrastructure for sanitation and other services. **The land on which many Bedouin live is often owned by the government, which can expel the Bedouin squatters at any time.** Many families face a constant threat of eviction. Observations of Bedouin encampments by UNHCR reveal that many community members live in tents or other impermanent structures by roadsides or on squatted lands.¹⁸³ Most families lack access to clean water, electricity, and other infrastructure.

Issues Relating to Immigration and Asylum

Bedouin have long been considered stateless. However, the community does not appear to face *de jure* barriers to accessing citizenship, identity, or other documentation. Recent observations by UNHCR Iraq among Bedouin community members in Thi-Qar reveal that all interviewed families possessed nationality and identity documentation. Practical barriers related to distance, cost, and the inconsistent application of law and procedures across governorates may impact access to documentation in other areas; other minority community members, such as the Roma, have reported that access to documentation is easier in Thi-Qar than in other governorates. Little is known about the documentation situation of Bedouin elsewhere in Iraq.

¹⁸³ Information shared by UNHCR Iraq.

Black Iraqis

- Perceptions of inferiority of Iraqis of African descent ('black Iraqis') drives continued prejudice and discrimination in social, political, and economic interactions.
- Poverty and the ongoing near-feudal structure of some community groups, particularly in the south, has prevented many black Iraqis from obtaining identity documents, including marriage certificates and other documentation.
- Today, community members estimate that the black Iraqi population may number up to 2 million,¹⁸⁴ with some sources noting that they make up 15 to 20 percent of the Basra region's 2.5 million inhabitants.¹⁸⁵

Background

Black Iraqis are subject to social and cultural discrimination and economic and political exclusion in Iraq. Located predominately in southern Iraq, black Iraqis are thought to have emigrated from East Africa around 1,500 years ago, largely trafficked as slaves. Prejudice against black Iraqis continues today, and the community protests being referred to as *abd*, meaning "slave." Many black Iraqis live in extreme poverty with nearly 80 percent illiteracy and reportedly over 80 percent unemployment.¹⁸⁶

Community leaders note that powerful Sheiks, particularly in the south, continue to hold influence over the public lives of community members. **Poverty and the reportedly near-feudal structure of some community groups has prevented some black Iraqis from obtaining identity documents, which hinders school enrollment, employment, travel, and access to services.** Attempts to gain Provincial Council seats in Basra during the 2009 elections were reportedly openly opposed by some local elites; there are currently no black Iraqis in elected office at the national level and reportedly few or none at the local level. Black Iraqi's are Muslims with a Shia'h majority, though community leaders report that Christian black Iraqis have fled the country. Representatives estimate their population at 1.5 to 2 million.

Black Iraqis civil society advocates report systematic discrimination and prejudicial treatment in the exercise of political, social, cultural and economic rights. Due to a history of slavery and dominance by powerful Sheiks in the south of Iraq, many black

¹⁸⁴ IILHR interview with black Iraqi civil society leader; Mumtaz Lalani, *Still Targeted: Continued Persecution of Iraq's Minorities*, Minority Rights Group International, June 2010.

¹⁸⁵ "Descendants of Iraq's Black Rebels Back Obama," Al Arabiya News, 3 November 2008, available at <http://www.alarabiya.net/articles/2008/11/03/59402.html>.

¹⁸⁶ IILHR interviews 2012; see also Preti Taneji, *Iraq's Minorities: Participation in Public Life*, Minority Rights Group International, 8, November 2011.

Iraqis today lack birth records or nationality documents, as well as marriage certificates. This prevents many from voting, gaining access to public employment and public services, owning property, or participating in a host of other activities. Poverty and a high illiteracy rate¹⁸⁷ also limits access to educational opportunities, employment, and institutions charged with providing documentation, justice, and other services.

Today, black Iraqis do not have reserved seat quotas for provincial or national governments and report facing legal and practical barriers to bringing claims of discrimination on the grounds of race or ethnicity. Some black Iraqi activists lobby for recognition as an Iraqi component as a means to access such rights including electoral seat quotas, cultural centers for the community,¹⁸⁸ and the ability to bring claims for discrimination within Iraq's judicial system.¹⁸⁹

Approximate Demographics and Location

Having first emigrated to Iraq around the 7th century,¹⁹⁰ black Iraqis were historically located in Basra and throughout southern Iraq, though slave ownership among Iraqi families was common in Baghdad and other areas as well. Black Iraqis were trafficked to the region as slaves from Zanzibar, Sudan, Ethiopia, the Kenyan coast, and other areas. Today virtually all black Iraqis are either Sunni or Shia'h, with the few Christian families reportedly having fled after 2003.¹⁹¹

Today, community members estimate that the black Iraqi population may number up to 2 million,¹⁹² with some sources noting that they make up 15 to 20 percent of the Basra region's 2.5 million inhabitants.¹⁹³ Black Iraqis are located mainly in Basra, Nassiriyah and elsewhere in Thi-Qar, and in al Amara and elsewhere in Misan governorate. Reportedly, there are also large numbers of black Iraqis in Sadr City in Baghdad and small numbers elsewhere in Iraq. Due to the persistent lack of

¹⁸⁷ IILHR interviews 2012; Mumtaz Lalani, *Still Targeted: Continued Persecution of Iraq's Minorities*, Minority Rights Group International, June 2010 (citing 2009 data provided to MRG from UNAMI).

¹⁸⁸ Article 103 of the Constitution establishes religious endowments (waqf). There are currently three endowments: Sunni, Shia'h, and Christians and other religions. Endowments receive government funding to protect and maintain religious sites and support religious leaders. Some minority components argue that the endowment system should be expanded to include protections and support for cultural rights (as required under article 35 of the Constitution). Though technically such a cultural endowment is not a waqf, many groups, including Turkmen, Black Iraqis, Shabak, and others have called for the establishment of cultural endowments as a protection mechanism.

¹⁸⁹ IILHR interviews, 2012. See also Corey Flintoff, "Black Iraqis in Basra Face Racism," National Public Radio, 3 December 2008, available at <http://www.npr.org/templates/story/story.php?storyId=96977550>.

¹⁹⁰ William Jelani Cobb, "The Hidden Black Iraq," AlterNet, 13 December 2003, available at http://www.alternet.org/story/17339/the_hidden_black_iraq; IILHR interviews, 2012.

¹⁹¹ IILHR interviews, 2012.

¹⁹² IILHR interviews, 2012; Mumtaz Lalani, *Still Targeted: Continued Persecution of Iraq's Minorities*, Minority Rights Group International, June 2010.

¹⁹³ "Descendants of Iraq's Black Rebels Back Obama," Al Arabiya News, 3 November 2008, available at <http://www.alarabiya.net/articles/2008/11/03/59402.html>.

documentation among many black Iraqis, and the historical tendency in Iraq to identify along tribal lines rather than race, accurate demographic data is unavailable at this time.

Security

Black Iraqis report that targeted violence stems less from their African heritage and more from religious identity as either Sunni or Shia'h Muslims, which makes them targets for insurgent militias and other private groups.

Challenges with Human Rights in Practice

Black Iraqis report being subject to prejudicial treatment and systematic discrimination in the exercise of their civil, political, social, and cultural rights. Continued casual reference to black Iraqis as *abd*, or "slave," reveals the systemic nature of discrimination and the influence of historic perceptions of black Iraqis on their treatment today. Community members report that their status and ability to gain employment and access to higher education has diminished since 2003 when legal frameworks did not attempt to protect members of minority communities. Before 2003, community members report that, though discrimination and "treatment as slaves" were still pervasive, black Iraqis could join the Ba'ath party and gain access to government jobs and other privileges.

Today, however, black Iraqis report facing higher levels of discrimination and harassment than they did a decade ago.

Political Rights

There are no *de jure* legal barriers to black Iraqi participation in politics. However, *de facto* limitations on the exercise of these rights persist. Though black Iraqis are legally able to obtain nationality cards, identity documents, passports, birth and marriage certificates, and other documentation, poverty and a lack of knowledge about how and where to obtain such documentation has prevented many black Iraqis from registering. One NGO reported that it has registered over 70 black Iraqi families as not possessing identity cards, ration cards, or other forms of documentation.¹⁹⁴ Practical barriers to registration, such as cost, distance, lack of information, and stigmatization reportedly prevent some families from accessing documentation that would enable them to vote, register with political parties, run as candidates, and generally participate in public life.

During the 2009 Provincial Elections and 2010 National Elections, for example, community members estimate that only 50 thousand black Iraqis in the Basra governorate voted despite a population estimated at around 375,000 in the area. This low voter turnout, community members argue, is directly tied to a lack of documentation among the community.

¹⁹⁴ IILHR interviews, 2012.

Prejudice and the continuing influence of powerful Sheiks also limit the political participation of black Iraqis. During the 2009 Provincial Council elections, black Iraqis reportedly fielded 8 candidates in the Basra area as part of the Iraqiyya bloc. Reportedly, several Sheiks openly opposed the candidacy of the 8 black Iraqis and instructed people not to vote for them.¹⁹⁵ None won a seat.

Economic, Social and Cultural Rights

Lack of access to employment, a regular income, and education is perhaps one of the most significant challenges facing the black Iraqi community today. Reportedly, discrimination has prevented the community from developing a broad professional class of note. **Though the government of Iraq directly or indirectly employs as much as 70 percent of Iraqis working in the formal economy,¹⁹⁶ community activists note that no black Iraqi holds a high level position in government and none are represented in elected bodies.** In the Al Zubayr neighborhood in Basra, for example, though the area is 70 percent black, there are reportedly no blacks on the police force or in the district council. Illiteracy rates are approximately 80 percent and many children do not attend school. Community members site a lack of documentation and a lack of resources as key barriers to education. Poverty prevents many families from affording books, school uniforms, daily bus fare, and other costs related to attending school.

Challenges with obtaining documentation and high levels of poverty reportedly result in a significant number of black Iraqis not registering marriages with the state authorities but only with religious associations. As the state has no records of many marriages, children's parentage is often unregistered, and wives have little recourse under the national legal framework for problems within a marriage, in seeking maintenance, or in seeking to end a marriage. Some black Iraqis therefore may not have access to state protection in divorce, custody, inheritance, and a host of other personal status issues under Iraqi law.

Humanitarian situation

Among many black Iraqi families, neighborhood conditions are reportedly extremely poor. **Black Iraqi families suffer from a lack of clean drinking water, an adequate sewage system, electricity shortages, and a lack of adequate housing.** Mud-brick houses often shelter multiple families or extended family members and risk collapse.¹⁹⁷ The common one-room dwellings reportedly hold up to 15 residents or more. Though

¹⁹⁵ IILHR interviews, 2012.

¹⁹⁶ IILHR discussions with World Bank experts, 2012.

¹⁹⁷ IILHR interviews, 2012; Timothy Williams, "In Iraq's African Enclave, Color is Plainly Seen" *New York Times*, 2 December 2009, available at http://www.nytimes.com/2009/12/03/world/middleeast/03basra.html?_r=0; Karlos Zurutuza, "To Be Black in Iraq," *IPS*, 12 October 2011, available at <http://www.ipsnews.net/2011/10/to-be-black-in-iraq/>.

these conditions are not uncommon in Basra, outside observers note that black Iraqis appear to be disproportionately affected by insufficient services and poverty.¹⁹⁸

Community members also report that, though access to hospitals and medical care are available, poverty prevents many from affording care and services, so health problems within the community are pervasive.

Diaspora and Returnees

After 2003 and during the height of the 2005-2008 violence, many black Iraqis fled the country as refugees. Community members within Iraq report that many settled in Sweden, the United States, the United Arab Emirates, Kuwait, Qatar, Oman, and other Gulf States. Reportedly, very few if any have voluntarily returned.

Community leaders report that there are no reliable data for numbers of those that have fled Iraq. They report that few if any have returned because the situation in Iraq remains much unchanged for this population.

Issues Relating to Immigration and Asylum

Having lived historically as slaves or servants to powerful Sheiks in the south of Iraq, many black Iraqis today lack nationality cards, identify cards, birth records, marriage certificates, and other documents, though they are legally entitled to such documentation. This limits their ability to gain employment, access social services, own property, seek protection under the law, access education, and participate in politics. Additionally, poverty among black Iraqis means that many reportedly face obstacles in accessing basic rights.

The situation of Black Iraqi women

High levels of poverty, illiteracy, and lack of economic opportunity reportedly influence high levels of domestic violence within the black Iraqi community in the south. Community leaders estimate that domestic violence affects up to 60 percent of black Iraqi families, though reliable data is unavailable and incidents of violence are under-reported.¹⁹⁹

As noted elsewhere, trafficking of women for labor and sex is rising in Iraq and poor women from the black Iraqi communities may be particularly at risk.

¹⁹⁸ *Id.*

¹⁹⁹ IILHR interviews, 2012.

Christians

- Iraq's Christian community has seen improvements in its security situation since 2009 and 2010, as well as symbolic support from the current government to remain a part of the Iraqi landscape. However, numerous confirmed reports indicate that Christians remain targeted for church attacks, kidnappings, harassment, and *de jure* and *de facto* discrimination.
- In 2003, community leaders estimated that between 800,000 and 1.4 million Christians resided in Iraq; as of July 2011, USCIRF estimated the number had fallen to 500,000.²⁰⁰
- Today, most Christians are located in Baghdad, Mosul and the Ninewa plain, Kirkuk and Basra as well as the three governorates in the Kurdistan Region.

Background

The Iraqi Christian community includes Armenians and Chaldo-Assyrians belonging mainly to the Chaldean Catholic, Syriac Orthodox, Syrian Catholic, Armenian Catholic, Armenian Orthodox churches and the Assyrian Church of the East. Nearly two-thirds of Iraqi Christians belong to the Chaldean Catholic Church, and close to one-third belong to the Assyrian Church of the East.²⁰¹ Many consider the Assyrians and Chaldeans to be distinct ethnic groups as these communities speak a distinct language, preserve Christian traditions, and do not define themselves as Arab.²⁰² **Since 2003, thousands of Christian families have fled Iraq and thousands more have been internally displaced—largely to the north—due to targeted violence by extremists and other groups.** By some estimates, over half the total population of Iraqi Christians has left the country, leaving approximately 500,000 down from 1.4 million.²⁰³

According to UNHCR, attacks against Christians are commonly motivated by religion, imputed political opinion, and/or perceived wealth.²⁰⁴ The 2010 bombing of Our Lady of Salvation Church was the largest in a long series of attacks against Christian religious sites and prompted the flight of between 1,300 and 5,000 families, more than during any

²⁰⁰ USCIRF, *USCIRF Annual Report 2011 – Countries of Particular Concern: Iraq*, 28 April 2011, available at <http://www.unhcr.org/refworld/docid/4dbegoc22b.html>.

²⁰¹ UNHCR Eligibility Guidelines, 2012, n. 644.

²⁰² US Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2011*, 2011, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dlid=186428#wrapper>.

²⁰³ According to the Iraqi census of 1987, Iraqi Christians numbered nearly 1.4 million. Community members report that Christian families fled the country during the Saddam regime under threats of arrest and violence for opposition activities, but that hundreds of thousands of families have fled since 2003 when violence, intimidation, kidnapping, murder, and targeted bombings increased.

²⁰⁴ UNHCR Eligibility Guidelines, 2012, p. 28.

previous year.²⁰⁵ Following the church bombing, threats, violence, kidnappings, murders, and coordinating bombings against the Christian community spiked.

Since 2011, the Government of Iraq and other leaders have taken some steps to support the Christian community. Security around churches has been improved, and Prime Minister Al Maliki and religious leader Moqtada al Sadr attended the 2013 consecration of Our Lady of Salvation Church in Baghdad. These symbolic gestures are improvements toward demonstrating that Iraq's remaining Christian community remains an invaluable part of Iraq's diverse landscape.

Approximate Demographics and Location

Most Christians are located in Baghdad, in and around Mosul in the Ninewa plain (particularly in Hamdaniya), Kirkuk and Basra. An estimated thirty percent of Christians remaining in Iraq reside in the northern governorates of Dohuk, Erbil and Suleymaniyah in the Kurdistan Region.²⁰⁶

The exponential increase of Christian and other minority families moving to northern Iraq has created tensions between communities, particularly among Christians and Shabak settling in the Ninewa plain. Disputes over land, control of local resources, and access to positions in local administration have led to accusations of discrimination from both communities, though few incidents of violence between the groups have been reported. **In Ninewa and the disputed territories in particular, Kurdish Regional Government security and intelligence forces, known as the Assayish, have reportedly broken up civil society meetings organized by Christian, Yezidi and Shabak civil society organizations and arrested participants.**²⁰⁷

Most Christians remaining in Iraq are located in Baghdad, the Ninewa plain, Kirkuk and Basra, with approximately one-third in the three governorates making up the Kurdistan Region. Hundreds of thousands of Iraqi Christians have left the state since 2003. Many

²⁰⁵ *Id.*; IILHR interviews with Hammurabi Human Rights Organization, which documented the exodus of Christians after the 2010 bombing of Our Lady of Salvation Church in Baghdad.

²⁰⁶ Human Rights Watch, *At a Crossroads*, February 2011, p. 68, available at <http://www.hrw.org/sites/default/files/reports/iraq0211W.pdf>.

²⁰⁷ Reported to IILHR, Erbil 2013. Assayish security forces ordered participants in a consultation for this report to leave the building at the close of a meeting in Hamdaniya in January 2013. Participants were accused of having a political meeting without gaining permission from the Assayish, who have no legal authority over such activities in the Ninewa governorate. The Mayor of Hamdaniya was present at the meeting and granted permission. Reportedly, a joint civil society and national Human Rights Ministry meeting held one month earlier on the high rates of Yezidi suicide was similarly broken up in Sinjar. Kurdish security forces arrested Yezidi participants after the meeting, reportedly on the ground that the Ministry of Human Rights had no authority to hold meetings in Ninewa governorate. One Yezidi detainee was reportedly assaulted while in custody.

Christians leaving Iraq originally traveled to Jordan or Syria,²⁰⁸ but violence in Syria has forced many to move elsewhere or to return to Iraq. Christians have sought refuge throughout Europe and elsewhere, including the United States, Sweden, Greece, Lebanon, Turkey, Germany, Egypt, Norway, Canada, Austria, the United Kingdom, Australia, Venezuela, and elsewhere. Among returning families, by far the largest numbers have come from Syria, though forced returns from Sweden and elsewhere also occurred before the Iraqi parliament passed legislation barring forced returns of refugees from abroad.

Security

The scale of attacks on Christians has decreased since 2009 and 2010, but community leaders and human rights monitors report that security risks for Christians remain high. In its report on the situation of Iraqi minorities for 2012, Hammurabi Human Rights Organization (HHRO) notes that, among registered cases, kidnappings, murders and other incidents of violence were noticeably less in 2011 than in previous years, with 14 Christians murdered in 2011, compared to 92 in 2010, 28 in 2009, 77 in 2008, and 158 in 2007.²⁰⁹ Data for 2012 thus far reveal similar patterns. HHRO and other civil society groups note however that additional incidents of murder, kidnappings, threats, and attacks likely also took place in 2011 and 2012, but were not reported to the organizations or through the Iraqi Ministry of Human Rights and other sources.

The largest number of incidents occurred in and around Baghdad, followed by Ninewa governorate.²¹⁰ **Some minority human rights activists report incidents of Kurdish security forces discriminating against Christians, along with Turkmen and Yazidis, in the disputed areas of Ninewa, Salahaddin, Kirkuk and Diyala governorates.** Reportedly, discrimination and harassment include limiting access to services, arbitrary arrest, detention, and pressure on minority schools to teach Kurdish language. Extremist militias also target minorities for being non-Muslim or, in the case of Christians, because the community is perceived as being allied with the West.²¹¹

Groups targeting Christians reportedly combine targeted murder and kidnapping with criminal activities for profit. Several reported incidents in 2012 involved the targeted murder of Christian families in their homes paired with robbery of the home. Among

²⁰⁸ Hammurabi Human Rights Organization, *Report of Hammurabi Human Rights Organization About the Situation of Iraqi Minorities*, 2011.

²⁰⁹ Hammurabi Human Rights Organization also notes that in 2006, reported incidents of murder of Christians numbered around 80 people, 98 people in 2005, 211 people in 2004, and 84 people in 2003. See Hammurabi Human Rights Organization, *Report of Hammurabi Human Rights Organization (HHRO) About the Situation of Iraqi Minorities* 2011.

²¹⁰ See also Iraq Body Count, "Iraqi Deaths from Violence 2012," 1 January 2013, available at <http://www.iraqbodycount.org/analysis/numbers/2012/>.

²¹¹ IILHR interviews 2013. See also Joel Wing, "Human Rights Situation in Iraq Remains Poor," Musings on Iraq (blog), 20 June 2012, available at <http://musingsoniraq.blogspot.com/2012/06/human-rights-situation-in-iraq-remains.html>.

kidnappings, several reports indicate that victims were murdered after Christian families were unable to pay ransom demands. Multiple incidents of attempted assassinations, particularly in and around Mosul and Kirkuk were also reported. Christians were also the target of stone throwing, physical attacks, and attempted kidnappings.²¹² Multiple attempted bombings of churches and other Christian property were also reported in 2011 and 2012.²¹³

Challenges with Human Rights in Practice

Christians in Iraq continue to face threats to religious freedom along with targeted kidnapping, murder, intimidation, and property confiscation. Though the situation of Christians has improved in some respects and many community members report few challenges in exercising fundamental rights, community leaders note ongoing problems in the disputed areas in Ninewa, Kirkuk, and parts of Salahaddin. Reports of discrimination and intimidation by Kurdish security operatives and non-State actors in the disputed areas continued throughout 2012, as did reports of confiscated property in areas in northern Iraq and around Baghdad.²¹⁴ Christians retain reserved seat quotas in both national and provincial council election laws and are represented at all levels of government, though the size of reserved seat quotas remains a question of debate.

Religious Freedom

Christian human rights organizations report that the government of Iraq made important efforts in 2011 to protect churches and other places of worship. Protection measures included placing concrete T-walls around buildings and increasing the presence of security forces to protect Christian areas.²¹⁵ However, at least 8 churches were subjected to attacks in Baghdad and Kirkuk in 2011, and at least 3 more attacks were reported in 2012 along with multiple credible threats of attempted attacks.²¹⁶

²¹² Hammurabi Human Rights Organization reports at least 8 assaults on churches in 2011, 13 various assaults on individuals, 3 assassination attempts, and 8 wounded or injured. HHRO estimates that the number of reported incidents are significantly lower than actual incidents.

²¹³ Hammurabi Human Rights Organization reports several foiled attempts against churches in 2011 and 2012, including: an attempt on Mar Korkese Church in Mosul in January 2011; an attempt on the Sacred Heart Church for Chaldean on 24 April 2011; attempts on three separate churches in Kirkuk on February 2011; an attempt on the Sacred Family Church for Syrian Catholic in Shaterlo; an attempt on the Evangelical Church in Hay Al-Mas in Kirkuk; and an attempt on the Assyrian Mar Korkese Church in Kirkuk. Other incidents of attempted attacks also took place in 2012, though in fewer numbers, according to discussions with the NGO. See Hammurabi Human Rights Organization, *Report of Hammurabi Human Rights Organization (HHRO) About the Situation of Iraqi Minorities*, 2011.

²¹⁴ IILHR interviews with Christian civil society groups, community members, and members of the Council of Representatives. IILHR staff has been present at civil society meetings in Ninewa disrupted by Peshmerga forces in 2011 and 2012. Some stakeholders were temporarily detained in 2011.

²¹⁵ IILHR interviews, 2012. See also Hammurabi Human Rights Organization, *Report of Hammurabi Human Rights Organization (HHRO) About the Situation of Iraqi Minorities*, 2011.

²¹⁶ IILHR interviews, 2012.

In some districts, Christian women report ongoing pressure to wear the veil, particularly in conservative areas of Baghdad and in Mosul. Civil society groups note however, that the pressure on Christian women to wear the veil at work, in school, or in their neighborhoods is neither uniform nor systematic and that some high government officials continue to support the rights of Christian women to dress according to their own religious requirements.²¹⁷

Political Rights

Christians have reserved seat quotas in the national parliament and provincial councils, though the number of seats remains a question of debate. For seats in Provincial Councils (at the governorate level), the current electoral law reserves one seat for Christians in Baghdad, one in Ninewa, and one in Basra.

Christian political representatives are active in parliament and at the provincial council level, but some community members report ongoing discrimination in representation at the district and sub-district level, where Arabs and Kurds continue to dominate local public bodies, particularly in some parts of the disputed territories. Discrimination at the local level reportedly impacts the distribution of resources, access to services, and local administrative rights as called for in the Constitution.

Economic, Social and Cultural Rights

Though the number of Christians living in Iraq has diminished significantly, Christians remain active in public life and report relatively high levels of education, employment, and access to services, with some exceptions. Internally displaced persons and Christians living in the disputed areas of Ninewa, Salahaddin, Kirkuk and Diyala may face greater challenges in these areas.

At schools at the primary and secondary level, some Christians in the north report pressure to study Kurdish language and to remain present for lessons on Islam in public schools. In Mosul, female Christian students report sporadic incidents of pressure to wear the veil or dress in conformity with perceived Islamic practices.

In 2011 and 2012, Christian community leaders reported incidents of confiscation of Christian property in northern Iraq.²¹⁸ Displaced families argue that they had no rights of appeal, did not receive market value for their property, and that transparent legal

²¹⁷ See Hammurabi Human Rights Organization, *Report of Hammurabi Human Rights Organization (HHRO) About the Situation of Iraqi Minorities*, 2011.

²¹⁸ Reports to IILHR by Christian members of the Council of Representatives and civil society organizations, 2012; see Ankawa.com, "Kurdish Regional Government Illegally Seizing Assyrian Lands in Northern Iraq," 7 October 2012, available at <http://www.ankawa.com/english/?p=7595>.

procedures were not followed.²¹⁹ Property owned by Christians was also confiscated in Al Dura in Baghdad and elsewhere.²²⁰

Humanitarian challenges

Christians in Iraq do not reportedly face significant humanitarian challenges, though access to clean water, adequate healthcare, and housing remains challenging in some parts of the disputed territories. This problem is common to other components as well. Some community members report incidents where access to services has been blocked by Kurdish security forces or other officials.

Displaced Christians also report challenges finding adequate affordable housing. Families may be unable to obtain a fair sale price for their homes in Baghdad and elsewhere in Iraq, and incidents of uncompensated property seizure by the Kurdish and national government were reported in 2012. Among displaced Christians, some report paying high rental rates for apartments and houses in the north. The International Organization for Migration (IOM) reports that rental prices for modest dwellings in the Ankawa neighborhood of Erbil have increased 200-300 percent since November 2011.²²¹

Internally Displaced

The number of internally displaced Christians in Iraq significantly decreased in 2011 and 2012, due largely to emigration, though some have returned to their places of origin due to challenges with integrating in northern Iraq.²²² Other families have decided to integrate into their new communities. IOM notes that, while nearly 400 families moved to Dohuk in 2011 for example, a large number have since left the governorate to emigrate abroad, mainly to Turkey, Jordan, and some to Syria. Large numbers of Christians also left the Ankawa area of Erbil, either to return or to emigrate, citing language challenges

²¹⁹ Reports to IILHR by Christian members of the Council of Representatives and civil society organizations, 2012; see Ankawa.com, "Kurdish Regional Government Illegally Seizing Assyrian Lands in Northern Iraq," 7 October 2012, available at <http://www.ankawa.com/english/?p=7595>.

²²⁰ IILHR interviews, 2012; see Hammurabi Human Rights Organization, *Report of Hammurabi Human Rights Organization (HHRO) About the Situation of Iraqi Minorities* 2011; see also Ankawa.com, "Kurdish Regional Government Illegally Seizing Assyrian Lands in Northern Iraq," 7 October 2012, available at <http://www.ankawa.com/english/?p=7595>.

²²¹ International Organization for Migration, "IOM Emergency Needs Assessments—Update: Displacement of Christians to the North of Iraq," 31 January 2012, available at <http://www.iomiraq.net/Documents/IOM%20Christian%20Displacement%20Update,%2031%20January%202012.pdf>.

²²² International Organization for Migration, "Internal Displacement of Christian Families in Northern Iraq Subsides, Emigration Rises: IOM Report," 07 February 2012; available at <http://www.iom.int/cms/en/sites/iom/home/news-and-views/press-briefing-notes/pbn-2012/pbn-listing/internal-displacement-of-christian-famil.html>; see also "IOM Emergency Needs Assessments—Update: Displacement of Christians to the North of Iraq," 31 January 2012, available at <http://www.iomiraq.net/Documents/IOM%20Christian%20Displacement%20Update,%2031%20January%202012.pdf>.

and difficulty finding work. Security in the disputed areas remains a grave concern to many Christian families, as well as challenges with language barriers, high housing costs, and lack of employment opportunities.

The Disputed Territories

As noted throughout, **Christians and other Iraqi minority components living in the disputed internal boundaries (DIBs) area in Ninewa, Salahaddin, Kirkuk and Diyala governorates face security risks, as well as intimidation, threats, and challenges accessing basic resources.** Some human rights organizations report numerous cases of Kurdish security forces arresting or threatening Christian business owners and civil society activists in Ninewa.

Iraqi civil society groups report that Christians and other minorities in the Ninewa plain “are between the hammer and anvil” in terms of abiding by procedures established by the central and Kurdish regional authorities. The problem of overlapping authorities in Ninewa, as well as the omnipresent Kurdish security forces, result in reported human rights violations, including limited access to services, threats and intimidation, property confiscation, arbitrary arrest, limited freedom of expression and assembly, and other problems.²²³ Civil society groups also report that rules and regulations coming from the national government and the Kurdish Regional Government are often contradictory, creating challenges for adherence and unclear lines of authority.

Christians and other minority components also report incidents of religion-based discrimination in employment in northern Iraq and Baghdad, particularly in the security forces and government offices.²²⁴ As noted elsewhere, uncompensated property confiscation continues to present a problem for the Christian community, both in Baghdad and in northern Iraq.

Diaspora and Returnees

Many Christians leaving Iraq originally traveled to Jordan or Syria,²²⁵ but violence in Syria has forced many to move elsewhere or to return to Iraq. Christians have sought refuge throughout Europe and elsewhere, including the United States, Sweden, Greece, Lebanon, Turkey, Germany, Egypt, Norway, Canada, Austria, the United Kingdom, Australia, Venezuela, and elsewhere.

²²³ IILHR interviews, 2013; see also Hammurabi Human Rights Organization, *Report of Hammurabi Human Rights Organization (HHRO) About the Situation of Iraqi Minorities* 2011.

²²⁴ US Department of State, Bureau of Democracy, Human Rights and Labor, *International Religious Freedom Report 2011: Iraq*, 2011, available at <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper>.

²²⁵ Hammurabi Human Rights Organization, *Report of Hammurabi Human Rights Organization About the Situation of Iraqi Minorities*, 2011.

Among returning families, by far the largest numbers have come from Syria, though forced returns from Sweden and elsewhere also occurred before the Iraqi parliament passed legislation barring forced returns of refugees from abroad. Hammurabi Human Rights Organization reports that, of families registered with the NGO, 117 persons returned from Syria in 2011, out of 338 returnees for the year.²²⁶

IOM reports that not all Iraqis returning from Syria or elsewhere register with the Iraqi government, as some are unaware of the registration requirement or do not know how to register. Others reportedly do not have the documentation required to register (both a passport and a national ID) as many passports have expired. Others have returned to their home villages.²²⁷ Returning families unable to register or lacking appropriate documentation are reportedly unable to enroll their children in school or obtain benefits support from either the central government or the Kurdish Regional Government.

Issues Relating to Immigration and Asylum

Reportedly, access to and use of documentation may pose some challenges for Iraqi Christians both in seeking asylum abroad and upon return. Under the Ba'ath regime, thousands of Christians fled Iraq using forged passports and identity documents through human smuggling operations; many fled to Turkey and from there to Greece and other destinations in Europe.²²⁸ Reportedly, returning to Iraq voluntarily has proven problematic for some families due to regulations that prevent the reissuance of identity documents where names have changed.²²⁹

For some Christians, along with members of other components, forced conversions and the destruction of records since 2003 has created challenges for some families to prove their Christian faith through identity documents. The Civil Status law also requires the children of converts to be identified as Muslim.

The Situation of Christian Women

Christian women living in conservative neighborhoods in Baghdad and elsewhere report increasing pressure to subscribe to patterns of Islamic dress when walking in the street. Other women report being pressured to wear the veil at universities or at work. Iraqi civil society groups also cite incidents of women public sector employees being transferred to other departments on religious grounds.

²²⁶ Hammurabi Human Rights Organization, *Report of Hammurabi Human Rights Organization (HHRO) About the Situation of Iraqi Minorities*, 2011.

²²⁷ International Organization for Migration, "IOM-Iraq Special Report: Syria Crisis Rapid Assessment," 14 August 2012, available at www.data.unhcr.org/syrianrefugees/download.php?id=725.

²²⁸ IILHR interviews, 2012.

²²⁹ IILHR interviews with Christian human rights groups in Iraq. Reports on the incidence rate of Christians being unable to obtain documents due to name changes under the Ba'ath era could not be independently verified. It is likely that, if such problems exist, they are rare.

Circassians

- Circassians are originally from the Northern Caucasus region (mainly of Chechen, Dagestani and Adyghe origin) who settled in Iraq after they were expelled following the Russian conquest of the Caucasus from 1817 to 1864.
- Today, community leaders identify approximately 18 Circassian tribes in Iraq, though estimate that fewer than 2,000 Circassian families remain.
- Circassians report limited opportunity to preserve their culture and educate children in their own languages under the current Iraqi legal framework, but largely report few challenges in the exercise of fundamental rights, and no incidents of targeted discrimination or intimidation.

Background

Under the Ottoman regime, Circassians played a significant role in social, cultural and political life in Iraq, but today remain in the shadows of Iraqi society, often adopting the social and religious characteristics of the Turkmen, Arabs and Kurds with which they live.

Under the Saddam regime, Circassians suffered oppression and assimilation policies that continue today within the wider populace. Despite ongoing efforts to gain recognition as a distinct component in Iraq, Circassians report practical obstacles in preserving their cultural rights and educating children in their own languages, such as Adyghe, Chechen, and Lezgian.

Today, community leaders estimate that approximately 18 Circassian tribes are represented in Iraq, though suggest that fewer than 2,000 Circassians families remain in the country,²³⁰ though some estimates indicate that up to 30,000 individuals remain.²³¹

Most Circassians in Iraq today are Muslim, the majority of the Sunni faith, though through integration with local communities, some Circassians are also likely Shia'h. A handful of Christian Circassians may also live in Iraq.²³²

²³⁰ ORSAM, Center for Middle Eastern Strategic Studies, *Iraqi Circassians (Chechens, Dagestanians, Adyghe)*, Report No. 134, November 2012, available at

http://www.orsam.org.tr/en/enUploads/Article/Files/20121116_134ingtum.pdf.

²³¹ Hasan Kanbolat, "Iraqi Circassians," *Today's Zaman*, 15 July 2012, available at

<http://www.todayszaman.com/columnist-286504-iraqi-circassians.html>.

²³² See Joshua Project, "Adyghe of Iraq," at <http://www.joshuaproject.net/people-profile.php?peo3=10161&rog3=IZ> indicating that the primary religion of the Adyghe people of Iraq is Islam, though noting a small number of Christians.

Approximate Demographics and Location

Today, many Circassians live throughout Iraq, including in Dohuk, Zakho, Erbil, Kirkuk, Tuz Khurmatu, Diyala, Fallujah, Suleymaniyah, Baghdad,²³³ Basra, Najaf, and elsewhere.²³⁴ A predominately Adyghe village has been identified in Dohuk, a Chechen (Carshlu) village in Kirkuk, a Yengice (Bablan) village in Salahaddin, and a few families in Fallujah.²³⁵ Several dozen families also likely remain in the Hamdaniya area of Ninewa, though violence against Christians and other groups in Hamdaniya in 2007 caused many families to relocate within Iraq.²³⁶

Over time, many from the community intermarried and integrated into Arab, Kurdish and Turkmen families, making population estimates particularly challenging. No census of Circassians has ever been conducted in Iraq, and many in Iraq consider them Turkmen or Turkic peoples. An estimated 500 families live in Baghdad, 250 in Diyala, 190 in Kirkuk, 10 in Erbil, 630 in Suleymaniyah, 150 in Anbar, and smaller numbers elsewhere, though these numbers cannot be confirmed.²³⁷

Security

Members of the Circassian community do not report targeted violence on ethnic, religious or other grounds, but face security challenges in the disputed areas and particularly in Mosul, Kirkuk, Tuz Khurmatu, and other areas that have seen violent clashes between Arab and Kurdish security forces.

Some reports indicated that the mainly Sunni Circassians, including Dagestanis, Chechens and Adyghes have been targeted by Shia'h militias and other groups. Violence during the civil war after 2003 displaced many Circassian families.

Challenges with Human Rights in Practice

²³³ Hasan Kanbolat, "Iraqi Circassians," TODAY'S ZAMAN, July 15, 2012, available at <http://www.todayszaman.com/columnist-286504-iraqi-circassians.html>.

²³⁴ Interview with Ahmet Chetaw, Vice President of the Iraq Circassian Culture and Benevolent Association posted on Justice for North Caucasus Group Message Board September 18, 2005, available at http://www.justicefornorthcaucasus.com/jfnc_message_boards/north_caucasus.php?entry_id=1127026920&title=wcb%3A-mesage-from-the-iraqi-circassians%3A-%E2%80%98we-are-also-here.

²³⁵ ORSAM, Center for Middle Eastern Strategic Studies, *Iraqi Circassians (Chechens, Dagestanis, Adyghes)*, Report No. 134, November 2012, available at http://www.orsam.org.tr/en/enUploads/Article/Files/20121116_134ingtum.pdf.

²³⁶ ORSAM, Center for Middle Eastern Strategic Studies, *Iraqi Circassians (Chechens, Dagestanis, Adyghes)*, Report No. 134, November 2012, available at http://www.orsam.org.tr/en/enUploads/Article/Files/20121116_134ingtum.pdf.

²³⁷ *Id.* ORSAM reports that, in addition to the population estimates above, 20 families live in Mosul, 50 in Najaf, 20 in Kut, 20 in Basra, 10 in Nassiriyah, 5 in Amara, 3 in Dohuk, 20 in Hilla, and 12 in Diwaniyah.

Decades of oppression under the Ba'ath regime forced many Circassian families to hide their identity. This limited the ability of the community to retain its linguistic and cultural heritage. Today, though targeted persecution or discrimination is limited, Circassians report challenges in accessing political office and government jobs, and worry that their cultural and linguistic traditions will be lost.

Political Rights

Though Circassians served among the political and military elite during the Ottoman era, their position under the Ba'ath regime was curtailed, reportedly based on a perception that they were agents of Turkey. Over the past 100 years, most Circassians have blended in to Iraqi society. After 2003, when ethno-sectarian identity became a key factor in gaining political influence, Circassian civil society groups have developed to advocate for recognition as a unique component in Iraq.

Economic, Social and Cultural Rights

Perhaps the largest challenge facing Circassians in Iraq is preserving the community's cultural and linguistic heritage. Pressure to hide Circassian identity under the Saddam regime accelerated assimilation into Arab, Kurdish and Turkmen communities and contributed to the loss of language and customs.²³⁸ Reportedly, some Arabs continue to perceive Circassians as remnants of Ottoman oppression, making community relations in areas of Anbar and elsewhere problematic.

Community members report that Circassians are largely well educated and employed, though leaders note that the community is underrepresented in government employment.²³⁹ Circassians report limited *de facto* rights to teach their historic languages in schools, or to benefit from government funds or support in preserving their cultural heritage.²⁴⁰

²³⁸ ORSAM, Center for Middle Eastern Strategic Studies, *Iraqi Circassians (Chechens, Dagestanis, Adyghes)*, Report No. 134, November 2012, available at http://www.orsam.org.tr/en/enUploads/Article/Files/2012116_134ingtum.pdf.

²³⁹ ORSAM, Center for Middle Eastern Strategic Studies, *Iraqi Circassians (Chechens, Dagestanis, Adyghes)*, 21, Report No. 134, November 2012, available at http://www.orsam.org.tr/en/enUploads/Article/Files/2012116_134ingtum.pdf.

²⁴⁰ Article 4(first) of the Iraqi Constitution ensures that "The right of Iraqis to educate their children in their mother tongue, such as Turkmen, Syriac, and Armenian shall be guaranteed in government educational institutions in accordance with educational guidelines, or in any other language in private educational institutions." Article 4(fourth) states that the Turkmen and Syriac languages are additional official languages in the administrative units where they constitute a density of the population. In practice, some Iraqi politicians and minority activists have interpreted language and cultural rights to be limited to minority communities expressly named in the Constitution. While there are strong arguments against this perception, it has so far proven a *de facto* obstacle to initiatives to garner government support to protect the linguistic and cultural heritage of components not listed in the Constitution.

Internally Displaced

Community members report that several dozen Circassian families were displaced after 2003, though no new displacements have been reported in recent years. Displaced families were largely pushed out of the Hamdaniya area in 2007 and in Baghdad during the peak years of violence. Anecdotal reports indicated that displaced families have either returned to their homes or settled into surrounding communities.

Faili Kurds

- Faili Kurds are Shia'h Muslim Kurds rather than Sunnis, which is the predominant religion among Iraqi Kurds. Under the Ba'ath regime, Faili Kurds were persecuted and accused of being agents of Iran. A 1980 Revolutionary Command Council order stripped Failis of Iraqi citizenship and 300,000²⁴¹ were expelled to Iran.
- There are an estimated 1 million Faili Kurds currently living in the greater Baghdad area. Reportedly, 500,000 Iraqi Faili Kurds have been born in Iran since the 1980s, with approximately 600,000 people living in Iran who possess both Iranian and Iraqi identity documents. The Ministry of Human Rights reports that 97 percent of Faili Kurds have had Iraqi nationality restored since 2006.
- Though many Faili Kurds have returned to Iraq since their right to nationality was restored in 2006, the process to obtain nationality documentation and reclaim lost property is reportedly cumbersome. Iraqi Faili Kurds still in Iran report undue delays in the process, leaving hundreds of families stateless.²⁴²

Background

The Faili Kurds are a Shia'h community living mainly in Baghdad, central Iraq, and the south.²⁴³ Failis have inhabited the border areas between Iraq and Iran on both sides of the Zagros Mountains for centuries, and historically travelled back and forth. **Under the former regime, the Faili Kurd community faced targeted discrimination in Iraq perpetrated by the state.** In 1924, the Nationality Law classified the Iraqi population into three categories based on religious and ethnic identity. The Shia'h Kurds were listed in the lowest category. Under the Ba'ath regime from the 1970s, the Faili Kurds faced

²⁴¹ Estimates of the number of Faili Kurds expelled under the Saddam Hussein regime range from 130,000 to 300,000. See Elizabeth Campbell, "The Faili Kurds of Iraq: Thirty Years Without Nationality," Refugees International blog, available at <http://www.refintl.org/blog/faili-kurds-iraq-thirty-years-without-nationality>.

²⁴² Estimates of the number of stateless Faili Kurds remaining in Iran who are seeking to repatriate to Iraq are difficult to verify. The Government of Iraq has reported that "97 percent" of Faili Kurds denaturalized under the Ba'ath regime have had nationality restored. However, international experts, including UNHCR, report that the government has never released baseline data indicated how many denaturalized Faili Kurds, including their children, were targeted for renaturalization under the new program. Faili Kurd civil society activists in Iraq reported to IILHR that "thousands" of families remain stranded in Iran, though these numbers have not been verified. Community leaders have reported that the Iraqi government has conducted outreach campaigns across the border and taken applications from families living in Iran. Reportedly, many families who submitted applications have waited several years to hear back about their cases.

²⁴³ Some sources report that Failis live in areas such as Mandali, Zurbatiyah, Badra, Jassan, Balad Ruz, Saadia, Julula, Khanaqin, Diyala, Kirkuk, Baghdad and elsewhere. See Shafaq News, "Demands from Sweden in 'Faili Kurdish Culture Day' to Establish Private Satellite Channel in Faili District," 13 November 2012, available at <http://www.shafaq.com/en/news/4055-demands-from-sweden-in-faili-kurdish-culture-dayq-to-establish-private-satellite-channel-in-faili-dialect-.html>.

systematic marginalization, and were repeatedly expelled from the country in 1969-1970.²⁴⁴

In 1980, RCC decree No. 666 stigmatized the Faili community as being of “foreign origin” and stripped hundreds of thousands of Faili Kurds of their Iraqi nationality. The regime then confiscated the citizenship documents of hundreds of thousands of Failis and moved many Faili men and women to detention camps.²⁴⁵ Some Faili organizations claim that Faili detainees were the subject of chemical and biological experiments conducted by the regime at this time, though the reports remain unconfirmed.²⁴⁶ Under the RCC Decree, up to 300,000 Failis were deported to Iran.²⁴⁷

While in camps in Iran, many of Iraq’s highly educated Faili Kurds were denied access to work, education, and travel documents and were unable to register marriages, births and deaths. According to UNHCR, there were an estimated 200,000 Iraqi refugees living in Iran early 2003; of the 1,300 in Ezna alone, 65 percent were Faili Kurds,²⁴⁸ many under 20 years of age and, having been born in camps, knew no other home.

In 2006, the Iraqi Nationality Act repealed RCC Decree No. 666 of 1980, opening the way for the reinstatement of Iraqi nationality and the reissuance of Iraqi identity cards. As noted elsewhere in this report, nationality certificates and civil status identity (Jinsiya) cards are necessary for people to access employment, education and other rights, including registration of marriage, birth and death.

Though many Faili Kurds have since returned to Iraq from Iran and elsewhere seeking to obtain Iraqi citizenship documentation and reclaim confiscated property, the process has reportedly been slow and cumbersome. **Reports indicate that re-naturalization procedures are burdened by a complicated application process (including a requirement to show that their families were registered for the 1957 census) and bureaucratic delays.** Reportedly, problems with demonstrating that a Faili Kurd family was registered for the 1957 census include the destruction of records over time, lost documents, and that some families simply were not included in the census at that time.²⁴⁹

²⁴⁴ Reports indicated that an estimated 40,000 Faili Kurds were exiled to Iran in the 1970s, with the regime arguing they were Iranian nationals. See Elizabeth Campbell, “The Faili Kurds of Iraq: Thirty Years Without Nationality,” Refugees International blog, available at <http://www.refintl.org/blog/faili-kurds-iraq-thirty-years-without-nationality>; Faylee Kurds Democratic Union, www.faylee.org/english/studies/doc1.php; Marie-Helene Verney, “The Road Home: The Faili Kurds,” Refugees Magazine 134, 11-13, 1 March 2004, available at <http://www.unhcr.org/40570cbf7.pdf>.

²⁴⁵ See Faylee Kurds Democratic Union, www.faylee.org/english/studies/doc1.php.

²⁴⁶ *Id.*

²⁴⁷ *Id.*

²⁴⁸ Marie-Helene Verney, “The Road Home: The Faili Kurds,” Refugees Magazine 134, 11-13, 1 March 2004, available at <http://www.unhcr.org/40570cbf7.pdf>.

²⁴⁹ UNHCR Eligibility Guidelines, 2012, n. 781.

In 2012, the Iraqi government announced that 97 percent of Iraqi Fails Kurds have had citizenship documents restored since the passage of the 2006 Nationality Law, which repealed RCC Decree 666.²⁵⁰ According to Faili Kurd community activists, thousands more families remain displaced in Iran or living in Iraq without documentation.

Approximate Demographics and Location

Unfortunately, there are few reliable data for the number of Faili Kurds currently living in Iraq. Decades of ethnic cleansing and forced dispersal perpetrated by the former Ba'ath regime make accurate demographic data difficult to obtain. Community leaders estimate that there are approximately 1 million Faili Kurds living in Baghdad at the present time. Reportedly, 500,000 Iraqi Faili Kurds have been born in Iran since the 1980s, with approximately 600,000 people living in Iran who currently possess both Iranian and Iraqi identity documents.

Community leaders report that Faili Kurds live mainly in Baghdad, Diyala, Basra, Wassit, and Misan governorates, and in the disputed territories, particularly in Kirkuk.²⁵¹ Among the families that have returned to Iraq, many found other Iraqis occupying their homes, with most refusing to leave. **The process of reclaiming confiscated or stolen property is exceedingly slow and poorly managed, leaving many families living in hotels or with friends and relatives.**²⁵²

Reportedly, many Iraqi Faili Kurds remain in Iran as a result of expulsion by the former regime and the complicated nationality restoration process. Community leaders report that Iraqi Failis in Iran inhabit camps near Tehran and in Qom, Yazd, Jllam, Kirmansha, Asfahan and Ahwaz.²⁵³

GoI reports on the Faili Kurd repatriation process do not clearly distinguish between families returning from abroad and those who have had nationality and identity cards

²⁵⁰ Shafaq News, "Iraq Announces Citizenship for 120 thousand Faili Kurds," 13 June 2012, *available at* <http://www.shafaq.com/en/news/2721-iraq-announces-citizenship-for-120-thousand-faili-kurds-.html>.

²⁵¹ IILHR interviews, 2012; *see also* UNHCR Eligibility Guidelines, 2012, n. 781.

²⁵² IILHR interviews, 2012; *see also* Jasim Alsabawi, "Fayli Kurds Struggle in Iraq," Rudaw, 26 January 2012, *available at* <http://www.rudaw.net/english/news/iraq/4357.html>.

²⁵³ IILHR interviews, 2012. Community members estimate the number of people living in particular camps are as follows:

- Johorum camp is approximately 1,200 km from Tehran and contains 86 families;
- Azna camp in the Araq governorate (350 km from Tehran) has a reported 56 families and 5 bachelors;
- Ziwa camp in western Aderbajan governorate (1,500 km from Tehran) includes 44 families, mainly from the present Kurdish Region in Iraq;
- Daylza camp, also in Aderbajan, has 56 families and 3 bachelors;
- Ansar Shaharik camp in Ahwaz governorate, located 1,2000 from Tehran, has 16 families; and
- Beni an Najar camp includes 8 families.

reinstated from within Iraq.²⁵⁴ Reportedly, the Government of Iraq has sent two missions to an unknown number of Faili Kurd camps in Iran to provide applications to reinstate citizenship and explain the repatriation process. Some families that were visited have reported waiting over two to three years to hear back from the Iraqi Government as to the status of their claims.

Security

Though Faili Kurds suffered extreme, targeted persecution under the former Ba'ath regime, such persecution has largely decreased since 2003. However, that Faili Kurds continue to face discrimination and threats to safety based either on their Kurdish ethnicity or as Shia'h Muslims within Iraq, and from living in volatile the disputed territories.

Reports indicate that conflicts between the Kurdish authorities in the KRG and the Government of Iraq have impacted the safety of Faili Kurds, particularly those living Kirkuk and parts of Diyala. Faili Kurds report intimidation and discrimination perpetrated by Arab authorities and insurgents targeting people for their Kurdish ethnicity, as well as some Kurdish groups who reportedly use intimidation or threats against the Failis for their Shia'h faith.

Challenges with Human Rights in Practice

Faili Kurds report that, though their situation has improved since 2003, many families continue to face challenges in accessing services, restoring property, and obtaining documentation.

Political Rights

The lack of identity documentation necessary to vote, run for office, and exercise other political rights prevents some in the Faili Kurd community from fully engaging in politics. Reportedly, no Faili Kurds have been elected to public office in the National or Kurdish Regional Governments. Some Faili Kurd community members report that their interests are largely represented by Sunni Kurdish politicians at this time, though others note that the Faili population would benefit from electoral seat quotas similar to those other minority components have at the national and provincial level.

In August 2011, the Iraqi parliament voted to recognize the crimes perpetrated against Faili Kurds under the past regime as genocide,²⁵⁵ an issue confirmed by the Supreme Iraqi

²⁵⁴ This lack of clarity and disaggregated data are evidenced by the Ministry of Immigration's report on the return of 35 families from Iran.

²⁵⁵ See Sazan M. Mandalawi, "Scars that won't heal: Iraq recognizes Faili Kurd persecution as 'genocide,'" Niqash News, 10 August 2011, available at <http://www.niqash.org/articles/?id=2878>.

Criminal Tribunal in November 2011.²⁵⁶ Prime Minister Nouri al Maliki has also publically acknowledged the continuing plight of the Faili Kurds, declaring that the government would support the restoration of their official documents.²⁵⁷

Economic, Social, and Cultural Rights

Reportedly, delays and complications in the process to reinstate citizenship and identity documents present a major challenge for Faili Kurds to participate in public life, including accesses institutions of higher education in Iraq and Iran since some individuals and families remain stateless.

Some returning Faili Kurds also reportedly face social discrimination for a variety of reasons and from a variety of sources. Some Failis report being treated as if they are foreign agents of Iran, particularly those who have returned from exile there. Additionally, some Faili Kurds report being discriminated against by Arabs for their Kurdish ethnicity, particularly in areas disputed between the Kurdish Regional Government and the National Government.²⁵⁸

Humanitarian Situation

Difficulty in restoring confiscated and stolen property has left many Faili families without permanent homes. Community leaders report that, though there are no IDP camps or “squatter” areas for Failis returning from abroad, many are living in hotels to the extent that they can afford the rates. In areas where Faili Kurds are more settled, they often have limited access to basic services such as health care, roads, and basic sanitation. There is no indication that Faili Kurds are disproportionately limited in access to such services compared to other Iraqis.

Internally Displaced

Faili Kurds returning from abroad report challenges in reclaiming property, including family homes. In 2003, under the Coalition Provisional Authority (CPA), Iraq established a committee to settle property claims and disputes through which returning Faili Kurds and other Iraqis must appeal to restore their property rights. Reportedly, the committee’s work is plagued by delays and many Faili Kurds are either unable to produce required documentation for their properties or to afford to pay residents currently living in Faili

²⁵⁶ See Kurd Net, “A Stand Alone List Represent Faili Kurds Has Been Announced in Baghdad,” 3 December 2012, available at <http://www.ekurd.net/mismas/articles/misc2012/12/kurdsiniraq91.htm>.

²⁵⁷ See Aswat al-Iraq, “Over 22,000 Iraqi Faili Kurds Deported by Former Regime, Maliki Says,” 10 January 2011, available at http://en.aswataliraq.info/%28S%28okpkko5gskiqp45xewexgmu%29%29/Default.aspx?page=article_page&id=145102; see also Reidar Visser, “Maliki, the Fayli Kurds, and the Return to an Ethno-Sectarian Political Discourse in Iraq,” 2 October 2011, IKJ News, available at <http://ikjnews.com/?p=1908>.

²⁵⁸ IILHR interviews, 2012.

homes for “improvements” made to properties, as required before an exchange will take place.

These families and individuals live in hotels or stay with relatives and friends. There are few reliable reports on the internal displacement situation for the Faili Kurd community, though community leaders indicate that the property issue keeps many from settling permanently. Threats to safety do not appear to be a significant factor in internal displacement.

The Disputed Territories

As some members of the Faili Kurd community live in the disputed areas, particularly in Kirkuk and areas of Diyala governorate, clashes between Arab and Kurdish forces, as well as threats and intimidation by non-state actors with political agendas, create challenges for the Faili Kurd community, along with Arab, Turkmen, and other components living in these areas (though for different reasons).

Interviewed Faili Kurds identify as Iraqi and Kurdish and hesitate to consider themselves a distinct component within the Kurdish community, though they recognize that they face unique challenges. Efforts to divide the Kurdish community into sub-components for political purposes have been criticized as an effort to divide the political opposition.²⁵⁹ However, the Faili community tends to live in areas where political contests make them particularly vulnerable; this includes areas of Baghdad such as Sadr City, and areas in Diyala where ongoing border disputes often result in armed clashes and targeted threats against various inhabitants.

Diaspora and Returnees

Though the Government of Iraq reports that 97 percent of Faili Kurds have had nationality restored, baseline data on the number of Failis targeted for renaturalization have not been produced. Returnees report financial and administrative challenges with reclaiming property and citizenship rights, particularly where documents have been confiscated, lost, or destroyed, or where they are unable to show they were registered for the 1957 census.

Issues Related to Immigration and Asylum

The Ba'ath era laws that stripped Faili Kurds of their Iraqi citizenship and the persecution they faced throughout the 1970s and 1980s has created problems with documentation.

²⁵⁹ See Reidar Visser, “Maliki, the Fayli Kurds, and the Return to an Ethno-Sectarian Political Discourse in Iraq,” 2 October 2011, IKJ News, available at <http://ikjnews.com/?p=1908>.

For Faili Kurds abroad who apply to an Iraqi embassy for the restoration of documentation, the process is complicated by requirements that, where there is no original document, a family member or representative from within Iraq must travel to various Ministries and Directorates to authenticate the identity of the applicant, including the location where the family was registered for the 1957 census. This process may be completed by an agent or power of attorney from within Iraq.

The Situation of Faili Kurd Women

Recent studies on female genital mutilation (FGM) in Northern Iraq suggest that Faili Kurd women may be at risk for this practice. In a survey conducted by WADI in 2010, 74.8 percent of Kurdish women interviewed reported that they had undergone FGM. Among those surveyed, 94.8 percent were Sunni Muslims, but 23.1 percent of Shia'h interviewed also reported that they had been mutilated.²⁶⁰ A similar follow-up study in 2012 that focused on Kirkuk found that 65.4 percent of Kurdish women interviewed had suffered FGM, though data indicated that Shia'h are somewhat less likely to undergo the process.

Though the data do not specifically address the prevalence of FGM among the Faili Kurd (or Shia'h Kurd) community, the two studies and other reports suggest a correlation between Kurdish culture and FGM.²⁶¹ The 2012 study also found that Kurdish participants were more likely to describe FGM as a "tradition," whereas Arabs and Turkmen were more likely to identify the practice as a religious obligation.²⁶²

Notably, significant numbers of female genital mutilations have been found in Diyala and Kirkuk, where large numbers of Faili Kurds traditionally and currently reside.

²⁶⁰ WADI, *Female Genital Mutilation in Iraqi-Kurdistan*, 2010, available at http://www.stopfgmkurdistan.org/study_fgm_iraqi_kurdistan_en.pdf.

²⁶¹ See WADI and PANA, *Female Genital Mutilation in Iraq: An Empirical Study in Kirkuk Province*, 2012, available in English at http://www.stopfgmkurdistan.org/media/Study_FGM_Kirkuk-en-1.pdf and in Arabic at http://www.stopfgmkurdistan.org/media/Study_FGM_Kirkuk,%20Arabic111.pdf. See also WADI, *Female Genital Mutilation in Iraqi-Kurdistan*, 2010, available at http://www.stopfgmkurdistan.org/media/Study_FGM_Kirkuk,%20Arabic111.pdf; Kurdish Aspect, "Female Genitale [sic] Mutilation in Kirkuk – outlook for a campaign," 28 December 2010, <http://www.kurdishaspect.com/doc122812FM.html>; WADI, "Rights Organizations Present New Study About Female Genital Mutilation in Iraq," 13 June 2012, http://en.wadi-online.de/index.php?option=com_content&view=article&id=1050:fgm-study-kirkuk&catid=15:presseerklarungen&Itemid=109.

²⁶² WADI and PANA, *Female Genital Mutilation in Iraq: An Empirical Study in Kirkuk Province*, 2012, available in English at http://www.stopfgmkurdistan.org/media/Study_FGM_Kirkuk-en-1.pdf.

Jews

- Iraq's Jews have suffered extreme persecution since the 1950s, and those who remain in the country live in hiding.
- During the Ba'ath regime, Iraqi Jews were stripped of citizenship rights and property and many were forcibly exiled.
- Where there were once at least 150,000 Jewish Iraqis in the country, today Iraqi Jews likely include perhaps less than 10 individuals in Baghdad and, reportedly, some additional families in Basra. .

Background

Very little is known about the remaining Jewish community in Iraq. Among the handful of Jewish Iraqis who remain in the country, most conceal their identity or live as anonymously as possible, and some have converted to Islam.²⁶³

Jewish history in Iraq predates both Christianity and Islam, dating back to approximately 722 BCE. Despite periodic eras of extreme persecution under various rulers, the community largely prospered and grew. By some estimates, by World War I Jewish Iraqis accounted for one-third of Baghdad's population and served in high positions in government, military, and the private sector.²⁶⁴

In 1947, with the partition of Palestine and the establishment of the Israeli state, incidents of anti-Jewish rioting and attacks increased until 1950, when the government of Iraq permitted Iraqi Jews to leave the country within one year, or forfeit citizenship.²⁶⁵ The following year, a new law froze the property of all Jews who had emigrated, to be ultimately seized by the state.²⁶⁶ **Between 1949 and 1951, community members estimate that 104,000 Jews fled Iraq, with an additional 20,000 smuggled to Israel from Iran.**²⁶⁷ Throughout the following decade, increasing economic and social restrictions were placed on remaining Jewish Iraqis. Assets were frozen, businesses were closed, property was confiscated, and property ownership prohibited. Zionism was

²⁶³ Stephen Farrell, "Baghdad Jews Have Become Fearful Few," *New York Times*, 1 June 2008, *available at* http://www.nytimes.com/2008/06/01/world/middleeast/01babylon.html?pagewanted=all&_r=0; *see also* Roy Gutman, "WikiLeaks shakes security of Iraq's tiny Jewish community," *McClatchy Newspapers*, 7 October 2011, <http://www.mcclatchydc.com/2011/10/07/126581/security-of-iraqs-tiny-jewish.html>.

²⁶⁴ Mitchell Bard, "The Jews of Iraq," *Jewish Virtual Library*, American-Israeli Cooperative Enterprise, *last accessed* 12 February 2013, *available at* <http://www.jewishvirtuallibrary.org/jsource/anti-semitism/iraqjews.html>.

²⁶⁵ *Id.*

²⁶⁶ *See* Iraqi Law No. 1 (1950), and Iraqi Law No. 12 (1951).

²⁶⁷ Mitchell Bard, "The Jews of Iraq," *Jewish Virtual Library*, American-Israeli Cooperative Enterprise, *available at* <http://www.jewishvirtuallibrary.org/jsource/anti-semitism/iraqjews.html>.

declared a capital crime.²⁶⁸ In 1952, the government barred Iraqi Jews from leaving the state. The 1960s saw a series of public executions and further persecution by state and non-state actors.²⁶⁹

In the early 1970s, the Iraqi government allowed the remaining Iraqi Jews to emigrate. Jewish Iraqis who had assets frozen were not compensated for their property. Reportedly, some homes vacated by Jewish families remain empty and are protected against squatters. However, Jewish families remain restricted from exercising property rights. Officially, the legal restrictions against Jewish rights remain in force today; the 2006 nationality law explicitly bars Jews who left Iraq from reclaiming citizenship.

Reportedly, in the 1990s, the few dozen Jewish Iraqis who remained in the state lived with relatively little fear of persecution and several Jewish holy sites were protected by the regime.

Approximate Demographics and Location

Prior to the 1950s, Jewish Iraqis numbered at least 150,000, and possibly more. In the 1940s, observers suggest Jewish Iraqis accounted for one-third the population of Baghdad. Today, the number of Jewish Iraqis remaining in the country is likely less than 10 individuals. When WikiLeaks cables were published in September 2011, communications within the US Embassy revealed a small community of nine Jews living quietly in Baghdad.²⁷⁰ Since then, one individual has reportedly emigrated and another has died of natural causes.

According to reports to IILHR, two additional Jewish families may be living in the Basra area as of early 2013. These reports could not be independently confirmed.

Challenges with Human Rights in Practice

Iraqi law continues to deny fundamental human rights and freedoms to Iraqi Jews. Zionism or promoting Zionist principles remains a capital crime in Iraq. So few community members remain that they are unable to perform the rituals of the faith in

²⁶⁸ Iraqi Penal Code No. 111 (1969), as amended, para. 202, "Any person who promotes or acclaims Zionist principles including freemasonry or who associates himself with, Zionist organisations or assists them by giving material or moral support or works in any way towards the realisation of Zionist objectives is punishable by death."

²⁶⁹ Mitchell Bard, "The Jews of Iraq," Jewish Virtual Library, American-Israeli Cooperative Enterprise, *last accessed* 12 February 2013, available at <http://www.jewishvirtuallibrary.org/jsource/anti-semitism/iraqjews.html>.

²⁷⁰ According to Minority Rights Group, nine Jews were living in Iraq in 2011. Since then, civil society organizations out of Basra indicate that two families may also live in the south, though in hiding. Of the nine noted by Minority Rights Group, one has reportedly emigrated and another has died of natural causes; see Minority Rights Group International, *State of the World's Minorities and Indigenous Peoples 2011 - Iraq*, 6 July 2011, <http://www.unhcr.org/refworld/docid/4e16d36e5f.html>

adherence to traditional practice. Fear of persecution and fear for neighbors and friends prevents many Jewish Iraqis from engaging in public life.

Religious Freedom

In 2003, the last synagogue in Iraq, Meir Tweig, was closed after it became too dangerous to meet openly.²⁷¹ Many rituals of the faith require a *minyán* of 10 adult Jewish men (quorum necessary for public worship), a number they are unable to muster as so few remain.²⁷²

Though Iraq does not criminalize the practice of the Jewish faith, most Iraqi Jews are reportedly too fearful to wear a *kova* (tembel hat) outside the house, or to meet openly to engage in religious rites.²⁷³ Many practice inside their homes.

Political Rights

Reportedly, among older Jewish Iraqis who remain in Iraq, identity cards still mark their Jewish religion. This has made some fearful to travel far from their homes as identity documents must be presented at the numerous checkpoints distributed throughout Baghdad. A lack of freedom of movement has prevented Iraqi Jews within the country from lobbying for rights and engaging in politics.

²⁷¹ Stephen Farrell, "Baghdad Jews Have Become Fearful Few," New York Times, 1 June 2008, available at <http://www.nytimes.com/2008/06/01/world/middleeast/01babylon.html?pagewanted=all&r=0>.

²⁷² Stephen Farrell, "Baghdad Jews Have Become Fearful Few," New York Times, 1 June 2008, available at <http://www.nytimes.com/2008/06/01/world/middleeast/01babylon.html?pagewanted=all&r=0>.

²⁷³ Stephen Farrell, "Baghdad Jews Have Become Fearful Few," New York Times, 1 June 2008, available at <http://www.nytimes.com/2008/06/01/world/middleeast/01babylon.html?pagewanted=all&r=0>.

Kaka'i

- The Kaka'i, (also known as Ahl-e Haqq or Yarsan), are commonly considered a Kurdish subgroup and branch from the Shia'h faith, though the religion differs in important ways.
- Kaka'i have maintained secrecy about their faith in Iraq for many years as some Muslim groups consider the Kaka'i devil-worshippers, resulting in persecution.
- Around 200,000 Kaka'i live in Iraq, mainly in villages south-east of Kirkuk, around Mosul and the Ninewa plain, in Diyala and Erbil in the north, and in Karbala.

Background

The Kaka'i, also known as *Ahl-e Haqq* in Iran and *Yarsan*, are commonly considered a Kurdish subgroup living mainly in the north of Iraq but also in Karbala and dozens of other cities and villages throughout the country. Some Kaka'i speak *Macho*, a Gorani dialect of Kurdish, but also Sorani Kurdish, Turkmen or Arabic depending on location.²⁷⁴

The Kaka'i faith dates to the 14th century in western Iran and contains elements of Zoroastrianism and Shia'hism. **Kaka'is have historically maintained secrecy about their faith which, like the Yezidi faith, does not curse the devil. This religious view has led some Muslim groups to consider the Kaka'i devil-worshippers, resulting in persecution.**

Today Kaka'i religious leaders and community members increasingly maintain that the faith is a form of Shia'hism,²⁷⁵ though they do not observe Muslim rites and rituals. The distinct practices and beliefs among the Kaka'i²⁷⁶ have led some to persecute Kaka'i.²⁷⁷

Approximate Demographics and Location

Community members report an estimated 110,000 to 200,000 Kaka'i live in Iraq, mainly in a group of villages south-east of Kirkuk and the Ninewa plain near Daquq and

²⁷⁴ UNHCR Eligibility Guidelines, 2012; Mumtaz Lalani, *Still Targeted: Continued Persecution of Iraq's Minorities*, Minority Rights Group International, 4, June 2010. <http://www.minorityrights.org/download.php?id=956>.

²⁷⁵ Mumtaz Lalani, *Still Targeted: Continued Persecution of Iraq's Minorities*, Minority Rights Group International, 6, June 2010.

²⁷⁶ For a more detailed description of the origins of the Kaka'i faith, religious dogma, and historic roots in Iraq and the region, see Matti Moosa, *Extremist Shiites: The Ghulat Sects*, Syracuse University Press (1987), Ch. 15, pp. 168-184.

²⁷⁷ See Refugee Status Appeals Authority of New Zealand, Refugee Appeal No. 74695, 22 January 2004, describing persecution of Kaka'i by the Ba'ath regime and Shia'h Muslims prior to and after 2003 in and around Karbala; available at <http://www.unhcr.org/refworld/pdfid/477cfba70.pdf>.

Hamdaniya. They also live in Diyala, Erbil and Suleymaniyah,²⁷⁸ though the community faced forced displacement under the Ba'ath regime and from post-2003 violence.

Some Kaka'i living in the disputed territories report political pressure or economic marginalization by both sides,²⁷⁹ as well as social discrimination on religious grounds. Kaka'i in Suleymaniyah and Erbil report they are broadly safe and integrated into social, economic and cultural life within the Kurdish Region.²⁸⁰

Security

Kaka'i living in governorates within the Kurdish region, particularly in Erbil and Suleymaniyah, face few targeted threats to security based on religion.²⁸¹ Community members report that, though those Kaka'i living in Hamdaniya, Kirkuk, and elsewhere in the disputed territories face violence as a result of territorial disputes, they have not recently experienced targeted threats to life or rights based on religion under the existing security structure, described as "joint security forces of Kurds, Arabs and Christians."²⁸² However, Minority Rights Group International reported in 2011 that Kaka'i in the Kirkuk area have been subjected to threats, assassination attempts, kidnappings, and other forms of intimidation.²⁸³

Challenges with Human Rights in Practice

Broadly, the Kaka'i do not report disproportionate challenges with human rights in practice as compared to other components. However, they do face some discrimination in law since, along with Yezidis and Baha'i, the Personal Status Code of 1959 does not consider Kaka'ism a so-called divine faith.

Religious Freedom

In 1999, the Kaka'is of northern Iraq reportedly reached an agreement with the Patriotic Union of Kurdistan (PUK) permitting them to practice their religion openly in a place of worship. To date, freedom of religion among Kaka'i in northern Iraq remains relatively

²⁷⁸ IILHR interviews, 2013; see also UNHCR Eligibility Guidelines, 2012, p. 30; Michiel Leezenberg, "Between Assimilation and Deportation: The Shabak and Kakai in Northern Iraq," in *Syncretistic Religious Communities in the Near East*. K. Kehl-Bodrogi et. Al (eds.). Leiden, 1997, pp. 155-174.

²⁷⁹ UNHCR Eligibility Guidelines 2012, p. 27.

²⁸⁰ IILHR interviews, 2013.

²⁸¹ IILHR interviews, 2013.

²⁸² IILHR interviews, 2013.

²⁸³ No specific incidents of persecution were cited, but interviews conducted by MRG indicated ongoing intimidation. See Preti Taneja, *Iraq's Minorities: Participation in Public Life*, Minority Rights Group International, 2011, available at <http://www.minorityrights.org/1106/reports/iraqs-minorities-participation-in-public-life.html>.

protected. However, anecdotal reports of persecution by some Muslims continue to surface among civil society groups.²⁸⁴

Some reports indicate that Kaka'i practice dissimulation, meaning they may "dissimulate" their true faith by stating they are part of the majority's faith. Kaka'is are also extremely secretive about their faith and its practices.²⁸⁵ This may present difficulties for interviewers or observers to ascertain one's true faith, or gather data more generally on who the Kaka'i are and where they live in Iraq.²⁸⁶

Political Rights

Reportedly, Kaka'i participate in the two main Kurdish parties, the Patriotic Union of Kurdistan and the Kurdish Democratic Party, operating in the north of Iraq. They do not report discrimination in access to these parties have not reportedly engaged in political activities outside of the two Kurdish parties. Data on the extent of Kaka'i participation in politics is not available, though there is no indication that they face practical obstacles to full political participation. There are no Kaka'i elected officials at the national level, though there is reportedly a Kaka'i representative at the provincial level.²⁸⁷

Economic, Social, and Cultural Rights

The Kaka'i community has reportedly experienced economic and social discrimination in recent years; in 2010, Minority Rights Group International reported that Muslim religious leaders in Kirkuk asked people not to purchase anything from "infidel Kaka'i shop owners."²⁸⁸ Recent interviews with community members in early 2013 indicate that the Kaka'i culture is generally respected in the north, and that the community operates two cultural centers, one in Suleymaniya and one in Erbil.²⁸⁹

Kaka'i reportedly face discrimination in hiring for jobs in the civil service, with few serving in government offices at the local or governorate levels. Anecdotal reports

²⁸⁴ See Preti Taneja, *Iraq's Minorities: Participation in Public Life*, Minority Rights Group International, 2011, available at <http://www.minorityrights.org/1106/reports/iraqs-minorities-participation-in-public-life.html>.

²⁸⁵ For a discussion of Kaka'i history in northern Iraq, the secrecy of religious practices, and relations to Muslims and Twelver Shia'hs, see Michiel Leezenberg, "Between Assimilation and Deportation: The Shabak and Kakai in Northern Iraq," in *Syncretistic Religious Communities in the Near East*. K. Kehl-Bodrogi et. Al (eds.). Leiden, 1997, pp. 155-174.

²⁸⁶ Immigration and Refugee Board of Canada, "Iran: Practices, leadership and special religious celebrations of the Ahl-e Haq faith; whether members of the community are treated differently by Islamic officials than other Kurdish individuals," 1 October 1998, available at <http://www.unhcr.org/refworld/docid/3ae6aab324.html>.

²⁸⁷ IILHR interview, 2013.

²⁸⁸ See Preti Taneja, *Iraq's Minorities: Participation in Public Life*, Minority Rights Group International, November 2011, available at <http://www.minorityrights.org/1106/reports/iraqs-minorities-participation-in-public-life.html>.

²⁸⁹ IILHR interview, 2012.

indicate that some incidents discrimination may be related to religion, though this information could not be confirmed. Most Kaka'i are farmers or otherwise live off the land or in the informal economy. An estimated 10 to 20 percent are living in poverty.

Internally Displaced

In 1988, 498 families were forcibly moved to Erbil and Suleymaniyah from Mosul and the surrounding area. Since 2003, violence in Mosul, Kirkuk and similar areas facing a high incidence of security threats has caused the internal displacement of approximately 400 Kaka'i families in recent years, leaving only approximately 50 in their original locations.²⁹⁰ Reportedly, displaced families have settled elsewhere in the Ninewa plain.

Few displaced families have returned to Mosul and the surround, reportedly only 5 or 6 families plan to return. Reportedly, most of the displaced plan to remain in Erbil, Suleymaniyah, and Hamdaniya. Others plan to return at some point to their origins, including cities and villages in Diyala, Kirkuk and, the Baghdad area.

Reportedly, Kaka'i displaced to the north face few language and assimilation challenges as most speak Kurdish or Arabic, though it is unclear whether Kaka'i speaking only Arabic have been able to obtain work or access education and other services within the Kurdish region. Among Kaka'i who speak Kurdish, access to housing and work in the Kurdish region is reportedly adequate.²⁹¹

Diaspora and Returnees

Under the Saddam Hussein regime, hundreds of Kaka'i were deported to Iran, resulting in the loss of civil status identity documents for many deportees. Deportations reportedly punished Kaka'i families the Ba'ath regime identified as siding with Kurdish insurgents in the 1980s and 1990s.²⁹² According to community members, deportations targeted Kaka'i religious leaders in particular. Many deported families reportedly came from the Kirkuk area originally. Community members report that approximately 20 returning families have since obtained Iraqi civil status identity documents, though even these continue to face challenges as to whether they were originally Iraqi or Iranian citizens.²⁹³

Reportedly, some Iraqi Kaka'i who have returned to Iraq from Iran continue to face practical challenges in obtaining Iraqi civil status documents due to the complicated and cumbersome procedural requirements.²⁹⁴

²⁹⁰ IILHR interview, 2013.

²⁹¹ IILHR interview, 2013.

²⁹² See Michiel Leezenberg, "Between Assimilation and Deportation: The Shabak and Kakai in Northern Iraq," in *Syncretistic Religious Communities in the Near East*. K. Kehl-Bodrogi et. Al (eds.). Leiden, 1997, pp. 155-174.

²⁹³ IILHR interview with Kaka'i community members, 2012.

²⁹⁴ IILHR interview with Kaka'i community members, 2012.

Interviewed community members report that few Kaka'i have sought asylum outside Iraq since 2003, though this information could not be independently confirmed. Reportedly, hundreds of Kaka'i fled Iraq as refugees in the years immediately following 2003, and at least some asylum claims have been adjudicated. At least some of these Kaka'i originated from the Karbala area, though Kaka'i from elsewhere in Iraq may also have fled.²⁹⁵

Issues Related to Immigration and Asylum

As noted elsewhere, hundreds of Iraqi Kaka'i deported to Iran under the Saddam regime may be without civil status identity documents and face onerous challenges in obtaining such documents. Additionally, as the Kaka'i practice dissimulation, it is possible that civil status identity documents may identify individuals as Muslim rather than Kaka'i, despite an applicant's true faith. These issues may present challenges for an applicant to demonstrate his faith through identity documents.

The Situation of Kaka'i Women

Kaka'i community members report that Kaka'i women are regularly subjected to female genital mutilation (FGM) as an integral part of their religion and culture.²⁹⁶

According to a study of FGM conducted by the NGO WADI in 2010, 39.4 percent of Kaka'i interviewed (13 individuals) indicated that they had undergone FGM.²⁹⁷

A follow-up study by the same NGO in 2012 focused on the Kirkuk governorate and included 1,212 standardized interviews. The 2012 study found a rate of FGM in Kirkuk at 38.2 percent among all women and girls 14 and older, with a 31.9 percent rate in the Daquq area, which is predominately Kaka'i.²⁹⁸

²⁹⁵ See Refugee Status Appeals Authority of New Zealand, Refugee Appeal No. 74695, 22 January 2004, para. 25, suggesting that by September 2003 "many Kaka'i people had escaped from Iraq." *available at* <http://www.unhcr.org/refworld/pdfid/477cfba70.pdf>.

²⁹⁶ IILHR interview with Kaka'i community members, 2013.

²⁹⁷ The WADI study included 120 interviews in the governorates of Erbil, Suleymaniyah and Kirkuk. The study found that 3 Shia'h (23.1 percent of Shiites interviewed), 13 Kaka'i (39.4 percent of Kaka'i) and 75.4 percent of Sunnis interviewed had undergone FGM. See WADI, *Female Genital Mutilation in Iraqi-Kurdistan*, 2010. The study has been questioned by some gender experts working in Iraq as potentially exaggerating the prevalence of FGM in northern Iraq due to potential sampling issues, though experts recognize the ongoing problem of FGM among the Kurdish population. Discussions with IILHR, 2013.

²⁹⁸ Only seven Kaka'i were interviewed for the study, with 3 interviewees having undergone FGM at a rate of 40.9%. The small sample size limits that generalizability of the data to the broader Kaka'i community. In general, rates of FGM found in the 2012 WADI study reflect similar findings by the Iraq Ministry of Planning released to WADI during the study. The Ministry of Planning found a rate of FGM in Kirkuk at 39.0%. Disaggregated Ministry of Planning data by religious and ethnic affiliation is unavailable at this time. See WADI 2012 study, p. 10.

Lesbian, Gay, Bisexual, Transgender And Intersex Persons (LGBTI)

- LGBTI individuals in Iraq, as well as youth displaying non-conforming haircuts, clothing, and musical taste, have been targeted for suspected homosexuality, devil worship, and for presenting a threat to Islam.
- Threats to these individuals have exponentially increased since 2012, with government ministries and non-state actors targeting them for harassment, marginalization, and violence by extra-judicial militias.
- Because of legal restrictions and cultural sensitivities, very few Iraqi or international groups have been able to provide aid or adequately monitor the situation of Iraq's lesbian and gay community and non-conforming youth culture.

Background

Since 2003, gay men and women and non-conforming youth have been targeted for harassment, death threats and violence by extra-judicial militias, reportedly with government compliance in some cases.²⁹⁹ Under the current legal and social situation in Iraq, there is no safe haven for gay men and women or non-conforming youth within the country. Instead, many are forced into hiding in order to protect both themselves and their families from violence.³⁰⁰

Iraqi lesbian, gay, bisexual, transgendered or intersex persons do not readily identify as members of an LGBTI community, though the term *gay* is relatively common. Different labels and pejorative terms have been used to describe perceived homosexuals, such as *gay*, *tantat*, *emo*, *jawari*³⁰¹ and *loti*.³⁰² The word “gay” was reportedly only used in Iraq after the US invasion in 2003 and possibly adopted through the internet and Western media. Few people use the Arabic word *mithli* (plural *mithliyeen*) as a neutral non-pejorative equivalent of the word *homosexual* in English.³⁰³ Though the word is relatively new to Iraq, the behaviors it describes have the same connotations in Iraq as elsewhere.³⁰⁴

²⁹⁹ See BBC News, “Witch-Hunt in Iraq,” 11 September 2012, available at <http://www.bbc.co.uk/news/world-middle-east-10525137>.

³⁰⁰ Some international groups, such as the Iraqi Refugees Assistance Project (<http://refugeerights.org>), are working to provide safe housing in Iraq and abroad for LGBTI individuals facing threat of death. Still, many countries of first arrival similarly have little legal or social tolerance for gay men and women, who continue to be at risk for violence and harassment.

³⁰¹ Reportedly a local term for “faggots.”

³⁰² Derived from the story of Sodom and Gamorrah, a derogatory term in Arabic for men who engage in homosexual conduct, meaning “person of Lot.”

³⁰³ Human Rights Watch, *They Want Us Exterminated*, 17 August 2009, p. 9, available at <http://www.hrw.org/reports/2009/08/16/they-want-us-exterminated>.

³⁰⁴ In the report *They Want Us Exterminated*, 17 August 2009, p. 10 Human Rights Watch notes “No one receives an identity-social or familial, as “son” or “chief,” for instance-in pristine and undiluted form from

Sexual orientation and identity issues in Iraq are complicated by the conflating of persons of non-conforming dress, hairstyle and musical taste—so-called “emos”—with homosexuals or gender non-conformists. **Persecution of these persons is based on perceptions that they are gay, Satanic, or dangerous to society.** This “emo” subculture is characterized by distinctive clothes and musical tastes. In English, “emo” is short for emotional and refers to youth who listen to alternative rock music, often dress in black, close-fitting clothes, and cut their hair in non-conforming or unconventional ways.

Though LGBTI persons have been targeted in large numbers since 2003 and particularly in 2009, February and March 2012 again saw a flare up in targeted violent attacks. Discourse surrounding the attacks and the government’s response focused on gender norms. Non-conformists were targeted for perceived sexual orientation, perceived Satanism or devil worship, and for posing a danger to Muslim society and Islam.³⁰⁵

Numerous reports of beatings and murders of suspected gay men and “emo” youth were reported throughout February and March, and threats continue. Reports on mob violence targeting LGBTI individuals are difficult to confirm, and experts suspect that increased attention in the news can prompt new rounds of attacks.³⁰⁶ However, because of legal restrictions and sensitivities, very few Iraqi or international groups have been able to provide aid or adequately monitor the situation of Iraq’s lesbian and gay community.

Rather than undertaking measures to protect targeted individuals however, the Interior Ministry stated that reports of attacks on those suspected of homosexual conduct or who appeared “emo” were “fabricated” and “groundless” and took no steps to identify, arrest, or prosecute attackers or to protect targeted individuals.³⁰⁷ In February, the Ministry of Interior stated on its website that emos are “Satanists” who pose a danger to Iraqi society. The statement further said the Interior Ministry was working with the Ministry of Education to combat the spread of emo culture in schools.³⁰⁸ Later statements by the Ministry of Education noted that schools were to enforce strict dress codes.

society or tradition; it always takes on personal and internal meanings, as well as shadings from the social surroundings and the historical moment. Similarly, people who identify as “homosexual” or “gay” or “lesbian” in a cultural situation where the term is new do not merely adopt an unbroken set of imported associations. They creatively adapt the term and its meaning to their own conditions and their cultural inheritance.”

³⁰⁵ See Human Rights Watch, “Iraq: Investigate ‘Emo’ Attacks, 16 March 2012, available at <http://www.hrw.org/news/2012/03/16/iraq-investigate-emo-attacks>.

³⁰⁶ IILHR interview with Becca Heller of Iraqi Refugees Assistance Project, Washington DC, 2012.

³⁰⁷ Human Rights Watch, *World Report 2013: Iraq*, February 2013, available at <http://www.hrw.org/world-report/2013/country-chapters/iraq?page=1>.

³⁰⁸ Human Rights Watch, “Iraq: Investigate ‘Emo’ Attacks,” 16 March 2012, available at <http://www.hrw.org/news/2012/03/16/iraq-investigate-emo-attacks>.

Approximate Demographics and Location

Lesbian, gay, bisexual, transgendered, intersex, and “emo” persons indicate that there is no safe haven in Iraq for people with non-conforming dress, behaviors, sexual orientation, or gender roles. Though LGBTI persons and emos may be found in virtually all cities and provinces of the country, most Iraqis “categorically reject any appearance of LGBTI groups in their cities.”³⁰⁹ Most LGBTI persons live in hiding.

There are no estimates of the numbers of LGBTI persons in Iraq.

The location of LGBTI persons and emo youth in Iraq is largely unknown. Increasing persecution has forced the vast majority of people into hiding or out of the country. Among refugees, countries of first arrival often include Lebanon and Jordan, though reports indicate that most of these people face similar persecution and violence in these states. LGBTI persons seeking asylum in Europe and the United States report living secretly in safe houses in countries of first arrival, for fear of additional threats and violence.³¹⁰

Security and Gender Based Violence

LGBTI persons and gender-nonconforming youth, including “emos,” face significant risk of torture, kidnapping, beatings, murder, arbitrary arrest and detention, and harassment by the government and extra-judicial militias in Iraq. Most incidents of targeted violence against LGBTI and gender non-conforming persons go unreported, though informal reports indicate that persecution remains ongoing.

Among the international community, perhaps the most well-known recent incident was the violent murder of Saif Raad Asmar Abboudi, who was killed in mid-February 2012 by being beaten to death with a brick. In early March 2012, the Ministry of Interior reported finding the bodies of six young men whose skulls had been crushed, with later estimates totaling 55 to 90 teenagers.³¹¹ Reuters reported 14 murders of emo youth or LGBTI persons, while rights groups reported over 40.³¹²

³⁰⁹ IILHR survey of Iraqi LGBTI individuals who have fled Iraq, facilitated through the Iraqi Refugee Assistance Project, 2012.

³¹⁰ IILHR survey of Iraqi LGBTI individuals who have fled Iraq, facilitated through the Iraqi Refugee Assistance Project, 2012; IILHR interview with Becca Heller of Iraqi Refugee Assistance Project, 2012.

³¹¹ Shafaq News, “The ‘Emo’ of Iraq defy the ‘blocks’... religious refuses killing them and the government does not comment,” 10 March 2012, available at <http://www.shafaq.com/en/reports/2434-the-qemoq-of-iraqi-defy-the-qblocksq--religion-refuses-killing-them-and-the-government-does-not-comment.html>; see also Scott Long, “Gay killings, emos, and Iraq: What’s going on,” A Paper Bird (blog), 8 March 2012, available at <http://paper-bird.net/2012/03/08/gay-killings-emos-and-iraq-whats-going-on/>.

³¹² See Jack Healy, “Threats and Killings Striking Fear Among Young Iraqis, Including Gays,” New York Times, 11 March 2012, available at <http://www.nytimes.com/2012/03/12/world/middleeast/killings-strike-fear-in-iraqi-gay-and-emo-youth.html?pagewanted=all&r=0>.

In early 2009, the bodies of as many as 25 men and boys suspected of being gay turned up in Sadr City, some with the word “pervert” written on notes attached to their bodies. Death squads targeting gay men or men not considered “manly” enough committed dozens of murders in Baghdad, but also in Karbala, Najaf, Basra and elsewhere. Though no official investigations or reports by the Iraqi government were ever conducted, UNAMI informally estimated the death toll “in the hundreds.”³¹³

The 2012 campaign against emo youth echoes the killing campaign that targeted gay men in 2009.³¹⁴ Both campaigns invoke morality as a cause, and particularly the protection of “traditional” gender roles and values. Fears that men are not “manly” or that men and boys are being feminized were at the root of many threats. **Iraqi media outlets such as *Al Esbuyia* and *Al Sabah* blamed the targeted men and boys for threatening society and eliciting disgust through their behavior and dress.**³¹⁵ Since 2003, both Moqtada al Sadr and Grand Ayatollah Ali al Sistani have condemned homosexuality and called for the elimination of feminized men;³¹⁶ both men have since condemned the killings and Grand Ayatollah Sistani reportedly issued a fatwa instructing followers that it is forbidden to harm emo youth.

In March 2012, rights groups reported that signs and fliers had been posted in the Baghdad neighborhoods of Sadr City, al Hababiya, and Hay al Amal that threatened individuals by name with “the wrath of God” unless they cut their hair and give up “satanic clothing,” hid tattoos, and “maintain complete manhood.”³¹⁷ In other neighborhoods, the names of other individuals were listed with similar threats. Reportedly, one such sign in Sadr City read “In the name of God compassionate, the merciful, we warn every male and female in the strongest terms to stop their dirty deeds before the wrath of God strikes them through the hands of muhajedin.” The poster listed 33 names and showed the images of two handguns.³¹⁸

National government responses to targeted murders in Baghdad reveal a refusal to protect LGBTI and gender non-conforming persons. The Ministry of Interior posted on its website that emo youth were Satanic and a threat to society, though the posting was subsequently removed.³¹⁹ The Ministry of Education pressured schools to

³¹³ Human Rights Watch, *They Want Us Exterminated*, 17 August 2009, p. 2, available at <http://www.hrw.org/reports/2009/08/16/they-want-us-exterminated>.

³¹⁴ For in depth information on the targeted murders of (perceived) gay men in 2009, see Human Rights Watch, *They Want Us Exterminated*, 17 August 2009, available at <http://www.hrw.org/reports/2009/08/16/they-want-us-exterminated>.

³¹⁵ Human Rights Watch, *They Want Us Exterminated*, 17 August 2009, p. 36, available at <http://www.hrw.org/reports/2009/08/16/they-want-us-exterminated>.

³¹⁶ See Timothy Williams, “Iraq’s Newly Open Gays Face Scorn and Murder,” *New York Times*, 7 April 2009, available at <http://www.nytimes.com/2009/04/08/world/middleeast/08gay.html>.

³¹⁷ Human Rights Watch, “Iraq: Investigate ‘Emo’ Attacks,” 16 March 2012, available at <http://www.hrw.org/news/2012/03/16/iraq-investigate-emo-attacks>.

³¹⁸ *Id.*

³¹⁹ The posting was up on 13 February 2012 but has since been removed.

enforce dress codes and the parliamentary committees have publicly discussed the “negative” phenomenon of lesbian women and girls.

In April 2012, a series of “studies” on the rates of homosexuality among girls was published by *Shafaq News* and received attention in parliament. The Iraqi news agency reported that 14 percent of Iraqi women may be lesbians, and that “90% of lesbians are distributed between the dormitories of universities and institutes and orphanage centers.”³²⁰ In response, the parliamentary Human Rights Committee and Women’s Committee promised to take up the issue. A representative from the Human Rights Committee stated that investigating such matters helps in “correcting the path of human rights in Iraq.”³²¹ The Women’s Committee recommended increased monitoring at women’s dormitories to promote awareness of the “harmful effects” of this phenomenon. Shortly thereafter, the Ministry of Interior reportedly “deployed teams of police to raise awareness of the harmful effects of this phenomenon and control it.”³²²

Challenges with Human Rights in Practice

Homosexuality is not criminalized under the Iraqi legal system.³²³ Though an article in the Penal Code of 1969 is titled “Rape, Homosexual Acts (*Liwat*) and Assault on Women’s Honor,” the article itself is a gender-neutral rape law criminalizing only non-consensual sexual relations.³²⁴ **Other provisions in the Penal Code against loitering, indecent dress and behaviors, however, have been used by police and prosecutors to target LGBTI and gender non-conforming persons and prevent them from participating in public life.** Though a resurgence of social freedoms reportedly inspired gay men and non-conforming youth to gather in public in 2009, a backlash of brutal murders and targeted threats and harassment has forced most to flee the country or hide their identity and location. Targeted killings are ongoing.

³²⁰ Shafaq News, “Lesbian story of ‘Shafaq News’ will be discussed next week by the Women’s Committee,” 19 April 2012, available at <http://www.shafaq.com/en/news/2528-lesbian-story-of-qshafaq-newsq-will-be-discussed-next-week-by-the-womens-committee.html>.

³²¹ Shafaq News, “Human Rights Commission [sic] Announces the inclusion of lesbian story prepared by ‘Shafaq News’ on its agenda,” 12 April 2012, available at <http://www.shafaq.com/en/news/2513-human-rights-commission-announces-the-inclusion-of-lesbian-story-prepared-by-qshafaq-newsq-on-its-agenda.html>.

³²² Shafaq News, “The Interior includes story of ‘Shafaq News’ about Lesbians in their programs to begin to treat the effects of the phenomenon,” 25 April 2012, available at <http://www.shafaq.com/en/component/content/article/2541-the-interior-includes-the-story-of-qshafaq-newsq-about-lesbians-in-their-programs-and-begin-to-treat-the-effects-of-the-phenomenon.html>.

³²³ Under Article 37 of the Military Penal Code of 1942 however, voluntary sodomy is punishable with dismissal from the army or “with punishment for a period not exceeding three years whether the act is completed or attempted.”

³²⁴ Iraqi Penal Code No. 111 (1969), art. 393.

Economic, Social, and Cultural Rights

LGBTI persons and gender non-conforming “emos” report living on the fringes of society and in hiding. They do not congregate in public and many report that, since 2003, armed men have entered family homes searching for them by name.³²⁵ This persecution and the high rate of violence against LGBTI persons and emos have prevented many from engaging in public life. Societal discrimination based on (perceived) sexual orientation and gender identity in employment, occupation, and housing is common, though little is known about discrimination in access to education or health care.³²⁶

Some individuals report being fired from jobs for unconventional dress or being forced to quit when militias identified their places of work. The Ministry of Education has pressured schools since 2011 to enforce a dress code to stop the spread of emo culture.³²⁷ The families of youth who wear dark, tight clothing or non-conforming hairstyles have reportedly kept children out of school in response to the threats and attention. Other individuals report dropping out of school due to harassment and discrimination.

In March 2012, UNAMI reported that an NGO had to relocate a 17-year old boy after his family tried to kill him because they thought he was gay. Around the same time, the Ministry of Interior reported that the murders of at least 56 teenagers were linked to the phenomenon of killing young “emo” people in 2012.³²⁸

Internally Displaced

Most LGBTI persons report seeking to leave Iraq rather than being internally displaced due to persecution. Every person consulted for this handbook reported that Erbil and the areas in northern Iraq and the Kurdish region are equally dangerous as compared to Baghdad, Karbala, Basra, and other areas. No area in Iraq is safe for LGBTI or gender non-conforming persons.

Diaspora and Returnees

LGBTI and gender non-conforming persons have fled Iraq, many seeking asylum in European states such as the Netherlands and Sweden, the United States and Australia. The country of first entry is often Lebanon and sometimes Jordan. Refugees describe the

³²⁵ Human Rights Watch, *They Want Us Exterminated*, 17 August 2009, p. 36, available at <http://www.hrw.org/reports/2009/08/16/they-want-us-exterminated>.

³²⁶ US Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2011*, 2011, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=186428#wrapper>.

³²⁷ AK News, “Education ministry requires students to wear uniform in schools because of ‘emo’ culture,” 18 March 2012, available at <http://www.aknews.com/en/aknews/3/296676/>.

³²⁸ Shafaq News, “The ‘Emo’ of Iraq defy the ‘blocks’... religion refuses killing them and the government does not comment,” 10 March 2012, available at <http://www.shafaq.com/en/reports/2434-the-qemoq-of-iraqi-defy-the-qblocksq--religion-refuses-killing-them-and-the-government-does-not-comment.html>.

situation in Lebanon as tenuous, largely due to their uncertain status and constant threats of harassment and extortion by state and non-state actors. **Most LGBTI and gender non-conforming refugees live in safe houses and in hiding, largely out of fear of continuing persecution due to their perceived sexual orientation.**³²⁹ Some incidents of targeting by Hezbollah in Lebanon have been reported.³³⁰ Very few LGBTI refugees have returned to Iraq.

³²⁹ IILHR survey of Iraqi LGBTI individuals who have fled Iraq, facilitated through the Iraqi Refugee Assistance Project, 2012.

³³⁰ IILHR survey of Iraqi LGBTI individuals who have fled Iraq, facilitated through the Iraqi Refugee Assistance Project, 2012.

Mandaean-Sabeans (also Sabian-Mandean or Sabians)

- Mandaean-Sabeans are pacifists with no clan or tribal system of protection and no centralized geographic area within Iraq.
- Up to 90 percent of Iraq's Mandaean community has fled the country, many since 2003.³³¹ As a result, the Mandaean community in Iraq has dwindled from an estimated 50,000 to 70,000 prior to 2003, to just 3,500 to 5,000 in 2012.³³²
- Today, the Mandaean-Sabeian community faces targeted violence including murder, kidnapping and torture, attacks on places of worship, intimidation, threats, forced conversion, property confiscation, marginalization, and discrimination.

Background

The Mandaean-Sabeian religion is among the oldest surviving Gnostic religions in the world.³³³ The community has lived in Iraq since the second century AD, deriving from the Aramaic people native to the region.³³⁴ Yet today, the community's culture, language and religious practices are threatened with extinction. Up to 90 percent of Iraq's Mandaean community has fled the country, many since 2003.³³⁵ As a result, the Mandaean community in Iraq has dwindled from an estimated 50,000 to 70,000 prior to 2003, to just 3,500 to 5,000 in 2012.³³⁶ **Today, the world-wide Mandaean population stands at approximately 60,000 to 70,000.**

³³¹ Human Rights Watch, *At a Crossroads: Human Rights in Iraq Eight Years After the US-Led Invasion*, 65, 2011, available at <http://www.hrw.org/sites/default/files/reports/iraq0211W.pdf>.

³³² *Id.* at 4; see also Preti Taneja, *Iraq's Minorities: Participation in Public Life*, Minority Rights Group International, 9, November 2011; US Department of State, *July-December, 2010 International Religious Freedom Report*, 13 September 2011, p. 3, <http://www.state.gov/documents/organization/171735.pdf>.

³³³ Mandaean Human Rights Group, *Mandaean Human Rights Annual Report 2011*, September 2011, 4, available at <http://www.mandaeanunion.org/HMRG/MHRG%20Annual%20Report%202011.pdf>; See also Mumtaz Lalani, *Still Targeted: Continued Persecution of Iraq's Minorities*, Minority Rights Group International, June 2010.

³³⁴ Mandaean Human Rights Group, *Mandaean Human Rights Annual Report 2011*, September 2011, 4, available at <http://www.mandaeanunion.org/HMRG/MHRG%20Annual%20Report%202011.pdf>; See also Mumtaz Lalani, *Still Targeted: Continued Persecution of Iraq's Minorities*, Minority Rights Group International, June 2010.

³³⁵ Human Rights Watch, *At a Crossroads: Human Rights in Iraq Eight Years After the US-Led Invasion*, 65, 2011, available at <http://www.hrw.org/sites/default/files/reports/iraq0211W.pdf>.

³³⁶ *Id.* at 4; see also Preti Taneja, *Iraq's Minorities: Participation in Public Life*, Minority Rights Group International, 9, November 2011; US Department of State, *July-December, 2010 International Religious Freedom Report*, 13 September 2011, p. 3, <http://www.state.gov/documents/organization/171735.pdf>.

The Mandaean-Sabean community continues to face significant targeted violence including murder, kidnapping and torture, attacks on places of worship, intimidation, threats, forced conversion, property confiscation, marginalization, and discrimination.³³⁷ Mandaean-Sabeans are pacifists with no clan or tribal system of protection and no centralized geographic area within Iraq. As pacifists, Mandaeans have not and do not form militias to defend themselves as have some other minority components.

This situation leaves the small community particularly vulnerable to violence and threats. Moreover, as many Mandaeans work as goldsmiths, jewelers, doctors and engineers, Sunni and Shia'h armed groups and criminals have targeted community members on the basis of religion, profession, and perceived wealth,³³⁸ making many attacks and threats a combination of persecution and crime-for-profit. Despite their disputed status as "People of the Book," which would offer a level of protection under the Qur'an, extremist groups continue to target community members.³³⁹ Threats and attacks often including specific demands that victims convert to Islam, close businesses, or vacate homes.

Among victims who go to the police, many report that offenders are frequently informed within several hours, often contacting the victim or his/her family to make additional threats against returning to the police.³⁴⁰ Most religious leaders have either been murdered or fled Iraq.³⁴¹

Approximate Demographics and Location

For religious purposes, Mandaean-Sabeans must reside near a clean and preferably natural water source for baptism rights.³⁴² Historically, Mandaeans settled in the marshes of southern Iraq, in large cities like Baghdad and Basra, and in southern Iran.

Unlike some of Iraq's other minority components which reside mainly in a centralized geographic area, Iraq's Mandaean community is spread throughout the country and often lived in mixed communities. As a result, **there is no identified area within Iraq for displaced Mandaeans to integrate into an environment where they can be supported by members of their own community.**

Among the remaining Mandaeans in Iraq today, most live in the large cities of Baghdad, Amara in Misan governorate, Basra, Nassiriyah and the marshlands.³⁴³ Mandaeans also

³³⁷ *Id.*

³³⁸ UNHCR Eligibility Guidelines, 2012, p. 29.

³³⁹ *Id.*; see also Mandaean Human Rights Group, *Mandaean Human Rights Annual Report 2011*, September 2011, 4, available at <http://www.mandaeanunion.org/HMRG/MHRG%20Annual%20Report%202011.pdf>.

³⁴⁰ *Id.*

³⁴¹ See UNHCR Eligibility Guidelines 2012, p. 29.

³⁴² The requirement that Mandaeans have access to a clean, natural water source for religious rites understandably limits their ability to settle in predominately urban areas.

reportedly live in Wassit governorate.³⁴⁴ Several dozen families having fled to northern Iraqi cities such as Erbil, Dohuk, Mosul and Kirkuk as well as other areas.³⁴⁵

As the Mandaean homeland centers in Iraq and southern Iran, the community is virtually unknown outside of these areas. As such, there is little infrastructure for support for the Mandaean community among in other states beyond that established among displaced individuals themselves.

Security

The remaining 3,500 to 7,000 Mandaean-Sabeans living in Iraq are among the most vulnerable of Iraq's components, facing a high risk of kidnapping, murder, death threats, torture, sexual assault, harassment, professional killings, forced conversion and forced displacement. Most Mandaean religious leaders have been killed or fled the country.³⁴⁶ Since 2003, over 175 incidents of targeted murder were reported to Mandaean Human Rights Group, though these incidents underestimate the scope of the violence. The civil society organization has also recorded 271 kidnappings, 238 assaults and threats, 11 rapes, 33 forced conversions to Islam, and 41 forced displacements.³⁴⁷ In cases of kidnapping for ransom, UNHCR notes that perpetrators

³⁴³ *Id.*

³⁴⁴ Iraqi Minorities Council, *Map Showing Areas of Iraqi Minorities*, <http://www.minoritiescouncil.org/>.

³⁴⁵ Mandaean Human Rights Group Annual Report 2011.

³⁴⁶ UNHCR Eligibility Guidelines, 2012, p. 29; *see n. 697*, noting that "Reportedly, 23 out of 28 religious leaders have been killed or have fled the country since 2003," citing Baha al-Kadhimi, "Sabean-Mandaeans demand governmental support," AKnews, 21 May 2011, <http://www.aknews.com/en/aknews/1/241313/>.

³⁴⁷ Mandaean Human Rights Group Annual Report 2011, p. 7 documents the following incidents:

- On 5 June 2011, Mr. Salem Latef Ghanem and Mr. Asad Sabih Ghanem were kidnapped on their way to Basra by a police unit. They were detained and kept isolated in a hut in the marshes near Al-Izier where they were tortured until they disclosed all their valuables, worth an estimated USD 99,000 (pg. 7);
- On February 23, 2011, Mr. Salim Ayesh was found shot to death, tied to a chair in his home in Baghdad (pg. 7);
- On January 13, 2011, Mr. Iyad Neseri Alshawi was shot to death walking home from work (pg. 7). Similar incidents, including murders and lootings in places of business, have been reported to MHRG.
- On 22 May 2010, Mr. Baha Sori Zaggi was killed on his way home from work. He had earlier been kidnapped and ransomed for USD 25,000.
- On 25 April 2010 in Al-Soyyrah city in Kut south of Baghdad, Mr. Bassam Hassaney Raheim, was shot in the head by unmasked men with silenced guns in a busy marketplace in the early hours of the morning. He was transferred to a hospital in Baghdad and he died later on in hospital from his injuries.
- On 8 February 2010, in Al-Saiedia district in Baghdad, Mr. Niem Younes was shot in the head with a silenced gun in a busy marketplace in the early hours of the morning. He had recently returned to Baghdad from Syria.

For an additional list of documented murders of Mandaeans in 2010, *see* The Society for Threatened Peoples (STP), "Series of murders of Mandaeans – Baghdad cannot protect religious minority," 27 May 2010, <http://www.gfbv.de/pressemit.php?id=2283&stayInsideTree=1>.

may deliberately single out Mandaeans due to their vulnerable status as a religious minority, considered “infidel.”³⁴⁸

Between September 2009 and September 2011, MHRG has investigated 31 murders; 14 kidnappings with severe assaults, torture, humiliation and ransom demands; and 33 attacks, attempted murders, mortar attacks, house bombings, threatening letters, arson attacks, threat of forced conversion, and demands to pay religious tax (*Jizya*).³⁴⁹ Reportedly, the majority of incidents go unreported for fear of retaliation. Many Mandaeans note that, when victims go to the police, perpetrators are often informed within hours and make additional threats.³⁵⁰

Unlike most other Iraqi components which live in centralized geographic areas, Mandaean families are scattered in isolated groups throughout the country with no clan or tribal system of protection. Mandaean-Sabeans are also pacifists barred by religion from forming militias to defend themselves. They thus remain greatly vulnerable to targeted attacks by Islamist extremists and criminal gangs based on religion, ethnicity, and (perceived) wealth.³⁵¹

Challenges with Human Rights in Practice

In addition to targeted violence, the Mandaean community also faces threats to religious freedom, and other basic rights, as well as social and political marginalization and discrimination. According to the Danish Immigration Service’s 2010 report on the security and human rights situation in South/Central Iraq, **“With regard to the Sabean-Mandaeans, generally the situation in Iraq has gone backward and a far more conservative trend is winning ground.”**³⁵²

Religious Freedom

The US Department of State’s International Religious Freedom Report of 2010 noted Mandaean reports that Islamist extremists utilized threats, assaults, and kidnapping to force conversion to Islam, sometimes killing people who refused.³⁵³ Similar reports continued into 2011 and 2012,³⁵⁴ with Mandaean Human Rights Group reporting on dozens of threats and violence related to forced conversions compiled over several

³⁴⁸ UNHCR Eligibility Guidelines, 2012, p. 29.

³⁴⁹ Mandaean Human Rights Group Annual Report 2011, p. 9.

³⁵⁰ Mandaean Human Rights Group Annual Report 2011, p. 7.

³⁵¹ UNHCR Eligibility Guidelines, 2012, p. 29.

³⁵² Danish Immigration Service, *Security and Human Rights in South/Central Iraq*, 24, September 10, 2010, available at http://www.nyidanmark.dk/NR/rdonlyres/7F24EA1B-1DC7-48AE-81C4-C097ADAB34FD/0/Rapport_Security_and_HR_in_South_Central_Iraq.pdf.

³⁵³ US Department of State, *International Religious Freedom Report 2010*, <http://www.state.gov/g/drl/rls/irf/2010/148821.htm>.

³⁵⁴ See US Department of State, *International Religious Freedom Report 2011*, available at <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper>.

years.³⁵⁵ Many death threats, calls for ransom and acts of violence are accompanied by demands to convert to Islam.

Although their religion does not require veiling, Mandaean women are reportedly pressured to wear the *hijab* in public in order to avoid physical and verbal abuse.³⁵⁶ Mandaean women have also been pressured to marry outside their faith in contradiction with their own religious customs and have been pressured to convert to Islam.³⁵⁷

Political Rights

The Mandaean community currently has just a single representative in the 325 member Council of Representatives. This seat results from a set-aside quota adopted in the 2009 National Elections Law, which reserved eight seats for minority groups throughout the country. Whereas Iraq Christians are recognized as a national constituency (meaning they are able to vote for their candidate regardless of governorate of origin in Iraq), the Mandaean seat is limited to Baghdad despite the fact that Mandaeans have also traditionally resided in northern Iraq and Basra, and are today widely dispersed throughout the country. Only those who live in the city of Baghdad and have proof of residency can vote for the Mandaean candidate.³⁵⁸

Economic, Social, and Cultural Rights

Many Mandaean-Sabeans are highly educated and often work as engineers, medical doctors, goldsmiths, jewelers and dentists.³⁵⁹ As a result, the Mandaean community has been singled out for violence based, in combination, on their religion, profession, and (perceived) wealth.³⁶⁰ **In addition to demands to leave the country or convert to Islam, many threats and acts of violence against Mandaeans include demands for money or to close down shops.** Mandaeans also face discrimination in employment for being members of a non-Muslim faith.³⁶¹

Mandaeans also face social discrimination and marginalization. There are no schools in southern and central Iraq that teach children in the Mandaean language, Aramaic, and children are often obliged to undertake Qur'anic studies at public schools.³⁶²

³⁵⁵ Mandaean Human Rights Annual Report 2011, 47-48.

³⁵⁶ UNHCR Eligibility Guidelines, 2012, p. 29.

³⁵⁷ *Id.*

³⁵⁸ Minority Rights Group International, *State of the World's Minorities and Indigenous Peoples 2011: Iraq*, 216, July 2011, available at <http://www.minorityrights.org/10848/state-of-the-worlds-minorities/state-of-the-worlds-minorities-and-indigenous-peoples-2011.html>.

³⁵⁹ UNHCR Eligibility Criteria, 2012, 29.

³⁶⁰ *Id.*

³⁶¹ Preti Taneja, *Iraq's Minorities: Participation in Public Life*, Minority Rights Group International, 15, November 2011.

³⁶² UNHCR Eligibility Guidelines, 2012, p. 29.

Internally Displaced

Since 2003, many Mandaean-Sabeans who are unable or unwilling to leave Iraq have been internally displaced either by choice or forcibly through threats and violence. As noted above, threats against Mandaeans often include demands to vacate homes and shops and to leave the city, region, or country.³⁶³ In order to gain a sense of security, Mandaean Human Rights Group (MHRG) reports that some families choose to move together into one house or relocate to difference cities.³⁶⁴ Several hundred Mandaean families had relocated to the Kurdistan region prior to 2010, but since then many have reportedly fled the country³⁶⁵ due to ongoing threats of violence, social and economic discrimination, and language barriers. **MHRG reports that of the 300 Mandaean families reportedly displaced to the Kurdistan region in 2003,³⁶⁶ only 128 remain, with 40 families in Kirkuk.**³⁶⁷

Among Mandaeans displaced to the Kurdistan region from Baghdad and Basra, many note that a lack of Kurdish language skills not only prevents them from functioning effectively in Kurdish society, but also subjects them to ridicule and violence. One man noted that his son was beaten at school for failing to use Kurdish in the classroom.³⁶⁸

Among IDPs wishing to return to their homes rather than leave the country, the government's tolerance of the illegal confiscation of property presents an additional barrier for Mandaean-Sabeans.³⁶⁹

Diaspora and Returnees

Of the thousands of Mandaeans that have fled Iraq, many have escaped to Syria (4,500 to 5,000), Jordan (300), and Iran (5,000 to 8,000), as well as Western countries. Reportedly, there are an estimated 4,000 to 5,000 Mandaeans in the United States, 800 to 1,000 in Canada, 5,500 in Sweden, 3,500 in the Netherlands, 2,200 in Germany, 6,000 to 6,500 in Australia, and approximately two thousand others in other European states.³⁷⁰ Among Mandaeans who have left Iraq, virtually none have returned. For most, homes have been confiscated and prospects for return of the property are slim. **In 2011, Mandaean Human Rights Group reported that many Mandaean houses have been illegally seized in the Dora, Adhamia, and Sidia neighborhoods in Baghdad, as**

³⁶³ Mandaean Human Rights Group Annual Report, 2012.

³⁶⁴ Mandaean Human Rights Group Annual Report, 2011, p. 16.

³⁶⁵ US Embassy Baghdad, "Minorities Find Security in Kurdistan but Emigration Continues," cable id no. 09BAGHDAD1426, June 1, 2009, available at <http://www.cablegatesearch.net/cable.php?id=09BAGHDAD1426>.

³⁶⁶ See *Id.* at para. 5.

³⁶⁷ Mandaean Human Rights Group Annual Report 2011, p. 16.

³⁶⁸ *Id.*

³⁶⁹ *Id.* at 9.

³⁷⁰ Mandaean Human Rights Group Annual Report, 2011, p. 4.

well as in other cities like Basra and Baquba. As Mandaeans flee, their property is often immediately occupied. Police and neighbors are reportedly unwilling to provide assistance. In one reported instance, a displaced Mandaean family in the Adhamia neighborhood of Baghdad registered the confiscation of their home with the police. After a short time, however, their case was dismissed and they later received death threats advising them to either leave Baghdad entirely or face violence.³⁷¹

In Jordan, Mandaean refugees are unable to work, meaning that many cannot afford some aspects of healthcare, costs associated with education, or costs required to meet a basic standard of living. This situation leaves many Mandaeans with no choice but to seek illegal employment, leaving them vulnerable to abuse by employers, including a risk of sex trafficking among Mandaean women and girls.³⁷²

Among refugees who fled to Syria, many have reportedly gained asylum in other states, though an estimated 450 individuals remain trapped in the country amid increasing violence.³⁷³

Issues Relating to Immigration and Asylum

Under the *Arabization* process in the 1950s and 1960s, the Ba'ath era and later Saddam Hussein regime saw the forced conversion of many thousands of Mandaeans through threat, intimidation and kidnapping. Some Mandaean families today hold identity documentation reflecting the forced conversions of the past rather than their Mandaean identity.

The Situation of Mandaean Women

Many Mandaean women report physical and verbal abuse from employers, university staff, and community members to adhere to Islamic dress codes and convert to Islam. In one reported incident, Islamic extremists cut out a woman's eye when she refused to wear a *hijab*.³⁷⁴ According to a Minority Rights Group International report, nearly 45 percent of Mandaean women surveyed reported hiding their religion.³⁷⁵ Less than 10 percent of women reported feeling safe when leaving their homes.³⁷⁶ They also reported fear of forced conversion to Islam.

³⁷¹ *Id.* at 9.

³⁷² *Id.* at 21.

³⁷³ IILHR interviews with Mandaean Human Rights Group, 2013.

³⁷⁴ Mandaean Human Rights Annual Report 2011, 54, documenting violence against Miss Hifa Jaber Mijman, who lost her right eye when she was attacked by thugs for refusing their order to wear a hijab. The report contains photographs of Miss Hifa's injuries.

³⁷⁵ Preti Taneja, *Iraq's Minorities: Participation in Public Life*, Minority Rights Group International, 24-25, November 2011.

³⁷⁶ Preti Taneja, *Iraq's Minorities: Participation in Public Life*, Minority Rights Group International, 24-25, November 2011.

Mandaean women also report suffering sexual violence, including rape and sexual assault, at the hands of extremist militias and criminal elements during abductions. Since Mandaean community members are at particular risk of kidnapping based on religion and (perceived) wealth, Mandaean women face a particularly high risk for gender based violence.

Palestinian Refugees

- In 2003, Iraq's Palestinian community was estimated at 35,000, having arrived as refugees from Palestine in 1948 and 1967 after the Arab-Israeli war. Today, only an estimated 11,000 to 15,000 remain.³⁷⁷
- Since 2003, the Ministry of Interior has reportedly arbitrarily arrested, detained, beat, tortured and, in a few cases, forcibly "disappeared" Palestinian refugees.³⁷⁸ The Ministry has also imposed onerous registration and residency requirements on Palestinian refugees.
- Most Palestinians reside in Baghdad, though some live in Ninewa, Anbar and Basra. In Baghdad, most Palestinians live in the Al Baladiyat neighborhood, where they face ongoing raids by security forces and consistent low-level harassment.

Background

In 2003, Iraq's Palestinian community was estimated at 35,000, with most arriving as refugees from Palestine in 1948 and 1967 after the Arab-Israeli war. A third wave of refugees arrived after the Gulf war, when most Palestinians were expelled from Kuwait.³⁷⁹ Today, only 10,000 to 15,000 remain.³⁸⁰

Since 2003, international rights groups report that the Ministry of Interior has arbitrarily arrested, detained, beat, tortured and, in a few cases, forcibly "disappeared" Palestinian refugees,³⁸¹ including the 2011 disappearance of a visiting

³⁷⁷ See UNHCR, "Aide-Mémoire: Protecting Palestinians in Iraq and Seeking Humanitarian Solutions for Those Who Fled the Country," December 2006, available at www.unhcr.org/refworld/docid/45bofc2e2.html; see also Human Rights Watch, *Nowhere to Flee*, September 9, 2006, available at www.hrw.org/en/node/1181/section/1.

³⁷⁸ Preti Taneja, *Iraq's Minorities: Participation in Public Life*, Minority Rights Group International, 8, 2011.

³⁷⁹ Tom Charles, "An Ongoing Nakba: The Plight of Palestinian Refugees in Iraq," *Jadaliyya*, 6 February 2012, available at http://www.jadaliyya.com/pages/index/4264/an-ongoing-nakba_the-plight-of-palestinian-refugee; Shafaq News, "Iraq Grants Palestinians Returning to It Four Million Dinars," 29 August 2012, available at <http://www.shafaq.com/en/news/3398-iraq-grants-palestinians-returning-to-it-four-million-dinars.html>.

³⁸⁰ See UNHCR, "Aide-Mémoire: Protecting Palestinians in Iraq and Seeking Humanitarian Solutions for Those Who Fled the Country," December 2006, available at www.unhcr.org/refworld/docid/45bofc2e2.html; see also Human Rights Watch, "Nowhere to Flee: The Perilous Situation of Palestinians in Iraq", 9 September 2006, available at www.hrw.org/en/node/1181/section/1.

³⁸¹ See Preti Taneja, *Iraq's Minorities: Participation in Public Life*, Minority Rights Group International, 8, November 2011; see also Human Rights Watch, "Iraq: Protect Palestinians in Iraqi Prisons," 13 December 2012, available at <http://www.hrw.org/news/2012/12/13/iraq-protect-palestinians-iraqi-prisons>.

Palestinian human rights worker from a Baghdad neighborhood who was reportedly arrested by Ministry of Interior officers.³⁸²

The Ministry of Interior has also imposed onerous registration and residency requirements on Palestinian refugees, forcing them to renew short-term residency requirements every few months and reportedly subjecting them to harassment.³⁸³ This treatment has been ascribed to resentment felt toward the community for the perceived preferential treatment they received under the Saddam regime³⁸⁴ and ethnicity.

Increasing violence against Palestinian refugees in Baghdad, reportedly by Shia'h militant groups,³⁸⁵ forced hundreds of families to seek safety by moving to the Al Waleed camp in the desert area near the border with the Syria, despite a lack of clean water, schools, access to medical services, and exceedingly harsh conditions.³⁸⁶ Today, most of the remaining Palestinian refugees have been resettled in the Baghdad neighborhood of Al Baladiyat. A handful of families remains at the camp, though it was expected to close in 2012 upon pressure from the Iraqi Government.³⁸⁷

Like many Arab states, the Iraqi government does not allow Palestinians to obtain citizenship, even where Palestinians marry Iraqi partners. The legal status of Palestinians in Iraq remains in question, as the government of Iraq does not recognize their refugee status and is not a party to the 1951 Convention relating to the Status of Refugees. However, the Palestinian population enjoyed relatively high levels of benefits and state protections under the Ba'ath regime based on key resolutions under the League of Arab States and the 1965 Casablanca Protocol. After 2003, many such protection frameworks dissolved in Iraq and processes for engaging in employment, accessing identity and travel documents, and obtaining public services have become more onerous.

Approximate Demographics and Location

After 2003, Palestinians were targeted by security forces and armed militant groups—mainly Shia'h. This persecution forced many to flee Iraq, go into hiding, or move to

³⁸² Tom Charles, "Ongoing Nakba: The Plight of Palestinian Refugees in Iraq," Jadaliyya, February 6, 2012, available at http://www.jadaliyya.com/pages/index/4264/an-ongoing-nakba_the-plight-of-palestinian-refugee.

³⁸³ *Id*; see also Preti Taneja, *Iraq's Minorities: Participation in Public Life*, Minority Rights Group International, 8, November 2011.

³⁸⁴ Preti Taneja, *Iraq's Minorities: Participation in Public Life*, Minority Rights Group International, 8, November 2011.

³⁸⁵ Tom Charles, "Ongoing Nakba: The Plight of Palestinian Refugees in Iraq," Jadaliyya, February 6, 2012, available at http://www.jadaliyya.com/pages/index/4264/an-ongoing-nakba_the-plight-of-palestinian-refugee.

³⁸⁶ IILHR interview, 2013.

³⁸⁷ Laila Ahmad, "Palestinian Refugees Calling for Help," NSNBC: Breaking the Embargo on Truth blog, June 9, 2012, available at <http://nsnbc.wordpress.com/2012/07/12/palestinian-refugees-calling-for-help-2/>.

refugee camps such as Al Waleed. Of the estimated 35,000 in Iraq before 2003, only about 11,000 to 15,000 remain. Reportedly, at least 4,000 people live in 16 three-story apartment buildings in Al Baladiyat neighborhood in Baghdad. Another 1,000 live in or near Mosul in Ninewa governorate. Approximately 100 Palestinians live in Basra, and at least 7 families remain in Al Waleed camp.³⁸⁸ Reportedly, a few individuals also live in Suleymaniyah in the Kurdish region.³⁸⁹

Security

After 2003, Palestinians were targeted by security forces and the Ministry of Interior, as well as armed extra-judicial militias—mainly Shia'h. The groups targeted Palestinians for arbitrary arrest and detention, torture, killings, mutilations, and “disappearances.” Rights groups suggest that much of the persecution was revenge for the perceived preferential treatment of Palestinians under the Saddam Hussein regime.³⁹⁰ **The persecution of Palestinians was coupled with forcible evictions from government and privately owned housing, the destruction of Palestinian businesses and property, bombings and mortar attacks in Palestinian neighborhoods, and the termination of large numbers of Palestinian workers.**

Reportedly, targeted attacks of Palestinians in Iraq still occur, though with less frequency. Years of threats and insecurity has created a climate of fear among Palestinians who remain in the country, along with concerns that the violence could resume amid escalating political and sectarian tensions.³⁹¹ Palestinians working with international agencies and rights groups often request to meet in secret in order to avoid standing out to potential militias or security forces. **Community members report that the apartment complexes in Al Baladiyat neighborhood in Baghdad are frequently targeted for raids by security forces, and that residents face repeated harassment and arbitrary arrest.** Al Baladiyat is also located near Sadr City, a Shia'h stronghold and home to some insurgent groups. Sadr City is also often targeted by Sunni insurgents, leading to a heightened security risk for the area and its surroundings.³⁹²

³⁸⁸ IILHR Interview with Palestinian community representative, 2013.

³⁸⁹ UNHCR, “Update of UNHCR Aide-Memoire of 2006: Protection Considerations for Palestinian refugees in Iraq,” July 2012, available at <http://www.unhcr.org/refworld/docid/500ebee2.html>.

³⁹⁰ See Human Rights Watch, “Nowhere to Flee: The Perilous Situation of Palestinians in Iraq,” 10 September 2006, available at <http://www.hrw.org/sites/default/files/reports/iraq0706web.pdf>; see also Amnesty International, “Iraq: human rights abuses against Palestinian refugees,” 1 October 2007, MDE 14/030/2007, available at <http://www.amnesty.org/en/library/asset/MDE14/030/2007/en/f9d6f3b2-d393-udd-a329-2f46302a8cc6/mde140302007en.pdf>.

³⁹¹ UNHCR, “Update of UNHCR Aide-Memoire of 2006: Protection Considerations for Palestinian refugees in Iraq,” July 2012, available at <http://www.unhcr.org/refworld/docid/500ebee2.html>.

³⁹² UNHCR, “Update of UNHCR Aide-Memoire of 2006: Protection Considerations for Palestinian refugees in Iraq,” July 2012, available at <http://www.unhcr.org/refworld/docid/500ebee2.html>.

Reporting in late 2012 also indicated an ongoing crisis over the treatment of Palestinian detainees in Iraqi prisons, many of whom bear the marks of torture, forced confessions, and convictions on insufficient evidence.³⁹³

Challenges with Human Rights in Practice

As noted elsewhere, Palestinians in Iraq suffer from uncertain legal status, onerous challenges to updating and maintaining identity documents, and discrimination in access to basic services, housing, and employment. They continue to be arbitrarily arrested and detained, and apartment complexes in Al Baladiyat neighborhood in Baghdad are regularly raided by police and army.

Political Rights

Palestinians are not granted the right to vote since they are not granted the right to nationality. Though the Palestinian community does maintain a representative of the Palestinian Liberation Organization in Baghdad, lobbying and other political activities have been barred by *de facto* restrictions on a host of Palestinian rights and a climate of fear and intimidation. The government of Iraq has provided sporadic support to Palestinians (such as housing for approximately 200 families and the distribution of some food aid in 2010), the government does not actively purport to represent the interests of Palestinians in Iraq.

Economic, Social, and Cultural Rights

Since 2003, the economic, social, and cultural rights of Palestinians in Iraq have precipitously declined. Under the Saddam Hussein regime, though Palestinians were never formally granted refugee status, they were granted residency documents and travel documents with a five-year validity. Legally, Palestinians were to be “treated as Iraqi citizens in rights and duties” except the right to Iraqi nationality.³⁹⁴ They enjoyed broad rights to employment, subsidized housing, health care and education.³⁹⁵ After 2003,

³⁹³ Human Rights Watch reports significant evidence of forced confessions and torture among Palestinians in Iraqi jails. One individual who showed scarring from torture was originally arrested for showing false identification at a checkpoint during the height of sectarian violence. Under torture, he confessed to participating in terrorist activities in February, March and October 2006. He recanted the confession during trial but was convicted. A prosecutor objected to the conviction on the grounds of insufficient evidence, stating that the prisoner could not have participated in the alleged terrorist activities since he had been detained since January 25, 2006. Nevertheless, the Court of Cassation upheld the verdict. See Human Rights Watch, “Iraq: Protect Palestinians in Iraqi Prisons,” 13 December 2012 at <http://www.hrw.org/news/2012/12/13/iraq-protect-palestinians-iraqi-prisons> for more information on this and other cases.

³⁹⁴ Revolutionary Command Council Decision No. 202 of 12 September 2001.

³⁹⁵ IILHR interview with Palestinian representative, 2013; see also UNHCR, “Update of UNHCR Aide-Memoire of 2006: Protection Considerations for Palestinian refugees in Iraq,” July 2012, available at <http://www.unhcr.org/refworld/docid/500ebee2.html>.

though the laws remain technically in force, treatment by government and private citizens has reportedly changed. **Palestinians report being terminated from work, forced from their homes, and face ongoing discrimination and arbitrary arrest.**

The majority of Palestinians are reportedly unemployed and report difficulty obtaining work in government offices and in private businesses due to ongoing discrimination. Though Palestinians continue to have access to education, ongoing harassment and security threats have been a concern. Similarly, Palestinians generally have access to health care, though the cost of care and drugs may be problematic. Some reports of discrimination or harassment by teachers and healthcare workers have been reported.³⁹⁶

Humanitarian Situation

For Palestinians living in Al Baladiyat neighborhood in Baghdad, families report overcrowding, limited access to clean drinking water, and limited electricity. Reportedly, 3 to 4 families often occupy a single apartment due to financial constraints and the inability to move freely throughout Baghdad. Community members estimate that 4,000 people live in 16 apartment complexes free of rent, with several thousand more in the surrounding area. Numbers cannot be confirmed at this time. Among those who do not receive rent subsidies, some 200 families are supported by UNHCR Iraq in coordination with the Ministry of Displaced and Migration.³⁹⁷ Limited access to clean water, electricity, and other basic services is similar in other areas of Baghdad and the country. Reportedly, Palestinians in Mosul in Ninewa governorate face similar overcrowding and limited access to services.

Among the few families remaining in the Al Waleed camp in Anbar governorate, the humanitarian situation is more problematic. Though only an estimated 7 to 10 families remain at the camp, community members report that they have virtually no access to clean drinking water, health care, education, or electricity. For health services and schools, they must travel to Ramadi or Rhotba on the border with Jordan.

Internally Displaced

Though many Palestinians were internally displaced after 2003 due to targeted violence during the height of the sectarian conflict, many have reportedly relocated to Palestinian neighborhoods in Baghdad and Mosul where they reportedly face overcrowding, harassment by security forces and militia, and discrimination in employment.

³⁹⁶ IILHR interview with Palestinian representative, 2013; *see also* UNHCR, "Update of UNHCR Aide-Memoire of 2006: Protection Considerations for Palestinian refugees in Iraq," July 2012, *available at* <http://www.unhcr.org/refworld/docid/500ebee2.html>.

³⁹⁷ UNHCR, "Update of UNHCR Aide-Memoire of 2006: Protection Considerations for Palestinian refugees in Iraq," July 2012, *available at* <http://www.unhcr.org/refworld/docid/500ebee2.html>.

The treatment of Palestinians and the risks the community faces are ostensibly similar in the Kurdish region, in Baghdad, and in the south. **The Palestinian community is highly visible and faces security risks from armed groups which can access community members virtually anywhere in Iraq.** Given this, many Palestinians who were able to leave the country have tried to do so.

Diaspora and Returnees

Few Palestinians who have left Iraq have sought to return, particularly since many face arrest and long detention terms for leaving the country without permission or for using false documents. Under current law, Palestinians exiting Iraq must obtain prior approval from the Ministry of Interior.³⁹⁸ Failure to do is punishable through confiscation by the authorities of all moveable and immovable property.³⁹⁹ During the height of sectarian violence when Palestinians were targeted based on political and ethno-religious background, many faced arbitrary arrest, detention, beatings and torture by Iraqi security forces, and were unable to follow legal channels to leave the country.⁴⁰⁰

Legal barriers to return include criminal punishments for using false documents or traveling without valid travel documents. Iraqi Passport Law No. 31 of 1999 imposes a five to 15 year punishment and confiscation of moveable and immovable property on anyone who exits or attempts to exit Iraq without a valid passport or document. The same law imposes imprisonment on anyone moving through unofficial border points. The Penal Code also imposes a prison sentence of up to 15 years on anyone convicted of using forged documents.⁴⁰¹ UNHCR has noted that **“many Palestinians had no option but to resort to using forged documents to leave Iraq, since borders of the neighboring countries were sealed for the entry of Palestinians fleeing the country.”**⁴⁰²

Issues Related to Immigration and Asylum

The process for updating identity documents and travel documents has changed since 2003. Though travel documents are still valid for 5 years, reportedly Palestinians must now renew them every year.

³⁹⁸ Iraqi Political Refugee Act No. 51 of 1971, art. 17. See UNHCR, “Update of UNHCR Aide-Memoire of 2006: Protection Considerations for Palestinian refugees in Iraq, available at <http://www.unhcr.org/refworld/docid/500ebee2.html>.

³⁹⁹ Iraqi Political Refugee Act No. 51 of 1971, art. 18.

⁴⁰⁰ See Gabriela Wengert and Michelle Alfaro, “Can Palestinian Refugees in Iraq find protection?” *Forced Migration Review*, 26, August 2006, pp. 19-21, available at <http://www.fmreview.org/palestine>.

⁴⁰¹ Iraqi Penal Code 111 (1969), para. 298. See UNHCR, “Update of UNHCR Aide-Memoire of 2006: Protection Considerations for Palestinian refugees in Iraq, available at <http://www.unhcr.org/refworld/docid/500ebee2.html>.

⁴⁰² UNHCR, “Update of UNHCR Aide-Memoire of 2006: Protection Considerations for Palestinian refugees in Iraq, p. 11, July 2012, available at <http://www.unhcr.org/refworld/docid/500ebee2.html>. See also Gabriela Wengert and Michelle Alfaro, “Can Palestinian Refugees in Iraq find protection?” *Forced Migration Review*, 26, August 2006, pp. 19-21, available at <http://www.fmreview.org/palestine>.

In order to renew the valid documents, Palestinians must present their identification document, a letter from the Ministry of Immigration demonstrating that the applicant is from the 1948 wave of refugees, a letter from the Palestinian Embassy in Iraq indicating that the applicant does not hold a Palestinian passport, and a letter from the Directorate of Refugee Affairs at the Ministry of Interior.⁴⁰³ The applicant's name is then sent to a series of directorates throughout Iraq to confirm that there are no warrants or other legal issues regarding the application. Officially, the cost of this process is approximately USD 3.50. Reportedly however, the actual cost can reportedly be as high as USD 100-200. This new process and the potentially high cost to Palestinians may present some challenges in accessing documentation from within Iraq.

From 2003 through at least 2007, those fleeing Iraq faced borders sealed against the entry of Palestinian refugees seeking to leave the country. Many refugees ended up stuck in "no man's land" areas along the borders with Jordan and Syria.⁴⁰⁴ As a result, many were forced to use false documents in order to safely enter neighboring states.

The situation of Palestinian women

Fear based on targeted violence since 2003, paired with persistent low-level harassment, prevents many Palestinian women from engaging in public life. According to UNHCR, Palestinian women continue to report security concerns in Baghdad. In the Al Baladiyat neighborhood where the majority of Palestinians live, women report that their situation has deteriorated due to the increasing conservatism in the area. Reportedly, some Palestinian women are perceived as not complying with religious decrees and face intimidation from extrajudicial militia groups, particularly as related to dress codes, veiling, and gender segregation rules.⁴⁰⁵

⁴⁰³ IILHR interview with Palestinian representative of the PLO in Iraq, 2013.

⁴⁰⁴ See Gabriela Wengert and Michelle Alfaro, "Can Palestinian Refugees in Iraq find protection?" *Forced Migration Review*, 26, August 2006, pp. 19-21, available at <http://www.fmreview.org/palestine>.

⁴⁰⁵ UNHCR, "Update of UNHCR Aide-Memoire of 2006: Protection Considerations for Palestinian refugees in Iraq, July 2012, available at <http://www.unhcr.org/refworld/docid/500ebee2.html>.

Roma (Dom)

- There are no accurate figures for the number of Roma in Iraq, though some estimate around 60,000. They live in isolated villages and neighborhoods around major cities including Baghdad, Mosul, Basra and elsewhere in southern Iraq.
- Reportedly, many Roma in Iraq are *de facto* stateless or face a risk of statelessness; they are among the most vulnerable, disfavored, and at-risk of all marginalized groups in the country. They face extreme poverty, lack of education and access to basic services, eviction, and exploitation.
- Since 2003, the situation of Roma in Iraq has worsened. They are subjected to harassment, threats and violence from officials, the populace, and Islamist militias. Roma women face a high risk of sexual assault and harassment because they continue to be perceived as prostitutes or objects of sexual pleasure.⁴⁰⁶

Background

Roma in Iraq are commonly called *Kawliyah*, a highly derogatory term, and occasionally *Ghagar*. **Most Roma do not refer to themselves as such, but by tribal affiliation for self-identity.** Roma are mixed Sunni and Shia'h Muslims, and some speak their own language, known as *Ruttin* or *Alratin*, a mixture of Persian, Indian, Turkish, Kurdish and Arabic.⁴⁰⁷ They face targeted persecution and discrimination based on ethnic identity and their differing cultural and social norms. Shia'h militants and particularly the Mahdi Army regard Roma as morally repugnant and have repeatedly targeted Iraq's Roma since the fall of the regime for their perceived immoral behavior.⁴⁰⁸ Roma women and children face a high risk of exploitation.

Historic discrimination against the community centers on perceptions of community members as sex workers, musicians, dancers and purveyors of alcohol. Under the Saddam Hussein regime, Roma were offered Iraqi nationality and some efforts were made to settle them in permanent locations and protect them from persecution. However, this treatment was conditioned on Roma communities supplying prostitution, alcohol, and dancers. The regime limited other employment opportunities and full integration into Iraqi society. Some Roma worked as farmers and in other areas of

⁴⁰⁶ Iqbal Tamimi, "The Roma of Iraq—a forgotten community," London Progressive Journal, September 18, 2011, available at <http://londonprogressivejournal.com/article/845/the-roma-of-iraq-a-forgotten-community>.

⁴⁰⁷ UNHCR Eligibility Guidelines 2012, 147 n. 779.

⁴⁰⁸ Salam Faraj, "Gypsies seen as outcasts in new, ultraconservative Iraq," AFP, 25 November 2009, available at <http://js.static.reliefweb.int/report/iraq/gypsies-seen-outcasts-new-ultra-conservative-iraq>.

the informal economy, as well as in metal working.⁴⁰⁹ Roma were not allowed to own property in Iraq and did not hold senior positions in government or the military under the previous regime.⁴¹⁰

After 2003, the rise of fundamentalism and Islamist militant groups has led to a worsening humanitarian and security crisis within the community. Targeted violence, harassment, assault and exploitation rose sharply, with many Roma forcibly displaced from their communities. **Today, many Roma remain internally displaced and live on squatted land without access to clean water, electricity, adequate shelter, healthcare, adequate food, education, and other basic services.** As one Roma woman put it, “We live like dogs... the authorities say ‘you are entitled to nothing’ and throw us out. When we go into the city to buy food, they refuse us.”⁴¹¹

Community members report that Roma women face a high risk of sexual assault and harassment by local tribes who continue to perceive women as objects of sexual pleasure. Roma men face discrimination in employment, and some shop keepers will not sell goods to Roma customers.⁴¹²

Today, the Roma of Iraq are among the most vulnerable, disfavored, and at-risk marginalized population in the country. Reportedly, large numbers of Roma children do not attend school and often work as beggars.

Approximate Demographics and Location

There are no accurate demographic data on the Roma in Iraq. Some community members estimate there are between 50,000 and 200,000 in the country; other estimates put the number around 60,000.⁴¹³ Prior to 2003, some observers estimate there were 10,000 Roma in Baghdad and particularly in the Abu Ghreib area 10 kilometers to the west of the

⁴⁰⁹ Reports to IILHR, 2012 and 2013; *see also* Iqbal Tamimi, “The Roma of Iraq—a forgotten community,” London Progressive Journal, 18 September 2011, *available at* <http://londonprogressivejournal.com/article/845/the-roma-of-iraq-a-forgotten-community>.

⁴¹⁰ Chris Chapman and Preti Taneja, *Uncertain Refuge, Dangerous Return: Iraq's Uprooted Minorities*, Minority Rights Group International, 7, 2009.

⁴¹¹ Deepa Babington, “Poverty and fear dominate life for Iraq’s Gypsies,” Reuters, 6 January 2006, *available at* <http://www.domresearchcenter.com/news/iraq/index.html>.

⁴¹² Iqbal Tamimi, “The Roma of Iraq—a forgotten community,” London Progressive Journal, September 18, 2011, *available at* <http://londonprogressivejournal.com/article/845/the-roma-of-iraq-a-forgotten-community>.

⁴¹³ *See* UNHCR Eligibility Guidelines, 2012 p. 147, n. 779 citing Preti Taneja, *Iraq's Minorities: Participation in Public Life*, Minority Rights Group International, 28 November 2011, pp. 9, 23, <http://www.minorityrights.org/1106/reports/iraqs-minorities-participation-in-public-life.html>; Iqbal Tamimi, “The Roma of Iraq- a forgotten community,” London Progressive Journal, 18 September 2011, <http://londonprogressivejournal.com/article/view/845>; and UNHCR, *UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum-seekers*, pp. 93-96, August 2007, <http://www.unhcr.org/refworld/docid/46debo5557.html>.

capitol.⁴⁴⁴ Roma were also settled in Hadid village near Baquba, 40 miles northeast of Baghdad.⁴⁴⁵ Many thousands of others live in the south of Iraq, and some in Ninewa to the north.

During the sectarian strife and targeted persecution after 2003, when Islamist militias began a campaign of harassment, threats and violence against the Roma, many thousands reportedly fled their neighborhoods, with large numbers fleeing the state. Today, few remain in their original areas reportedly due to harassment, threats and pressure from the local tribal groups to leave.

In the south, an estimated 11,000 Roma can be found in Diwaniyah in the Qadisiya governorate,⁴⁴⁶ with additional communities in Amara in Misan governorate, in Nassiriyah in Thi-Qar governorate, and in Basra.⁴⁴⁷ Most of these Roma settlements lack adequate infrastructure and many families live without clean water, electricity, adequate shelter, access to healthcare, education, adequate food, and other needs.

Security

Security remains a serious concern among the Roma community near Baghdad and in the south of Iraq. **Particularly among women, sexual exploitation in exchange for shelter, money and other services is common.** A civil society group in the south reports that the exploitation of some Roma families is organized into mafia-like schemes. Roma in one area of Basra have been threatened with eviction on multiple occasions, yet a scheme of exploitation has provided some elites an incentive to prevent the community from being pushed out.⁴⁴⁸ Reportedly, Roma are allowed to live in several hotels in a Basra neighborhood in exchange for engaging in begging and prostitution.⁴⁴⁹

Roma also face targeted persecution by extrajudicial militant groups who regard the community as morally repugnant. Entire villages have been destroyed and bulldozed by militant groups seeking to push the Roma out of the country or isolate them away from villages and urban centers.⁴²⁰ A religious dignitary in Diwaniyah has stated

⁴⁴⁴ This settlement was reportedly encouraged by the Saddam Hussein regime as punishment against the Zawabei tribe living in the area, which had negative relations with the dictator. Imam El-Liethy, "Iraq's Gypsies Struggle For Life After Saddam's Fall," Islam on Line, 6 May 2003, available at <http://www.domresearchcenter.com/news/iraq/index.html>.

⁴⁴⁵ Deepa Babington, "Poverty and fear dominate life for Iraq's Gypsies," 6 January 2006, available at <http://www.domresearchcenter.com/news/iraq/index.html>.

⁴⁴⁶ IRIN, "Gypsies call for greater rights," IRIN, 3 March 2005, available at <http://www.domresearchcenter.com/news/iraq/iraq3rights.html>.

⁴⁴⁷ Information shared by UNHCR Iraq, 2013..

⁴⁴⁸ Information shared by UNHCR Iraq, 2013.

⁴⁴⁹ Information shared by UNHCR Iraq, 2013..

⁴²⁰ See Salam Faraj, "Gypsies seen as outcasts in new, ultraconservative Iraq," AFP, 25 November 2009, available at <http://js.static.reliefweb.int/report/iraq/gypsies-seen-outcasts-new-ultra-conservative-iraq>; Deepa Babington, "Poverty and fear dominate life for Iraq's Gypsies," Reuters, 6 January 2006, available at

that “Islam considers them to be deviants... they commit prostitution which is forbidden under Islam. It is normal that our community considers them inferior and insists that they be isolated.”⁴²¹

Stigmatization also likely inhibits adequate protection by security forces and equal treatment in citizenship and residency rights, which perpetuates an environment of insecurity. A lack of documentation contributes to the precarious existence of Roma, since documentation is required to go to school, seek steady employment, obtain electricity and running water, and access healthcare free to Iraqi citizens. An onerous application process and prohibitive bribes requests have prevented many Roma from obtaining documentation even where their parents were full citizens. Differential treatment in access to documentation within the community also indicates that Iraqi authorities discriminate against community members in some cases.

Challenges with Human Rights in Practice

Under the Saddam Hussein regime, Roma were offered citizenship, housing in permanent settlements, and reportedly protected by security services from targeted violence by Islamist groups. Despite these protections however, Roma were limited in access to employment and faced social and cultural discrimination. After 2003, Roma have faced targeted persecution, harassment, and discrimination in the exercise of their most basic rights. Many Roma in Iraq are reportedly *de facto* stateless and do not possess even basic identity documents. As such, most Roma reportedly have limited access to basic services. Roma have a disproportionately high illiteracy rate and many families live in poverty without adequate shelter. Few Roma children are enrolled in school. Roma also report ongoing discrimination in employment, and women continue to be targeted for sexual harassment and exploitation.⁴²²

Religious Freedom

Roma in Iraq are mixed Sunni and Shia'h Muslims, yet their cultural practices and historic association with sex work, dancing, singing, palm reading and alcohol has made them the targets of Islamist militias. Most of the persecution and discrimination Roma face in Iraq rest more on their ethnic identity and perceived ‘immoral practices’ than on religion.

<http://www.domresearchcenter.com/news/iraq/index.html>; Anthony Shadid, “In a Gypsy Village’s Fate, An Image of Iraq’s Future,” Washington Post, 3 April 2004, available at <http://www.domresearchcenter.com/news/iraq/index.html>.

⁴²¹ Salam Faraj, “Gypsies seen as outcasts in new, ultraconservative Iraq,” AFP, 25 November 2009, available at <http://js.static.reliefweb.int/report/iraq/gypsies-seen-outcasts-new-ultra-conservative-iraq>.

⁴²² Information shared by UNHCR Iraq, 2013.

Political Rights

Roma do not face legal barriers to exercising their political rights, and community members report voting in national and provincial council elections since 2003, despite challenges in accessing polling stations placed at great distances from Roma settlements.⁴²³ In practice, Roma have few direct links to political decision-making; no Roma hold elected office at any level of government. To date, neither the national government nor the Kurdish Regional Government has articulated a plan to address the humanitarian needs of the Roma, nor to protect them from harassment and violence.

Lack of documentation among community members impacts their ability to vote and participate in political life.

Economic, Social, and Cultural Rights

The Roma, like black Iraqis in the south, have disproportionately high rates of illiteracy and poverty is endemic to the community. **Few Roma children in the south go to school, and a lack of documentation is cited as a key reason.**⁴²⁴ Few families have electricity or running water, since both require nationality certificates. Healthcare is often available only upon cash payment. Food intake is also reportedly insufficient, and limited to a single meal per day. Since 2003, most community members live on squatted government land and face a constant threat of eviction.⁴²⁵

Roma have very few employment opportunities, often resulting from stigmatization and discrimination as well as a lack of documentation. Though employment is in short supply for all Iraqis, Roma appear to be disproportionately under-employed. When able to obtain employment, it is often irregular, such as temporary construction work. Many Roma resort to begging in the streets. Others work occasionally as performers in music or dance. Some women reportedly also engage in prostitution, though reports indicate that this situation may be forced upon them in some cases.⁴²⁶

Roma children born outside state/court registered marriages face a risk of statelessness. Even among children whose parent(s) were registered Iraqi citizens, reports indicate that Roma women have difficulty registering children where the father is

⁴²³ IRIN, "Gypsies call for greater rights," IRIN, 3 March 2005, *available at* <http://www.domresearchcenter.com/news/iraq/iraq3rights.html>.

⁴²⁴ Information shared by UNHCR Iraq, 2013.

⁴²⁵ Information shared by UNHCR Iraq, 2013.

⁴²⁶ Information shared by UNHCR Iraq, 2013, noting that one reason why Roma have not been evicted from Al Zubair in Basra despite attempts by the City Council is the existence of an organized crime scheme in which Roma are allowed to live in local hotels in exchange for begging and sex. Local non-Roma Iraqis profit from this scheme and have reportedly been able to prevent eviction thus far.

deceased.⁴²⁷ Many children work as beggars in major urban areas and are thus at risk for further victimization and exploitation.⁴²⁸

This situation and the reliance of begging and other clandestine activities to make ends meet put many in the Roma community, particularly women and children, at risk of exploitation.

Humanitarian situation

As noted elsewhere, the living situation of most in the Roma community is precarious. Some communities face a near-constant threat of eviction. **UNHCR notes extreme poverty among the Roma community, particularly in the south.** Many families are limited to a single meal a day, making food intake insufficient. Access to clean or running water and electricity is also very limited. Roma families living in inadequate housing structures, often composed of mud or other materials, face a risk of fire and other disasters. Some homes are at risk of collapse or are surrounded by refuse. Illness is also a rising problem for some community members.⁴²⁹ Though healthcare is typically free to Iraqi citizens, for most Roma, basic care is available only upon cash payment.

Internally Displaced

After 2003, many Roma were pushed from their homes by extrajudicial militias or other groups. Entire villages were destroyed, and individuals were targeted for extra-judicial executions.

Under the Saddam Hussein regime, Roma were settled in areas around Baghdad and in or around other urban centers. After the fall of the regime however, armed gangs specifically targeted Roma settlements. Roma communities were destroyed in Qamaliya in eastern Baghdad, in Abu Ghreib,⁴³⁰ and elsewhere in the central region. In the south, Roma settlements were also targeted and destroyed. Qawliya near Diwaniyah was attacked by mortars and rocket-propelled grenades, then bulldozed.⁴³¹ Residents of Hadid near Baquba northeast of Baghdad also faced threats of displacement.⁴³² Reporting at the time indicated that the Roma communities were targeted for association with

⁴²⁷ Information shared by UNHCR Iraq, 2013..

⁴²⁸ Information shared by UNHCR Iraq, 2013..

⁴²⁹ Information shared by UNHCR Iraq, 2013..

⁴³⁰ See Yasunori Kawakami, "The Iraqi Gypsies After the Collapse of Hussein's Regime," *Kuri Journal of the Dom Research Center*, 2(2) 2005, available at <http://www.domresearchcenter.com/resources/links/kawakami22.html>; see also Imam El-Liethy, "Iraq's Gypsies Struggle for Life After Saddam's Fall," *Islam Online*, available at <http://www.domresearchcenter.com/news/iraq/iraq1.html>.

⁴³¹ Anthony Shadid, "In a Gypsy Village's Fate, An Image of Iraq's Future," *Washington Post*, 3 April 2004, available at <http://www.domresearchcenter.com/news/iraq/iraq2.html>.

⁴³² Deepa Babington, "Poverty and fear dominate life for Iraq's Gypsies," *Reuters*, 6 January 2006, available at <http://www.domresearchcenter.com/news/iraq/iraq5a.htm>.

prostitution, alcohol, and other activities conservatives and particularly the Mahdi army considered un-Islamic. The community faces ongoing stigmatization for perceived vices today.

Reportedly, many community members fled to neighborhoods in Basra, Karbala, Najaf, and Hilla.⁴³³ Other groups moved into temporary camps outside of Baghdad and in the south. Many families now live on squatted government land and face a constant threat of eviction.

Diaspora and returnees

International observers have little information on the flight of Roma outside Iraq after 2003, though it is likely that some families escaped the violence to neighboring states. Stigmatization against Roma is also pervasive in countries surrounding Iraq.

Issues Relating to Immigration and Asylum

A lack of documentation presents a challenge for members of the Roma community, though reports from within the community as to the degree to which people are undocumented are mixed. There is little evidence that Roma face *de jure* exclusion from citizenship or from other forms of registration. However, reports indicate *de facto* barriers to accessing documentation for some community members, including citizenship documents. Key problems with obtaining documentation reportedly include high costs in terms of bribes, time and travel, as well as stigmatization and discrimination by Iraqi authorities.⁴³⁴

Reports to UNHCR indicate differential treatment of Roma in processes to apply for documentation. In one case, two brothers whose parents both possessed Iraqi citizenship experienced disparate results when trying to register themselves and their children. One brother is fully documented (including birth registration, civil status identity papers (Jinsiya), nationality certificate, and residency card), as are his children. The other brother and his children lack any form of documentation despite a reported 13 attempts to register.⁴³⁵ Reportedly, on each repeated attempt to register, officials asked for additional proofs (such as proof of residency) and when this was provided, asked for (prohibitive) bribes to process the application. Other families have indicated that they have also been unable to register their children with authorities despite the fact that the father (now deceased) was an Iraqi citizen with valid documentation.⁴³⁶

⁴³³ See Anthony Shadid, "In a Gypsy Village's Fate, An Image of Iraq's Future," Washington Post, 3 April 2004, available at <http://www.domresearchcenter.com/news/iraq/iraq2.html>.

⁴³⁴ Information shared by UNHCR Iraq, 2013.

⁴³⁵ Information shared by UNHCR Iraq, 2013.

⁴³⁶ Information shared by UNHCR Iraq, 2013.

Reportedly, among Roma who do possess nationality certificates, the documents twice state “exception from the Iraqi nationality law’s jurisdiction,”⁴³⁷ though these documents are largely accepted by authorities.

Beyond problems of *de facto* stigmatization or discrimination in registration, the time, travel, and funds required under the application process also prevents many families from registering. First, proof of residency must be obtained from the *mukhtar* (head of the village, town, or local government), then the application must be lodged with the Directorate of Civil Registration in the governorate, which subsequently refers the applicant to its office in Baghdad. The applicant also needs to make a personal appearance. This is undoubtedly an infeasible journey for many Roma. Prohibitively high fees (often bribes) may also be required in addition to the travel.

Additionally, in seeking to obtain documentation, one’s parents must have been registered in the governorate in which the applicant makes his/her request. If the parents were not registered, an inquiry into the applicants “Iraqi origins” can be initiated from Baghdad. In order to regularize a child, all administrative steps previously missed must be back-traced. This means that the marriage of possibly deceased parents must be registered before birth certificates and subsequent IDs or nationality cards can be obtained for children.⁴³⁸

The Situation of Roma women

Roma women face a significant risk of sexual gender based violence, harassment, and exploitation. Roma women are at particular risk because the community continues to face severe stigmatization linked to the fact that it is historically associated with prostitution. Women have reported to UNHCR and local Iraqi NGOs that men from neighboring areas regularly come to their settlements to prey on women and children.⁴³⁹

UNHCR also notes that Roma women are at risk of extrajudicial execution by orthodox militias if they are directly seen engaging in prostitution. As noted elsewhere, at least one community in Basra has had its members pressured by an organized crime group into exchanging sex work and begging for shelter in local neighborhood hotels.⁴⁴⁰

Discrimination and stigmatization of the Roma community may also compromise protection by the police, particularly for women accused of licentious behavior, and may also contribute to the risk of statelessness and exploitation of children.

⁴³⁷ Information shared by UNHCR Iraq, 2013.

⁴³⁸ Information shared by UNHCR Iraq, 2013.

⁴³⁹ Information shared by UNHCR Iraq, 2013.

⁴⁴⁰ Information shared by UNHCR Iraq, 2013.

Shabak

- The Shabak community, which numbers around 400,000, lives mainly in the Ninewa plain area on a large strip of land between the Khazir and Tigris rivers, and near Mosul.⁴⁴¹
- Shabaks are majority Shia'h Muslims with approximately 30 to 40 percent Sunni Muslims, though some Islamic militias view them as infidels and target them for being un-Islamic.⁴⁴²
- The Shabak community reports pressure to identify as Kurdish and suffer targeted persecution from both Kurds and Arabs because they are caught in the broader struggle over the disputed ownership of territory in Ninewa.

Background

Shabak community leaders estimate their numbers at around 400,000. The Shabak people have lived in the Ninewa plain area in northern Iraq since at least the 16th century, settling in about 72 scattered villages between the Tigris and Khazir rivers. Some Shabak families also live on the eastern side of Mosul, the capital of Ninewa governorate, but most families from Mosul were internally displaced by targeted violence after 2003. Approximately 60 to 70 percent of Shabak are Shia'h Muslims, the rest are Sunni.

Shabak are culturally distinct from both Kurds and Arabs and have their own customs, traditions and clothing. Shabak also have their own language, *Shabaki*, which is a mixture of Farsi, Arabic, Kurdish, and Turkish. Community members report that continuing pressure from Kurdish authorities to assimilate as Kurdish, paired with the fact that *Shabaki* is not taught in schools, puts the language at risk of extinction.⁴⁴³ The Shabak have been recognized as an Iraqi component since 1952.⁴⁴⁴

⁴⁴¹ See Dr. Hunan al Qaddo, "Conflicts between Kurds and the Shabak," *Christians of Iraq*, 26 August 2005, available at <http://www.christiansofiraq.com/Shabak8265.html>; Adel Kamal, "The Shabak Search for Identity," *Niqash*, 6 October 2008, available at <http://www.niqash.org/articles/?id=2219>; US Department of State, "International Religious Freedom Report 2008," available at <http://www.state.gov/g/drl/rls/irf/2008/108483.htm>; Human Rights Watch, "On Vulnerable Ground," 3 November 2009, available at <http://www.hrw.org/sites/default/files/reports/iraquogweb.pdf>.

⁴⁴² UNHCR Eligibility Guidelines, 2012, p. 33.

⁴⁴³ IILHR interviews with Shabak community members, 2012.

⁴⁴⁴ See Shabak News, "Who are the Shabak People?" available at <http://www.shabaknews.com/who%20are%20the%20shabak/index.html>; see also Dr. Hunan al Qaddo, "Conflicts between Kurds and the Shabak," *Christians of Iraq*, 26 August 2005, available at <http://www.christiansofiraq.com/Shabak8265.html>.

Since 2003, some community members report pressure by Kurdish authorities to further Kurdish territorial claims in the Ninewa plain.⁴⁴⁵ As a result, Shabak report interference in voting rights, land encroached on and seized, the provision of services to Shabak communities conditioned on support for Kurdish expansion, being forced to identify as Kurdish, and being blocked from forming a local minority police force. Recently, authorities established a local minority police force in response to requests for increased protection.⁴⁴⁶

Shabak human rights activists also report pressure from Arabs and central government forces in the broader struggle over the disputed ownership of territory in Ninewa. Some Shabak individuals have faced assassination attempts for their political opposition, particularly their opposition to Kurdish authorities.⁴⁴⁷ This violence and forced internal displacement has also brought the Shabak and Christian communities into conflict in some areas of Ninewa as the groups compete for land and resources.

Approximate Demographics and Location

According to the 1977 census, Shabak numbered 80,000 people. However, community leaders estimate their numbers around 400,000.⁴⁴⁸ International observers suggest they number between 200,000 and 500,000.⁴⁴⁹ Forced internal displacement and ethnic cleansing under the Saddam Hussein regime, as well as emigration before and after 2003, make it difficult to confirm population estimates.

Shabak live mainly in 72 scattered villages on a swath of land between the Tigris and Khazir rivers. Many Shabak families also lived in Mosul prior to 2003, particularly in Al-

⁴⁴⁵ Shabak community leaders report “In attempt to control the disputed areas, the KDP has established pro-KDP organization among Shabak community and Christian community alike; such as Macho center and Shabak Consultant Body, to promote the idea that Shabak is a tribe out of mainstream of Kurdish nationality. The Kurdish mass media started a campaign of Kurdifying process by reinventing a new name for Shabak calling them Shabak Kurd. Accordingly Shabak was denied being referred to or recognized in the Iraqi constitution. Yazedi community also has come under a great pressure from KRG government by imposing on them a Kurdish identity,” <http://www.alshabak.net/htm/news/Alqado2.htm>.

⁴⁴⁶ IILHR interviews with Shabak community members 2010 and 2012; US Commission on International Religious Freedom, *Annual Report for the United States Commission on International Religious Freedom*, March 2012, p. 98, available at <http://www.uscirf.gov/images/Annual%20Report%20of%20USCIRF%202012%282%29.pdf>.

⁴⁴⁷ UNHCR Eligibility Guidelines 2012, p. 32.

⁴⁴⁸ IILHR interviews with Shabak community members, 2012; see also Adel Kamal, “The Shabak Search for Identity,” 6 October 2008, Niqash, available at <http://www.niqash.org/articles/?id=2219>; Dr. Hunan al Qaddo, “Conflicts between Kurds and the Shabak,” Christians of Iraq, 26 August 2005, available at <http://www.christiansofiraq.com/Shabak8265.html>.

⁴⁴⁹ Human Rights Watch estimates there are between 200,000 and 500,000 Shabak in Iraq. See Human Rights Watch, “At a Crossroads,” February 2011, p. 71, available at <http://www.hrw.org/sites/default/files/reports/iraq0211W.pdf>.

Quds, Karamah, al Atshanah, Hay Somer and al Nabi Younis neighborhoods.⁴⁵⁰ Many families from the Mosul area have been internally displaced since 2003 (5,000 by some estimates)⁴⁵¹ and most report that the city center remains dangerous for Shabak community members. Reportedly, up to 400,000 Shabak live within Namroud, Qaraqoush, Bar-tallah, Ba'shiqah and Telkeef towns. Many Shabak also live in and around al Hamdaniya.

Security

Security remains a serious concern for the Shabak community as it continues to be targeted by armed militants and criminal gangs. Some community members also report ongoing harassment, arbitrary arrest and detention, intimidation, and in some cases violence at the hands of Kurdish Assayish and Peshmerga security forces. Pressure and intimidation by Kurdish authorities is reportedly part of a wider campaign to pressure Shabak to identify as Kurdish and extend Kurdish authority over disputed territory in Ninewa⁴⁵² More broadly, both Arab and Kurdish authorities contest Shabak identity and lands.⁴⁵³ **Many Shabak note that ongoing struggles between Kurdish and central government authorities over control of the Ninewa plain add to the unstable security situation and sense of fear.** Shabak opposed to Kurdish political forces report that the overlapping authorities in Ninewa leave them no protection from harassment and arrest.⁴⁵⁴ One community member noted “the problems and the difficulties all still exist, especially fear of the unknown.”⁴⁵⁵

Between 2003 and 2011, over 1,200 Shabak were killed in armed attacks.⁴⁵⁶ Shia'h Shabaks face security threats from Sunni armed groups, though intimidation by Kurdish security

⁴⁵⁰ IILHR interviews with Shabak community members, 2012; see also Adel Kamal, “The Shabak Search for Identity,” 6 October 2008, Niqash, available at <http://www.niqash.org/articles/?id=2219>; Dr. Hunan al Qaddo, “Conflicts between Kurds and the Shabak,” Christians of Iraq, 26 August 2005, available at <http://www.christiansofiraq.com/Shabak8265.html>.

⁴⁵¹ See Khudur Khallat, “Al-Qaeda and Baath Party behind increase in Shabak attacks, says official,” AK News, 11 March 2012, available at <http://www.aknews.com/en/aknews/3/295195/>.

⁴⁵² IILHR interviews, 2012. See also Reidar Visser, *The Shabak React to the Atrocities of Khazna Tepe*, Iraq and Gulf Analysis, 10 August 2009, <https://gulfanalysis.wordpress.com/2009/08/10/the-shabak-react-to-the-atrocities-of-khazna-tepe/>. According to Reidar Visser, Kurdish authorities have been engaging in a “conscious strategy” of labeling the Shabak as “Kurds” in order “to assert control of the Shabak (who inhabit a series of villages in what the Kurds consider “disputed” parts of the Ninewa governorate), partly by assimilating them and partly by trying to co-opt their leaders.” Reidar Visser also notes that certain Assyrian Christian leaders try to impose their idea of seeking to establish a federal “minority region” in the Ninewa Plains on the Shabak. UNHCR Eligibility Guidelines, 2012, p. 151, n. 811.

⁴⁵³ UNHCR Eligibility Guidelines, 2012, p. 33.

⁴⁵⁴ IILHR interviews with Shabak community members, 2012. See also Reidar Visser, *The Shabak React to the Atrocities of Khazna Tepe*, Iraq and Gulf Analysis, 10 August 2009, <https://gulfanalysis.wordpress.com/2009/08/10/the-shabak-react-to-the-atrocities-of-khazna-tepe/>.

⁴⁵⁵ IILHR interviews with Shabak community members, 2012.

⁴⁵⁶ UNHCR Eligibility Guidelines 2012, p. 33.

forces reportedly also occurs.⁴⁵⁷ Officials in Kurdistan have stated that the increase in attacks against Shabak in 2012 came from al-Qaeda and the remnants of the Ba'ath party.⁴⁵⁸

In 19 days in October 2012 alone, at least eight Shabak were killed in targeted murders, bombings and kidnappings; at least 19 others were injured. During this time, 11 families were reportedly displaced from Hay Somer in Mosul due to targeted threats and violence and 20 Shabak students were forced to stop attending Mosul University because of threats and intimidation.⁴⁵⁹ Sunni Islamists have repeatedly called for the killing of Shabak as 'non-believers' or for their affiliation with the United States or Iran.⁴⁶⁰

On 17 December 2012, a car bomb exploded in Muwafaquia village where a large number of displaced Shabak had moved from Mosul city. Seven Shabak were reported killed and 15 others injured.⁴⁶¹ This incident was similar to a January 2012 car bombing near the town of Bar-tallah where many displaced Shabak were camped.⁴⁶²

Recently, the central government agreed to establish a security force composed of Shabak recruits to protect Shabak people around Hamdaniya. This has drawn strong criticism from the Governor of Ninewa, some Christian groups and some Kurdish authorities. Shabak community leaders have responded that they should be entitled to the same protections afforded Christians and other groups in the area, which have formed their own largely sectarian protection forces.⁴⁶³

⁴⁵⁷ UNHCR Eligibility Guidelines 2012, p. 33; *See also* p. 150 n. 809 for a detailed list of attacks against Shabak in January through March 2012.

⁴⁵⁸ Khudur Khallat, "Al-Qaeda and Baath Party behind increase in Shabak attacks, says official," AK News, 11 March 2012, available at <http://www.aknews.com/en/aknews/3/295195/>.

⁴⁵⁹ Shabak News, "Bloody October for Shabak People," 6 November 2012, available at <http://www.shabaknews.com/index.html>. Lists targeted attacks on Shabak people in October 2012. They include: death of policeman Ali Ibrahim Khalil by IED in Gogjaly on 11 October; kidnapping and murder of Ahmed Hassan Tawfiq in Kaberly Village on 12 October; murder of Abbas Fathell Mohammad and his wife by a sticky bomb attached to their car in Mosul on 15 October; IED and significant property damage targeting three Shabak people in Mosul on 27 October; and nine other incidents, including the displacement of 11 families and threats against 20 University of Mosul students.

⁴⁶⁰ UNHCR Eligibility Guidelines, 2012, p. 150, n. 806.

⁴⁶¹ Shabak News, "Car bomb at Shabak Village," 17 December 2012, available at <http://www.shabaknews.com/index.html>.

⁴⁶² Al Jazeera, "Car bomb targets minority in northern Iraq," 17 January 2012, available at <http://www.aljazeera.com/news/middleeast/2012/01/20121168132561309.html>; Salam Faraj, "Iraq car bombings kill 12," AFP, 16 January 2012, available at <http://www.google.com/hostednews/afp/article/ALeqM5iokmH7Xvdvov5IpjxOloLh8olErg?docId=CNG.98fdaoc9f4e98a2e545deefc57b26479.2a1>;

⁴⁶³ Abdullah Salem, "the Kurdish Shabak regiment of doom? New militia causes conflict in Iraq's Ninewa province," Kurd Net, 6 October 2012, available at <http://www.ekurd.net/mismas/articles/misc2012/10/kurdsiniraqi82.htm>; Shabak News, "Ninevah's Governor Altheel Al-Nujaifi... Sectarian Remarks Causing Killings," 4 November 2012, available at

Challenges with Human Rights in Practice

Shabak community members report ongoing intimidation by armed groups and, in some cases, Kurdish authorities. Some Shabak report they fear to openly engage in cultural or social practices. Many report that access to education, particularly for women, remains challenging. Access to clean water, electricity, adequate housing, employment, healthcare, and other services are also problematic.

Systematic abuses and discrimination by Kurdish authorities to further Kurdish territorial claims remains a problem and affects a host of human rights for the Shabak community.

Religious Freedom

Approximately 60 to 70 percent of Shabak are Shia'h Muslims, while 30 to 40 percent are Sunni. Community members from both sects report preferring to engage in religious rites within their smaller communities rather than in urban centers, particularly in Mosul, for fear of violence.⁴⁶⁴ Shia'h Shabak have reportedly faced security threats from Sunni armed groups, and some groups may regard Shabak as 'infidels' since they adhere to a distinct form of Islam and have unique cultural, linguistic, and ethnic roots.⁴⁶⁵

Political Rights

Shabak have a single seat in the national parliament under the minority quota. They are also entitled to a single seat in the provincial council for Ninewa governorate. Shabak have been elected under the quota system in both national and provincial elections. However, community members report ongoing challenges with representation of interests at the national level, within the KRG, and particularly in Ninewa governorate.

Reportedly, intimidation by Kurdish authorities has included interference with voting rights or freedom of choice in some cases.⁴⁶⁶

Economic, Social and Cultural Rights

Large numbers of displaced Shabak in northern Iraq have created tensions with other minority components in Ninewa, particularly with Christians around Hamdaniya.

<http://www.shabaknews.com/>; Shafaq News, "500 Shabak policemen are training to protect their areas," 15 February 2013, available at <http://www.shafaq.com/en/news/5169-500-shabak-policemen-are-training-to-protect-their-areas.html>.

⁴⁶⁴ IILHR interviews with Shabak community members, 2012.

⁴⁶⁵ UNHCR Eligibility Guidelines 2012, p. 33.

⁴⁶⁶ IILHR interviews with Shabak community members, 2012; US Commission on International Religious Freedom, *Annual Report for the United States Commission on International Religious Freedom*, March 2012, p. 98, available at <http://www.uscirf.gov/images/Annual%20Report%20of%20USCIRF%202012%282%29.pdf>.

Competition for scarce resources, services, land, and employment adds to the tension. Some Shabak report discrimination in the provision of healthcare services at Hamdaniya hospital, though other community members report no such problems. Many Shabak also note that access to education remains a challenge, particularly for Shabak women and girls. Many college-age Shabak youth, like Christians and other components in Ninewa, attend Mosul University and have reported threats and intimidation surrounding their attendance. Several years ago, busses carrying minority students traveling from Hamdaniya to Mosul were targeted by insurgent groups.

Internally Displaced

As noted elsewhere, large numbers of Shabak remain displaced within the Ninewa governorate, particularly families who have been forced from Mosul city and the surrounding area due to threats and targeted violence. **Many families reside in camps or temporary facilities, some of which have been targeted by insurgent groups with car bombs and other explosive devices.**

Some Shabaki families have indicated an intention to permanently settle in new areas, particularly around Hamdaniya, though this move has caused tensions with other local groups, such as Christians. Shabak community members report pressure by Kurdish officials to identify as Kurdish and to support Kurdish territorial expansion into Ninewa. Internally displaced families may be at particular risk for coercion, particularly since reports indicate that some Kurdish officials and Assayish and Peshmerga forces condition the provisions of services, employment, and protection on affiliation with Kurdish political parties and support for the Kurdish agenda in Ninewa.

The Disputed Territories

Shabak in Ninewa are caught between ongoing territorial battles between the Kurdish Regional Government and the central authorities. Some Shabak identify with the Kurdish authority and support Kurdish expansion into Ninewa. Others report that opposition to Kurdish goals creates a heightened security risk and has subjected opposition leaders to harassment, discrimination, arbitrary arrest, and intimidation. Kurdish authorities have stated that the targeted persecution of Shabak in Ninewa is the work of al-Qaeda and former Ba'athists.⁴⁶⁷

Community members report systematic abuses and discrimination by Kurdish authorities that include interference with voting rights; encroaching on, seizing, and refusing to return land; conditioning the provision of services to

⁴⁶⁷ Khudur Khallat, "Al-Qaeda and Baath Party behind increase in Shabak attacks, says official," AK News, 11 March 2012, available at <http://www.aknews.com/en/aknews/3/295195/>.

communities on support for Kurdish expansion; forcing Shabak to identify as Kurdish; and impeding the formation of local minority police forces.⁴⁶⁸
Diaspora and returnees

Reportedly, many Shabak who have fled Iraq have sought refuge in Europe, particularly in Germany, the Netherlands, and Armenia. Others also live in the United States and Australia, New Zealand, Canada, Jordan, and Lebanon. Some have also fled to Iran.⁴⁶⁹ Among Shabak who fled to Syria before the uprising, a few families have reportedly returned to Iraq, though others remain in the country without the resources to leave.⁴⁷⁰

Issues Related to Immigration and Asylum

Shabak community members report few problems with documentation. However, under the Saddam regime, several hundred families were reportedly exiled to Iran along with Kaka'i and other groups who became entangled in the conflict between the Arab nationalist Ba'ath regime and the Kurdish movement from the 1970s onwards. In 1988, at least 22 Shabak villages were destroyed and their inhabitants deported to other areas of Iraq. Though many eventually returned to their home areas, families that identified with the Kurdish movement and did not register with the regime were denaturalized.⁴⁷¹ Though the degree to which Shabak lack documentation today is likely small, the risk remains that some individuals may be unable to prove Iraqi citizenship.

The Situation of Shabak Women

Shabak community members repeatedly note that access to education for women and girls remains problematic. Shabak women heads of household reportedly face economic and psychological challenges. This is similar to the situation of most women heads of household in Iraq. The community does not practice female genital mutilation.

⁴⁶⁸ IILHR interviews with Shabak community members, 2013; US Commission on International Religious Freedom, *Annual Report for the United States Commission on International Religious Freedom*, March 2012, p. 98, available at

<http://www.uscirf.gov/images/Annual%20Report%20of%20USCIRF%202012%282%29.pdf>.

⁴⁶⁹ IILHR interviews with Shabak community members, 2012.

⁴⁷⁰ IILHR interviews with Shabak community members, 2012.

⁴⁷¹ Michiel Leezenberg, "Between Assimilation and Deportation: The Shabak and Kakai in Northern Iraq," in *Syncretistic Religious Communities in the Near East*. K. Kehl-Bodrogi et. Al (eds.). Leiden, 1997, pp. 155-174.

Turkmen

- Turkmen are the third largest ethnic component in Iraq. Community representatives estimate that there are 2.5 to 3 million Turkmen in the country, though international sources indicate between 500,000 and 600,000.⁴⁷²
- Turkmen have been intimidated by Kurdish and central government authorities, as well as extrajudicial militias on religious and ethnic grounds, and for their presence in the disputed territories. They face targeted violence around Kirkuk, Mosul, and Tuz Khurmatu in Salahaddin governorate.
- Turkmen adhere mainly to the Sunni and Shia'h faiths, though there are reportedly some 30,000 Christian Turkmen as well.⁴⁷³

Background

Turkmen are the third largest component in Iraq and reside mainly in the north in an arc of towns and villages stretching from Tel Afar in Ninewa governorate, through Mosul, Erbil, Kirkuk, Tuz Khurmatu in Salahaddin governorate, and to Badra and Al Aziziya in Wassit governorate southeast of Baghdad.⁴⁷⁴ Turkmen adhere mainly to the Sunni and Shia'h faiths, though there is reportedly a minority of 30,000 Christian Turkmen as well.⁴⁷⁵

Turkmen report intimidation by both Kurdish and central government authorities for their presence in the disputed territories. Clashes in Kirkuk, Mosul and more recently in Tuz Khurmatu have seen the targeting of Turkmen communities by car bombings, murder, kidnapping, harassment, arbitrary arrest and torture, and intimidation.

Beyond clashes in the disputed territories, Turkmen have also been targeted on religious grounds by both extrajudicial militant groups. Community members report that Turkmen women are particularly vulnerable to violence.⁴⁷⁶

⁴⁷² UNHCR Eligibility Guidelines, 2012, p. 34; Mumtaz Lalani, *Still Targeted: Continued Persecution of Iraq's Minorities*, Minority Rights Group International, 7, June 2010.

⁴⁷³ UNHCR Eligibility Guidelines, 2012, p. 34.

⁴⁷⁴ UNHCR Eligibility Guidelines, 2012, p. 34; Mumtaz Lalani, *Still Targeted: Continued Persecution of Iraq's Minorities*, Minority Rights Group International, 7, June 2010.

⁴⁷⁵ AFP, "Iraqi town caught in middle of territory row," 3 January 2013, available at <http://dawn.com/2013/01/03/iraqi-town-caught-in-middle-of-territory-row/>; Al Jazeera, "Deadly suicide blasts strike Iraq's north," 16 January 2013, available at <http://www.aljazeera.com/news/middleeast/2013/01/201311672241755601.html>; Mofak Salman, "Targeting the Turkmen at the Husseiniya of Said Al-Shuhadain the Turkmen District of Tuz Khurmatu," Turkmen Research Foundation, 20 February 2013, available at http://www.turkmen.nl/1A_Others/ms.2.13.pdf.

⁴⁷⁶ Mumtaz Lalani, *Still Targeted: Continued Persecution of Iraq's Minorities*, Minority Rights Group International, 7, June 2010.

Systematic efforts by Kurdish and Arab authorities to intimidate Turkmen communities, along with Ba'ath era policies of Arabization have threatened the preservation of the Turkmen language and culture.

Approximate Demographics and Location

Community representatives claim that there are approximately 2.5 to 3 million Turkmen in Iraq, though international sources indicate between 500,000 and 600,000.⁴⁷⁷

Turkmen reside mainly in the northern areas of Iraq stretching from Tel Afar in Ninewa governorate west of Mosul, through Mosul, Erbil, Altun Koprû, Kirkuk (which they consider historically theirs), Tuz Khurmatu in Salahaddin governorate, Kifri, and Khaniquin, and to Badra and Al Aziziya in Wassit governorate southeast of Baghdad.⁴⁷⁸ Some Turkmen claim there may be as many as 300,000 in the Baghdad area alone.⁴⁷⁹ The largest concentration of Turkmen live in the city of Kirkuk, which has been heavily influenced by their presence.

Since 2003, targeted campaigns of land encroachment and seizure, intimidation, and assimilation has resulted in demographic change among the Turkmen community. The ease of this campaign has been helped by the destruction of records and state archives during the 2003 war and the civil conflict that followed.⁴⁸⁰

Security

Turkmen are targeted by armed groups on the basis of their religious and ethnic identity as well as for imputed political opinion.⁴⁸¹ **Security for Turkmen community members in the disputed territories has deteriorated in recent years amid rising tensions between national and Kurdish forces and increased targeting by Islamist**

⁴⁷⁷ UNHCR Eligibility Guidelines, 2012, p. 148, n. 794, "Part of the reason for the vast difference in estimates is the former government's reportedly *Arabization* policy that forcibly expelled Turkmen from their traditional lands in Iraq and forced them to register officially as Arabs. Furthermore, demographics and numbers, and therefore political influence, are reported to be highly disputed among Arabs, Kurds and Turkmen, especially in Kirkuk. Reportedly, each of the three groups has its own evidence proving that Kirkuk has historically been dominated by it. According to Minority Group International, there were 600,000 Turkmen in Iraq before 2003; Preti Taneja, *Iraq's Minorities: Participation in Public Life*, Minority Rights Group International, 28 November 2011, p. 9, <http://www.minorityrights.org/1106/reports/iraqs-minorities-participation-in-public-life.html>."

⁴⁷⁸ UNHCR Eligibility Guidelines, 2012, p. 34; Mumtaz Lalani, *Still Targeted: Continued Persecution of Iraq's Minorities*, Minority Rights Group International, 7, June 2010.

⁴⁷⁹ Unrepresented Nations and Peoples Organization, "The Turkmen of Iraq: Underestimated, Marginalized and exposed to assimilation Terminology," 8 June 2005, available at <http://www.unpo.org/article/2610>.

⁴⁸⁰ Report of Iraqi MP Hasan Ozman from the Turkmen Front to the European Parliament's Delegation with Relations with Iraq, October 2011. Original report on file with IILHR.

⁴⁸¹ See UNHCR Eligibility Guidelines, 2012, pp. 148-150, n. 797-800 detailing dozens of incidents of targeted violence against Turkmen in Iraq.

militant groups. A community leader reported in 2011 that, after 2003 “Kurdish armed forces entered almost all Turkmen regions, including Kirkuk, seizing the administration and establishing their own order. Assimilation of the Turkmen, Assyrians and Arabs had started. Intimidations, killings, arbitrary detentions, assassinations and kidnappings still continue. In almost all Turkmen regions, from Tel Afar to Khaniquin, and particularly in the oil-rich province of Kirkuk, the demographic structure was changed with the intention to gain ground [for Kurdish authorities].”⁴⁸²

In most Turkmen areas, Kurds dominate security and police forces as well as the local administration. Kurdish forces are widely distributed throughout Turkmen communities and many community members report ongoing harassment and intimidation.⁴⁸³ At least one assassination of a Turkmen man has been linked to calls for a Turkmen security force in the Tuz Khurmatu district of Salahaddin governorate.

Growing clashes over territorial disputes between Kurdish and central government forces have increased the threat of violence against Turkmen, with community leaders reporting hundreds of bombings, kidnappings, arbitrary arrests and “disappearances.” In late 2012 and early 2013, targeted attacks on Turkmen areas increased when forces from the federal government and Kurdish Regional Authority descended on Tuz Khurmatu in Salahaddin governorate. Tuz Khurmatu houses a large Turkmen population, but is also home to Arabs and Kurds.

In November 2012 in Kirkuk governorate alone, the Human Rights Bureau of the Iraqi Turkmen Front reported 26 incidents of targeted assassinations, bombings, and kidnappings, including the 11 November 2012 car bomb that exploded outside the Shia’h Endowment offices, where many Turkmen work as employees were leaving the building.⁴⁸⁴ On 16 December 2012, four masked gunman kidnapped two Turkmen teachers near the village of Alzirkatta Arifeyat 60km south of Kirkuk city. Their bodies were found on the side of the road near Humera village 35km southeast of Kirkuk.⁴⁸⁵ On

⁴⁸² Report of a Turkmen member of the Iraqi parliament from the Turkmen Front to the European Parliament’s Delegation with Relations with Iraq, October 2011. Original report on file with IILHR.

⁴⁸³ The spread of Kurdish security forces throughout the disputed territories is well-documented and an ongoing source of conflict between communities in the area. See Turkmen Aspect, “2 killed, 2 wounded from Kurdish Asayish force in Kirkuk,” 1 September 2012, <http://www.turkmenaspect.com/english/2012/01/1140.html>; Aswat al-Iraq, “Kirkuk’s Turkmen Front refuses spread of Kurdish Asayish (Security) forces in their city,” 16 August 2011, <http://en.aswataliraq.info/%28S%282tvdq145ubirnev2an2wszae%29%29/printer.aspx?id=144326>; Amnesty International, “Iraq/Kurdistan: ‘Asayish’ security force ‘a law unto itself’ – New report,” 14 April 2009, http://www.amnesty.org.uk/news_details.asp?NewsID=18152. See also Mofak Salman Kirkuklu, *A Report into Kurdish Abuse in Turkmeneli*, <http://www.turkmenaspect.com/english/assets/docs/Report%20into%20Kurdish%20Abuse%20in%20Turkmeneli%20oone.doc>, accessed April 2013.

⁴⁸⁴ Human Rights Bureau, Iraqi Turkmen Front, “Statistics of violation incidents against Turkmen in Iraq, November 2012,” November 2012, on file with IILHR.

⁴⁸⁵ Turkmen Research Foundation, “Slaughtering of two Turkmen Teachers in Kirkuk,” 20 February 2013, available at http://www.turkmen.nl/1A_Others/ms1.13.pdf.

December 17, two car bombs exploded in a Turkmen area of Tuz Khurmatu, killing five people and wounding 26.⁴⁸⁶ Separate attacks in early January in Tuz Khurmatu and Kirkuk resulted in additional deaths.⁴⁸⁷ On 23 January 2013, a suicide bomber killed over 42 people and wounded 75 others during a funeral in the center of Tuz Khurmatu. The funeral gathering was set to commemorate the assassination of Ahmed Salah Asker, the brother of a Turkmen politician, who had been shot by insurgents one day earlier.⁴⁸⁸

Challenges with Human Rights in Practice

As Sunni and Shia'h Muslims living in the disputed territories, Turkmen in Iraq face targeted violence by Sunni and Shia'h militant groups as well as harassment, intimidation, and arbitrary arrest and detention by Kurdish and central government authorities. The high rate of violence against Turkmen in the disputed territories has thus limited engagement in public life and restricted religious freedom. Though Turkmen were subjected to a brutal Arabization campaign under the Ba'ath regime, their security has not improved since 2003. Instead, they face ongoing intimidation and harassment in the free exercise of their rights, including the right to vote, own and retain real property, and participate in religious practice.

Religious Freedom

As mainly Sunni and Shia'h Muslims, Turkmen face targeted attacks by extrajudicial militants on both sides. Armed Sunni groups have attacked Shia'h Turkmen on pilgrimages and within the southern-most areas of the disputed territories where the Shia'h Turkmen population largely resides.⁴⁸⁹

Political Rights

Turkmen have formed their own political parties and are also active in the two Kurdish parties. In the 2010 national parliamentary elections, Turkmen joined the three main lists. Turkmen won 7 parliamentary seats and were allocated three ministries.⁴⁹⁰ They

⁴⁸⁶ AFP, "Iraqi town caught in middle of territory row," 3 January 2013, available at <http://dawn.com/2013/01/03/iraqi-town-caught-in-middle-of-territory-row>.

⁴⁸⁷ Al Jazeera, "Deadly suicide blasts strike Iraq's north," 16 January 2013, available at <http://www.aljazeera.com/news/middleeast/2013/01/201311672241755601.html>.

⁴⁸⁸ Mofak Salman, "Targeting the Turkmen at the Husseiniya of Said Al-Shuhadain the Turkmen District of Tuz Khurmatu," Turkmen Research Foundation, 20 February 2013, available at http://www.turkmen.nl/iA_Others/ms.2.13.pdf; Shafaq News, "Bombing outcome in Tuz Khurmatu rises to 25 dead and 88 injured people," 23 January 2013, available at <http://www.shafaq.com/en/news/4889-bombing-outcome-in-tuz-khurmatu-rises-to-25-dead-and-88-injured-people-.html>.

⁴⁸⁹ See Mumtaz Lalani, *Still Targeted: Continued Persecution of Iraq's Minorities*, Minority Rights Group International, 7, June 2010.

⁴⁹⁰ In the 2010 Council of Representative elections, the Islamic Turkmen Union joined the State of Law list; the Turkmen Islamic Union of Iraq and the Turkmen Loyalty Movement joined the National Alliance list; and the Iraqi Turkmen Front joined the Iraqiyya list. See UNHCR Eligibility Guidelines 2012, p. 147, n. 776

also serve on national independent commissions. However, Turkmen political actors have been targeted for attack on the basis of ethnic, religious, and (imputed) political opinion, particularly in Ninewa, Kirkuk, Diyala and Salahaddin governorates. On 17 October 2011, gunmen blew up a headquarters of the Iraqi Turkmen Front in Kirkuk city completely destroying the premises but causing no casualties.⁴⁹¹ On 10 October 2011, an IED exploded next to the Iraqi Turkmen Front's office in southern Kirkuk, damaging only the office building.⁴⁹² On 12 May 2011, the Assistant Chairman of the Iraqi Turkmen Front, Arshad Al-Salihy, escaped an assassination attempt when a rocket destroyed his house in southern Kirkuk city.⁴⁹³

Economic, Social and Cultural Rights

Access to adequate education, and particularly to instruction in the Turkmen language, is limited in many Turkmen communities. Many teachers and schools do not receive any budgetary support from the Ministry of Education and staff and facilities suffer from a shortage of materials and resources, including books, scientific equipment, computers and other technology, photocopying equipment, and temperature regulating systems.⁴⁹⁴

Internally Displaced

During the *Arabization* campaign under the former regime, the Turkmen population, along with Kurds and Assyrians, were expelled from their lands and replaced by Arabs from other areas of Iraq.⁴⁹⁵ After 2003, Turkmen and Kurds began to return to their original areas, resulting in tension with the Arab communities that had been moved to contested areas in the north, particularly around Kirkuk. Neither the Arabs now living in

citing); Hasan Kanbolat, "Maliki government and Turkmen in Iraq," *Today's Zaman*, 25 December 2010, http://www.todayszaman.com/columnistDetail_getNewsById.action?newsId=230641; Charles Recknagel, Muhammad Tahir, "Iraq's Turkomans Feel New Political Strength," RFE/RL, 1 April 2010, http://www.rferl.org/content/Iraqs_Turkomans_Feel_New_Political_Strength_/1999870.html; Al Jazeera, "Q&A: Iraq's 2010 elections," 3 March 2010, <http://english.aljazeera.net/focus/iraqelection2010/2010/03/20103244723763210.html>; Niqash, "The rise of the Turkmen," Diaal-Khalidi, 4 September 2008, <http://www.niqash.org/content.php?contentTypeID=74&id=2283&lang=0>.

⁴⁹¹ NINA, "Turkmen Front headquarters blow up in Kirkuk," 17 October 2011, http://www.ninanews.com/english/News_Details.asp?ar95_VQ=FIHIII.

⁴⁹² NINA, "IED against Turkman party office in Kirkuk," 10 October 2011, http://www.ninanews.com/english/News_Details.asp?ar95_VQ=FIHJIF.

⁴⁹³ Aswat al-Iraq, "Assistant Chairman of Iraqi Turkomen Front escapes assassination attempt," 12 May 2011, http://en.aswataliraq.info/Default.aspx?page=article_page&id=142495&l=1.

⁴⁹⁴ Report of Iraqi MP Hasan Ozman from the Turkmen Front to the European Parliament's Delegation with Relations with Iraq, October 2011. Original report on file with IILHR; see also Preti Taneja, *Iraq's Minorities: Participation in Public Life*, Minority Rights Group International, 28 November 2011, p. 19, <http://www.minorityrights.org/1106/reports/iraqs-minorities-participation-in-public-life.html>.

⁴⁹⁵ John Fawcett and Victor Tanner, "The Internally Displaced People of Iraq," Brookings Institution—SAIS Project on Internal Displacement, October 2002, available at <http://www.brookings.edu/fp/projects/IDP/articles/iraqreport.pdf>.

the north nor the Turkmen and Kurds displaced from the area ever received compensation for their lands.

While central and KRG governments continue to address issues of forced internal displacement arising from the Saddam Hussein regime, Turkmen community members report ongoing pressure by Kurdish and Arab authorities to shift the Turkmen population to different areas and effect demographic change. Numerous incidents of encroachment and seizure of government and private Turkmen land by Kurdish families have been reported. Reportedly, Kurdish families building on the land use financial assistance provided by the Kurdish Regional Government.⁴⁹⁶

There are no accurate data on this ongoing forced displacement within disputed territories. However, given the reportedly systematic pressure to shift populations exerted by Kurdish authorities, the increasing violence from clashes between KRG and central government forces, and the targeting of Turkmen communities by armed militant groups, internal displacement is likely high, particularly for families from Kirkuk, Tuz Khurmatu, and other areas within the disputed internal boundaries.

Diaspora and returnees

Iraq's Turkmen community has strong support from Turkmen diaspora organizations such as the Europe Turkmen Friendships organization and other groups. These organizations assist to monitor the human rights and security situation of Turkmen within Iraq and the plight of Turkmen refugees around the world. Many Turkmen refugees from Iraq have traveled to neighboring states but also to Europe, the United States and other Western nations. Among returnees, by far the largest numbers come from Syria. This likely reflects less an improvement in the situation within Iraq, but rather the deterioration of the situation in Syria.

⁴⁹⁶ Report of Iraqi MP Hasan Ozman from the Turkmen Front to the European Parliament's Delegation with Relations with Iraq, October 2011. Original report on file with IILHR.

Yezidi

- Yezidis are an ancient ethnic and religious group, though some community members as well as Kurds consider them ethnically Kurdish. This identity question has created conflict within the community and reportedly subjects Yezidis to political and economic pressure from Kurdish officials and Kurdish-identifying community members, as well as death threats.
- Some Muslims (as well as other ethnic and religious groups) consider the Yezidi “devil-worshippers.” As a result, the community has suffered innumerable attacks by Islamist militants who consider them infidels.
- The estimated Yezidi population has fallen from around 750,000 in 2005, to approximately 500,000 today.

Background

Yezidis have been present in the Middle East since approximately 4000 BC. Community members suggest that Yezidism is the oldest religion in the world today⁴⁹⁷ as it is a combination of pre-Islamic Zoroastrian, Manichaean, Jewish, Nestorian Christian and Muslim elements.⁴⁹⁸ Yezidis are dualists, believing in a Creator God and the Peacock Angel *Malak Ta'us*, which is the executive organ of divine will.⁴⁹⁹

Radical and even moderate Muslims consider the Yezidi devil worshippers due to misinterpretations of their Peacock Angel and misunderstandings of how their religion views what monotheistic religions consider the devil. This has subjected the Yezidi to numerous attacks, including the single largest attack against the community which, in 2007, killed 400 civilians, wounded 1,562 and left over 1,000 families homeless.⁵⁰⁰

Yezidis speak their own language, *Ezidi* and live principally in northern Iraq, though Yezidis are also present in Syria, Turkey, Russia, Armenia, Georgia, Germany, and other European countries.

Many Yezidis consider themselves a distinct ethnic and religious group, though other community members as well as Kurds consider them ethnically Kurdish. Large numbers

⁴⁹⁷ Mirza Ismail and the London Yezidi Community, Yezidi Human Rights Organization International, available at <http://www.yezidihumanrights.org/>.

⁴⁹⁸ Mumtaz Lalani, *Still Targeted: Continued Persecution of Iraq's Minorities*, Minority Rights Group International, 7, June 2010.

⁴⁹⁹ Mumtaz Lalani, *Still Targeted: Continued Persecution of Iraq's Minorities*, Minority Rights Group International, 7, June 2010.

⁵⁰⁰ Four coordinated suicide truck bombings destroyed two Yezidi towns in 2007. See Mumtaz Lalani, *Still Targeted: Continued Persecution of Iraq's Minorities*, Minority Rights Group International, 7, June 2010.

of Yezidis participate in Kurdish political parties and report full support and protection by Kurdish authorities. However, the identity question has created conflict within the community and reportedly subjects some Yezidis to political and economic pressure from Kurdish officials and Kurdish-identifying community members.⁵⁰¹ Yezidi in the Sinjar district of Ninewa are particularly vulnerable to marginalization and harassment by Kurdish authorities and security services. **Numerous incidents of arbitrary arrest, assault and humiliation while in detention, discrimination and harassment against this population have been reported by Yezidi and Christian human rights groups.**⁵⁰² A significant increase in the rate of suicides among Yezidi youth has been attributed in part to the ongoing harassment and marginalization of the community at the hands of Kurdish authorities.

In the current parliament, Yezidis are represented by six MPs from Kurdish lists and one independent Yezidi who opposes Kurdish identity and has reportedly received death threats should he visit the Kurdish region.⁵⁰³

Approximate Demographics and Location

Yezidis live in the disputed territories in northern Iraq in the Ninewa governorate (mainly in the Sinjar mountain range, Sheikhan, and the villages of Bahzani and Bashiqa near Mosul), with approximately 15 percent of the population living in Dohuk in Kurdistan.⁵⁰⁴

Reportedly, women's healthcare facilities have been barred from operating in the Yezidi areas of Sinjar, forcing Yezidi women to travel to Mosul or Dohuk to give birth. As Mosul remains dangerous, many Sinjari Yezidi births occur in Dohuk governorate in the KRG. These infants are registered as Kurdish.⁵⁰⁵

USCIRF reports that the Yezidi population has fallen from around 700,000 in 2005, to approximately 500,000 today, with reduced numbers resulting from thousands of families fleeing to Syria, Jordan, and other states.⁵⁰⁶

⁵⁰¹ IILHR interviews, 2012; *see also* Mission Statement of the Yezidi Human Rights Organization International, available at <http://www.yezidihumanrights.org/>.

⁵⁰² IILHR interviews 2012 and 2013. *See also* Yezidi Human Rights Organization International, "The Arrest of the Yezidi Clan Leader Mr. Khoudeida Abraham Fendi by the KRG's Brutal Regime in Sinjar, 18 October 2012, <http://www.yezidihumanrights.org/index.php?news&nid=66>; Yezidi Human Rights Organization International, "The KRG's Terrorist Authority Continues Violating Yezidi human rights in Northern Iraq," 31 December 2012, <http://yezidihumanrights.org/index.php?news&nid=69>; Yezidi Human Rights Organization International, "Yezidis Current News ;in Northern Iraq," 19 April 2013, <http://yezidihumanrights.org/index.php?news&nid=70>.

⁵⁰³ IILHR interviews with Amin Jejo Farhan, Member of Parliament who won the quota seat for the Yezidi component, 2010, 2011, 2012.

⁵⁰⁴ UNHCR Eligibility Guidelines, 2012, p. 29.

⁵⁰⁵ IILHR Interviews with Yezidi community members from Sinjar, 2011, 2012, 2013.

⁵⁰⁶ US Commission on International Religious Freedom, *Annual Report 2012*, 98, March 2012, available at <http://www.uscifr.gov/images/Annual%20Report%20of%20USCIRF%202012%282%29.pdf>.

Security

Some members of the Yezidi community, particularly those who do not identify with Kurdish political parties or as ethnically Kurdish, report targeted violence, bombings, harassment, discrimination, arbitrary arrest, and humiliation. Reportedly, the increasing rate of suicides among Yezidi youth has been attributed, in part, to ongoing harassment, marginalization, and humiliation at the hands of Kurdish security forces. In 2011, 75 Yezidis in Sinjar committed suicide. In 2012, the number had risen to 125.⁵⁰⁷

The Yezidi community suffered the worst attack on any Iraqi minority component to date when in 2007, four coordinated truck bombings destroyed two Yezidi towns, killing at least 400 civilians and wounding 1,562. Over 1,000 families were left without homes.⁵⁰⁸

In late 2011, hundreds of assailants, mainly Kurds, attacked shops, commercial businesses, and tourist installations owned by Yezidis and Christians in and around the cities of Zakho, Sumail, Imadiya, and Dohuk in the Kurdish Region. Perpetrators burnt and destroyed liquor shops, casinos, hotels, hair salons, and physical therapy and massage parlors. Owners of many shops reported receiving leaflets threatening death if the shops were reopened.⁵⁰⁹ Instigation for the violence has been blamed on an Imam from the Al Rashid mosque in Zakho, as well as on The Kurdistan Islamic Union, an opposition party in the Kurdistan Regional Parliament. Civil Society groups report that members of the Kurdistan Democratic Party may also have been involved and used the incident as a political tool against the opposition.⁵¹⁰

In addition to ongoing incidents of large-scale targeted violence, Yezidi community members who do not identify as ethnically Kurdish or join Kurdish political parties report harassment, intimidation, arbitrary arrest and detention, as well as humiliation at the hands of Kurdish security forces.

⁵⁰⁷ IILHR interviews with Hammurabi Human Rights Organization, 2013.

⁵⁰⁸ Megan Greenwell and Dlovan Brwari, "Truck Bombs Kill 175 in Iraq's North," Washington Post, 15 August 2007, available at <http://www.washingtonpost.com/wp-dyn/content/article/2007/08/14/AR2007081400249.html>; Kurd Net, "Iraq: 330 Kurdish Yezidis slaughtered by four suicide truck bombs," 15 August 2007, available at <http://www.ekurd.net/mismas/articles/misc2007/8/islamterror175.htm>; Reuters, "Mastermind of Iraq Yazidi attack killed: U.S. military," 9 September 2007, available at <http://www.reuters.com/article/2007/09/09/us-iraq-yazidis-idUSL0930932320070909>.

⁵⁰⁹ Ankawa News, "Leaflets threatening to kill the owners of the burned shops in case of re-open them," 6 December 2011, <http://www.ankawa.com/english/?p=5619>; see also Hammurabi Human Rights Organization, *Report of Hammurabi Human Rights Organization (HHRO) About the Situation of Iraqi Minorities* 2011.

⁵¹⁰ Reports to IILHR 2011, 2012; see also Hammurabi Human Rights Organization, *Report of Hammurabi Human Rights Organization (HHRO) About the Situation of Iraqi Minorities* 2011; AsiaNews, "Zakho, Iraqi Islamic extremists attack Christian-owned shops and properties," 03 December 2011, available at <http://www.asianews.it/news-en/Zakho,-Iraqi-Islamic-extremists-attack-Christian-owned-shops-and-properties-23351.html>.

In late 2012, for example, Hammurabi Human Rights Organization and the Ministry of Human Rights hosted a conference in Sinjar to address the growing rate of suicides among members of the Yezidi community. After the conference, several Yezidi human rights activists who had been in attendance were arrested by Assayish forces. The Assayish accused the Yezidi of circumventing Kurdish authority by allowing a central government Ministry to host an event in Sinjar, and insisted that Kurdish authorities should be consulted for all such events. In the case of one older Yezidi activist, Assayish forces reportedly demanded to know whether he considered himself Yezidi or Kurdish. When he refused to identify as Kurdish, he was physically assaulted. Upon his release, his son committed suicide reportedly out of humiliation.⁵¹¹

Challenges with Human Rights in Practice

Misunderstandings of the Yezidi religion has led even moderate Muslims and some other religious components to consider them devil worshipers. As a result, the Yezidi community faces targeted attacks by armed militia groups, as well as discrimination in public life. Among Yezidis who do not identify as Kurdish or refuse to join Kurdish political parties, Kurdish security forces reportedly curtail the rights of community members and have subjected activists to arbitrary arrest, detention, humiliation, and intimidation.

Religious Freedom

The most sacred site of the Yezidi religion is at Lalish near Sheikhan in Ninewa governorate. Yezidi pilgrimage to Lalish to engage in religious ceremonies. This monument and its surroundings have been historically protected and remain unmolested to date. However, ongoing misunderstandings of the Yezidi Peacock Angel has led even moderate Muslims and some other groups to consider them devil-worshipers. This perception has reportedly led to harassment and death threats. **Large-scale targeted violence against Yezidi communities has been attributed to militant groups who view the Yezidi as infidels for their (imputed) religious beliefs.**

Political Rights

Yezidis have a single quota seat in the national parliament. They also have a single quota seat for the Provincial Council in Ninewa. In addition to the quota seat, six Yezidi politicians with the Kurdistan Alliance were elected to national parliament. The Yezidi elected under the quota does not identify as Kurdish, nor is he affiliated with Kurdish political parties. He opposes Kurdish treatment of Yezidi community members who do

⁵¹¹ IILHR interviews with Hammurabi Human Rights Organization and Yezidi members of the Sinjar community, 2013.

not identify as Kurdish. Reportedly, he is barred from entering the Kurdish region and has received death threats.⁵¹²

Economic, Social, and Cultural Rights

Yezidi who do not identify as Kurdish or affiliate with Kurdish political parties reportedly face political, social, and economic marginalization from KRG officials and security forces, who may condition employment and access to services upon identification as ethnically Kurdish. Numerous reports suggest that Yezidis must obtain KRG approval to find jobs in areas within the KRG-administered Ninewa governorate, or under the security “protection” of the Kurdish security forces.⁵¹³

In the Sinjar area, Kurdish security forces have engaged in systematic marginalization and forced demographic change against the Yezidi community. Some reports also indicate seizure of property and occupation by Kurdish families. Yezidis in Sinjar also reportedly face high rates of poverty and unemployment beyond that of the rest of the Iraqi population. The Yezidi in this area were displaced from elsewhere in Ninewa under the Ba’ath regime and report being pushed further into unarable lands.

Humanitarian situation

As noted elsewhere, Yezidi in the Sinjar district of Ninewa governorate face disproportionately high rates of poverty and unemployment. Housing is reportedly inadequate and soil is largely unsuitable for growing crops. Community members report that KRG officials condition access to basic services and employment on identifying as ethnically Kurdish.

Diaspora and returnees

Large numbers of Yezidi have fled Iraq since 2003. The majority of refugees fled to Syria and, to a lesser extent, Jordan. Increasing violence in Syria has forced many Yezidi to return to Iraq despite ongoing persecution by insurgent groups and systematic coercion by KRG security forces. Some Yezidi refugees also reportedly traveled to Germany and other European states, the United States, Canada, Australia, and elsewhere.

The Situation of Yezidi women

As noted elsewhere, Yezidi women are particularly vulnerable to marginalization and discrimination as tools in larger efforts to expand Kurdish territorial claims. Basic

⁵¹² IILHR interviews, 2012,

⁵¹³ IILHR interviews with Yezidi community members; *see also* US Department of State, Bureau of Democracy, Human Rights and Labor, *International Religious Freedom Report 2011: Iraq*, 2011, available at <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper>.

services, such as access to maternal health care, are reportedly conditioned on identification as Kurdish. **Women in Sinjar lack access to healthcare in their home areas and must travel to Mosul or Dohuk for care or to give birth.** In Dohuk, children are given Kurdish identity documents. Efforts by Iraqi NGOs to provide mobile healthcare units in Sinjar have been blocked by Kurdish authorities and security forces.⁵¹⁴

⁵¹⁴ IILHR interview with Yezidi representatives from Sinjar, 2010-2013; IILHR interviews with Hammurabi Human Rights Organization and the Alliance of Iraqi Minorities.