



UNHCR's ELIGIBILITY GUIDELINES FOR ASSESSING THE INTERNATIONAL PROTECTION NEEDS OF IRAQI ASYLUM-SEEKERS

This report has been produced by UNHCR on the basis of information obtained from a variety of publicly available sources, analyses and comments, as well as from information received by UNHCR staff or staff of implementing partners in Iraq. The report is primarily intended for those involved in the asylum determination process, and concentrates on the issues most commonly raised in asylum claims lodged in various jurisdictions. The information contained does not purport to be either exhaustive with regard to conditions in the country surveyed nor conclusive as to the merit of any particular claim to refugee status or asylum. The inclusion of third party information or views in this report does not constitute an endorsement by UNHCR of this information or views.

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LIST OF ABBREVIATIONS

AFP	Agence France-Presse
AI	Amnesty International
AMS	Association of Muslim Scholars
AP	Additional Protocol (to the four Geneva Conventions)
BBC	British Broadcasting Company
CAT	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (United Nations)
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women (United Nations)
CERD	International Convention for the Elimination of All Forms of Racial Discrimination (United Nations)
CFR	Council on Foreign Relations
CPA	Coalition Provisional Authority
CPJ	Committee to Protect Journalists
CRRPD	Commission for the Resolution of Real Property Disputes
CRC	Constitutional Review Committee
CRC	Convention on the Rights of the Child (United Nations)
CRS	Congressional Research Service
CSIS	Center for Strategic and International Studies
DPA	Deutsche Presse-Agentur
ECOSOC	Economic and Social Council of the United Nations
ExCom	Executive Committee (UNHCR)
FAO	Food and Agriculture Organization
FGM	Female Genital Mutilation
FPS	Facilities Protection Service
HRW	Human Rights Watch
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights (United Nations)
ICESCR	International Covenant on Economic, Social and Cultural Rights (United Nations)
ICG	International Crisis Group
ICRC	International Committee of the Red Cross
ICTY	International Criminal Tribunal for the former Yugoslavia
ICTR	International Criminal Tribunal for Rwanda
IDP	Internally Displaced Person
IED	Improvised Explosive Device
IFA/IRA	Internal Flight Alternative / Internal Relocation Alternative
IFJ	International Federation of Journalists
IGC	Iraqi Governing Council
IIG	Interim Iraqi Government
IIP	Iraqi Islamic Party
ILO	International Labour Organization
IMA	Iraqi Medical Association

IOM	International Organization for Migration
IPS	Inter Press Service
IRCS	Iraqi Red Crescent Society
IRIN	United Nations Integrated Regional Information Networks
ISF	Iraqi Security Forces
ISU	Iraqi Sports Union
ITF	Iraqi Turkmen Front
IWPR	Institute for War and Peace Reporting
KDP	Kurdistan Democratic Party
KRG	Kurdistan Regional Government
LGBT	Lesbian, gay, bisexual and transgender
MNF	Multi-National Forces
MIPT	Memorial Institute for the Prevention of Terrorism
MoDM	Ministry of Displacement and Migration
NCCI	NGO Coordination Committee in Iraq
NGO	Non-governmental Organization
NIE	National Intelligence Estimate
OHCHR	(United Nations) Office of the High Commissioner for Human Rights
PDS	Public Distribution System
PJAK	Party for a Free Life in Kurdistan
PKK	Kurdistan Workers' Party
PUK	Patriotic Union of Kurdistan
RCC	Revolutionary Command Council
RFE/RL	Radio Free Europe / Radio Liberty
RPG	Rocket-propelled grenade
RSD	Refugee Status Determination
RSF	Reporters sans Frontières (Reporters Without Borders)
SC	(United Nations) Security Council
SCIRI	Supreme Council for the Islamic Revolution in Iraq
SGBV	Sexual and gender-based violence
SOITM	Iraqi Turkmen Human Rights Research Foundation
TAL	Law of Administration for the State of Iraq for the Transitional Period
TI	Transparency International
TNA	Transitional National Assembly
UN	United Nations
UNAMI	United Nations Assistance Mission for Iraq
UNAMI HRO	United Nations Assistance Mission for Iraq, Human Rights Office
UNCT	United Nations Country Team
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIDO	United Nations Industrial Development Organization

UNOPS	United Nations Office for Project Services
UNSC	United Nations Security Council
UPI	Union for Peace in Iraq
US	United States
USIP	United States Institute of Peace
WFP	World Food Programme
WHO	World Health Organization

EXECUTIVE SUMMARY

A. Current Situation in Iraq

The present situation in Central and Southern Iraq¹ is characterized by pervasive extreme violence, serious violations of human rights and a general lack of law and order. There have been some positive political developments in the country, including the Iraqi Government's stated commitment to reconciliation, but these have not translated into increased physical and material security for its citizens. Individuals are regularly subject to violence due to their actual or perceived religious, ethnic, or political backgrounds and/or views by various actors. There are consistent reports of abuse and torture by insurgent groups, Iraqi Security Forces (ISF) and Shi'ite militias. The armed conflict between the Multi-National Forces (MNF)/ISF and the Sunni-led insurgency has resulted in civilian deaths, destruction of property and displacement.

State protection from those perpetrating acts of violence is generally not available. The dismantling and slow reconstitution of Iraqi security forces, who are themselves the target of continuous attacks, have left a security vacuum in the country. Acts of violence are thus increasingly committed in a climate of impunity. Weak law enforcement and judicial structures, and the reported involvement of law enforcement in human rights abuses, further aggravate this situation.

The overall security situation in the three Northern Governorates of Sulaymaniyah, Erbil and Dahuk, while less precarious than the situation in Central and Southern Iraq, remains tense and unpredictable. Disputes over the status of "arabized" areas, possible spill-over of violence from other parts of the country and the presence of militant groups in the area all threaten to destabilize the region.

B. Summary of Main Groups Perpetrating Violence and Groups at Risk

1. Main Groups Practicing Violence

Insurgent Groups

Sunni Arabs, who had largely dominated the country under the previous regime, form the backbone of the current insurgency in Iraq. The insurgency appears to consist of a number of groups, including former Ba'athists, former army and intelligence officers, indigenous and foreign Islamists, and nationalists fighting foreign occupation. While differences exist

¹ For the purposes of this paper, "Central Iraq" covers the Governorates of Anbar, Baghdad, Diyala, Ninewa (including the city of Mosul), Salah al-Din and Tameem (including the city of Kirkuk). This includes those areas in Central Iraq that are under the control of the KRG as stipulated in Article 53(A) of the Law of Administration for the State of Iraq for the Transitional Period (TAL), which continues to be valid under the Constitution (Article 143). "Southern Iraq" consists of the Governorates of Babil, Basrah, Kerbala, Najaf, Missan, Muthanna, Qadissiya, Thi-Qar and Wassit. Throughout these Guidelines, the three Northern Governorates referred to are those of Dahuk, Erbil and Sulaymaniyah. See also: "Annex XI: Maps of Iraq".

in the goals and tactics of the different groups forming the insurgency, the expulsion of the MNF from Iraq and the undermining of the new political structures in the country are evidently common objectives. There are reports that members of the insurgency have infiltrated parts of the ISF and carried out attacks in this capacity. The insurgency is mainly active in the “Sunni triangle”, as well as in mixed areas of the Governorates of Diyala, Babel and Kirkuk.

Iraqi Security Forces and Shi’ite Militias

Much of the Shi’ite generated violence in Iraq has been attributed to two rival Shi’ite militias, the Badr Organization and the Mehdi Army. Shi’ite militia members have increasingly entered the ISF, such as the Facilities Protection Services (FPS) and the Special Commando Units /Iraqi National Police, and have reportedly conducted kidnappings, torture and summary executions of mainly Sunni Arabs. There have also been increasing reports of abuse and torture of government-held detainees, especially in detention facilities operated by the Ministry of Interior.

Criminal Groups

Criminal gangs have taken full advantage of the collapse of law and order in Iraq, engaging in various illegal activities such as kidnappings and killings. These acts are often influenced, if not directed, by those responsible for the sectarian or political violence that surrounds them. For example, victims are often targeted because of their sect (e.g., kidnappings for sale to sectarian groups), (perceived) role in public life and/or perceived lack of State or tribal protection. Gangs increasingly operate in collusion with, or as members of, the ISF. Given this situation, a well-founded fear of harm based on one of the grounds of the 1951 Convention will often be present.

Kurdish Armed Forces

The Kurdish parties and their armed forces (*Peshmerga*) have been blamed for acts of violence committed in areas under their control against (perceived) political opponents, (perceived) Islamists, and members of ethnic/religious minorities.

Family, Community, Tribe

Acts of violence, most notably “honour killings”, are frequently committed throughout the country by members of the victim’s family, community or tribe.

2. Main Groups at Risk

Religious Groups

The sectarian violence in Iraq has placed both Muslims and non-Muslims at risk of harm. With regard to Muslims, Sunni-Shi’ite violence is the most prevalent. Sunni armed groups have targeted Shi’ite dominated ISF bases and recruitment centers, Shi’ite religious sites

and gatherings, Shi'ite religious leaders and Shi'ite civilians at large. Shi'ite militias are held responsible for attacks on Sunni mosques, religious leaders and Sunni neighborhoods. Both groups have conducted kidnappings, torture, rape and execution-style killings of persons belonging to, or perceived to belong to, the other sect. Mixed Shi'ite-Sunni families have suffered discrimination and, at times, physical violence, from both sides. Systematic forced displacement is also occurring, with both Shi'ite and Sunni armed groups seeking to drive the other community from their areas. Areas particularly affected by Sunni-Shi'ite sectarian violence are those with (formerly) mixed populations.

Members of non-Muslim religious minorities (e.g., Christians, Sabaeans-Mandaeans, Yazidis, Baha'i, Kaka'i and Jews) have increasingly become victims of sectarian violence, often perceived as a threat to the Islamic nature of the State or as supporters of the US-led invasion and the current Iraqi Government. Some groups have been branded as infidels while religious edicts (*fatwas*) have been issued against others, calling for their conversion to Islam or death. Members of these groups have suffered discrimination, harassment, inability to practice their religion, restrictions on movement, and acts of violence (destruction of property, including attacks on religious sites; kidnappings; rape; forced conversion and murder). Women of these faiths have been particularly affected, often forced to comply with strict Islamic dress codes and unable to move freely due to fear of kidnapping or rape. Perceived as wealthy (due to their traditional professions and generally good education) and lacking State or other protection, members of non-Muslim religious minorities are also often the victims of general criminality, which also, however, bears a sectarian component.

Ethnic Groups

A number of different ethnic groups exist in Iraq, including, for example, Kurds, Arabs, Turkmen, ethnic-based Christian groups (Assyrians, Chaldeans, Armenians), Yazidis, Shabak and Roma. Inter-ethnic tensions and violence have become increasingly prevalent in ethnically mixed areas of the country that had been the focus of previous governments' Arabization policies (e.g., Governorates of Kirkuk, Ninewa, Salah Al-Din and Diyala). Kurdish parties have been actively seeking to incorporate these areas into the Region of Kurdistan. Many ethnic minorities have charged that Kurdish political parties and military forces have subjected them to violence, forced assimilation, discrimination, political marginalization, arbitrary arrests and detention. Insurgent groups are reported to actively stir ethnic tensions and violence in these areas, in particular among the Arab and Kurdish populations. Inter-ethnic violence is reportedly on the rise in view of the referendum on the status of these disputed areas scheduled for the end of 2007.

The Roma (Kawliyah), an ethnic group with its own language, traditions and culture, has long suffered discrimination in Iraq, although it received some protection under the former regime. Since the fall of that regime, the Kawliyah have been increasingly targeted by conservative local communities and members of Shi'ite militias, who object to their differing social norms and associate them with the former regime or the ongoing insurgency.

Actual or Perceived Supporters of the Former Regime and/or Insurgency

Individuals who are perceived to be supporters of the former regime and/or the ongoing insurgency, including, most notably, Sunni Arabs, have been subjected to physical violence and other forms of intimidation and harassment. Sunni Arabs are often blamed for the human rights abuses that occurred under the former regime (due to the key positions that many Sunni Arabs held in the army and security and intelligence agencies) and are also broadly perceived to be supporters of the insurgency. As such, they have been targeted by Shi'ite death squads and certain elements of the ISF.

Members and associates of the Ba'ath Party and the former regime have been similarly targeted. The degree to which these individuals are at risk depends on such factors as the extent to which they are identified with the Ba'athist ideology and the human rights abuses that occurred under the former regime, the rank or position previously held, and public recognition. Rank or seniority alone is not dispositive, as many low-level officials have been targeted at the community level. Finally, other groups perceived as having received preferential treatment under the former regime, e.g., Roma (Kawliyah), Palestinians, and professionals whose careers are perceived to have advanced due to Ba'ath Party membership, have been targeted. Given the current climate of impunity and lack of law and order, personal revenge killings against perpetrators of detention, torture or other human rights violations have also occurred.

Actual or Perceived Sympathizers of the US-Led Invasion and/or the MNF in Iraq

Individuals working for certain entities in Iraq are perceived by the insurgency as supporting the US-led invasion of Iraq and its "occupation" by the MNF. These individuals are thus targeted by elements of the insurgency. Individuals include those Iraqis who are working for the MNF, foreign embassies, foreign companies, the former Coalition Provisional Authority (CPA), the United Nations (UN), the International Committee of the Red Cross (ICRC) as well as other humanitarian and human rights organizations. In addition, humanitarian workers may be targeted by militant elements for assisting civilian members belonging to other sectarian groups. There have been reports of threats made against employees and their families. Kidnappings, physical attacks and murder have been perpetrated against these workers. Neither the UN nor local employers can provide the security that is necessary but otherwise unavailable from the Iraqi authorities or the MNF.

Kurds have also been perceived as supporters of the "foreign occupation," given their staunch support of the US-led invasion in 2003 and presence in the country, full involvement in the political process, political efforts to achieve federalism in Iraq (viewed by many Sunni Arabs as a precursor to the break-up of Iraq), and reported relations with Israel. This has resulted in a number of attacks on Kurdish political and military representatives, offices of the Kurdistan Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK), and Kurdish civilians.

Government Officials and Other Persons Associated with the Current Iraqi Government, Administration and Institutions

As with those who are perceived as supporting the US-led invasion and the presence of the MNF in Iraq, Iraqis who are employed by or otherwise affiliated with the current Government, as well as their families, are similarly at risk. This includes politicians, members/employees of the Iraqi Government (at both the national and local level), employees of state-owned companies, and members of political parties.

Actual or Perceived Opponents of the Ruling Parties in the Region of Kurdistan, as well as in Areas under the De Facto Control of the KRG

There have been reports of human rights abuses by Kurdish authorities and security forces in the Region of Kurdistan and areas under its *de facto* control against suspected supporters/members of the insurgency, the former regime and opponents of the KDP and PUK. Individuals suspected of links with the insurgency or other “terrorist” activities are often held without charge or trial for indefinite periods of time. The possible use of torture and ill-treatment is of significant concern. Those who oppose the ruling parties, for example, through participation in demonstrations or publication of critical newspaper articles, risk arrest and detention.

Certain Professions

Targeted attacks and assassinations against certain professionals have been on the increase throughout Central and Southern Iraq. Those targeted have included, in particular, academics, journalists and media workers, artists, doctors and other medical personnel, judges and lawyers and athletes and sports officials. Individuals in these professions have been singled out by Shi’ite and Sunni extremists and criminals for a variety of reasons, including their public status, (perceived) political views, sectarian identity, engagement in “Western” activities or other alleged “un-Islamic” behaviour, and perceived wealth.

Other Groups

➤ Women: Since the fall of the previous regime, the security, economic and human rights situation of women in Central and Southern Iraq has dramatically declined and continues to worsen. Women are generally perceived as “softer” targets, and also suffer violence as a means of humiliating members of the “other” sect. Perpetrators of violent acts against women include militias, insurgents, Islamic extremists and family members. “Honour killings” have reportedly increased for behaviour considered to have brought shame on the family (e.g., loss of virginity (even if by rape), infidelity, divorce demands or marriage refusals). The Iraqi Penal Code, as applicable in Central and Southern Iraq, provides for lenient punishments if the killing was provoked or done with “honourable motives.” Women who fear “honour killings” will not be protected within their communities by their tribes in view of the increasing weakness of tribal structures and mediation systems as a result of the overall situation of violence in Central and Southern Iraq. Women increasingly must also conform to strict Islamic dress and morality codes, risking

harassment and death threats if they fail to do so. In general, single women and women-headed households are at increased risk of harm.

In the Region of Kurdistan, while “honour killings” are considered crimes under local law, they continue to occur in high numbers, often concealed as accidents, suicides or suicide attempts. Forced or early marriages are of concern and female genital mutilation (FGM) is prevalent in some areas.

➤ Sexual Orientation: Iraq’s lesbian, gay, bi-sexual and transgender (LGBT) community has historically been subject to attacks in Iraq. Since the fall of the previous regime, however, with the rise of strict Islamic values that are often enforced through extra-legal means, violence against the LGBT community has increased. Killings are often conducted in especially brutal manners, with burnings and mutilations reported. “Honour killings” of gay family members have also been reported. Those who commit acts of violence against homosexuals and others often do so with impunity, with the police reportedly themselves blackmailing, torturing or sexually abusing homosexuals in their custody.

➤ Persons Accused of Un-Islamic Behaviour: As with women and homosexuals, others who are perceived as not complying with strict Islamic values and traditions have been subjected to discrimination, threats, kidnappings, mutilations and killings. Those who have been victimized include women who fail to dress appropriately, drive cars or work outside the home; men who shave their beards, wear shorts or have long hair; students who sing, dance or mingle with the other sex; homosexuals and those believed to have HIV/AIDS; barbers, for shaving beards or giving Western-style haircuts; male doctors for treating female patients; owners of alcohol, CD and DVD shops; and owners of shops that sell musical instruments or what is considered “inappropriate” clothing.

3. Arab Refugees

While this paper addresses the international protection needs of Iraq asylum-seekers, note is also made of the particular needs of Arab refugees in Iraq who have since become displaced by the current violence. In particular, there are increasing reports of refugees of Sunni Arab origin, for example Palestinians, Syrians and Iranians (Ahwazis), being targeted due to their perceived affiliation with the former regime and the ongoing Sunni-led insurgency. Shi’ite-dominated ISF and militias have been identified as the main perpetrators of attacks against these refugees. In general, many refugees do not hold valid documentation, limiting their freedom of movement, access to services and putting them at risk of detention and possibly *refoulement*. As such, in adjudicating the refugee claims of individuals who were previously refugees in Iraq, it should be noted that the current situation in Iraq is such that “effective protection” in the country is generally unavailable.

C. Assessing the International Protection Needs of Iraqi Asylum-Seekers

1. Overall Approach

Iraqi Asylum-Seekers From Central and Southern Iraq

In view of the current situation in Central and Southern Iraq, the United Nations High Commissioner for Refugees (UNHCR) considers Iraqi asylum-seekers from these areas to be in need of international protection. In those countries where the numbers of Iraqis are such that individual refugee status determination is not feasible, UNHCR encourages the adoption of a *prima facie* approach.

In relation to countries which are signatory to the 1951 Convention relating to the Status of Refugees² (“1951 Convention”) and/or its 1967 Protocol, and have in place procedures requiring refugee status determination under the Convention on an individual basis, Iraqi asylum-seekers from Central and Southern Iraq should be considered as refugees based on the 1951 Convention criteria. Where, however, such asylum-seekers are not recognized under the 1951 Convention refugee criteria, international protection should be afforded through the application of an extended refugee definition,³ or otherwise through a complementary form of protection.

UNHCR considers that an internal flight or relocation alternative (IFA/IRA) in Central and Southern Iraq is on the whole not available, because of the overall ability of agents of persecution to perpetrate acts of violence with impunity, the widespread violence and human rights violations, risks associated with travel, and the hardship faced in ensuring even basic survival in areas of relocation. When, however, the availability of an IFA/IRA must be assessed as a requirement in a national eligibility procedure, it should be examined carefully and on a case-by-case basis, bearing in mind the strong cautions in these Guidelines and, in general, UNHCR’s 2003 Guidelines on International Protection on Internal Flight Relocation/Alternative.⁴

Iraqi Asylum-Seekers From Northern Governorates

International protection needs of asylum-seekers from the three Northern Governorates of Sulaymaniyah, Erbil and Dahuk should be individually assessed based on the 1951 Convention refugee definition. In cases where an asylum-seeker is not recognized as a refugee under the 1951 Convention but nevertheless demonstrates protection needs for which complementary forms of protection may be appropriate, the case should be assessed accordingly. Taking into consideration the tenuous and unpredictable nature of the situation in the region and the possibility of sudden and dramatic change, the approach outlined in these Guidelines for asylum-seekers from Central and Southern Iraq may likewise, at some point, have to be followed.

² Convention relating to the Status of Refugees, adopted on 28 July 1951, entered into force on 22 April 1954, available in UNHCR’s Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3be01b964>.

³ See for more on the extended refugee definition: “Overall Approach”, and in particular footnote 719.

⁴ UNHCR, *Guidelines on International Protection No. 4: “Internal Flight or Relocation Alternative” Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, HCR/GIP/03/04, 23 July 2003, available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3f2791a44>.

In regard to availability of an internal flight alternative in the Central and Southern regions, no such alternative is available for Iraqi asylum-seekers originating from the Northern Governorates due to the widespread violence, insecurity and human rights violations in those areas. Whether an internal flight alternative is available within the Northern Governorates must be examined carefully on a case-by-case basis. The evaluation should take into account factors such as the background, profile and circumstances of the individual concerned; the existence of legal and physical barriers to accessing the area of relocation, which are known to be prevalent; possibilities of new risks of harm in the area of relocation; and whether undue hardship is likely to be faced by living in the area of relocation. Furthermore, as explained in these Guidelines, certain categories of individuals with given profiles are clearly not able to find an internal flight or relocation alternative in the three Northern Governorates.

Additional Considerations

In cases where Iraqi asylum-seekers find themselves in countries where there is no national legislative or administrative framework for refugee status determination, concerned Governments should permit Iraqis from Central and Southern Iraq to enter and/or remain in those countries, even only on a temporary basis, according to any appropriate framework which may facilitate this and allow access to basic protection measures. In relation to persons from the three Northern Governorates, international protection needs may be assessed individually, bearing in mind the caution highlighted already concerning the situation there, which thus may justify the same approach as for asylum-seekers from Central and Southern Iraq, should the situation deteriorate. Persons assessed to be in need of international protection should be permitted lawful stay or residence.

2. Refugee Status Under the 1951 Convention relating to the Status of Refugees

Where refugee status determination is not granted on a *prima facie* basis, and/or claims for refugee status are required to be lodged and decided upon on an individual basis under the 1951 Convention, regard should be paid to the following considerations summarized below.

Well-Founded Fear

The refugee definition of the 1951 Convention relating to the Status of Refugees contains both a subjective and an objective element. The former refers to an individual's fear of harm while the latter refers to the well-foundedness of that fear. An applicant's fear is well-founded if there is a reasonable likelihood that the harm feared, or some other form thereof, will materialize.

Whether or not an applicant's fear is well-founded needs to be assessed in the context of the situation in the country of origin, taking into account the personal profile, experiences and activities of the applicant, and, where relevant, of others. Given the pervasive and extreme forms of violence and human rights violations in Central and Southern Iraq, the fear of harm claimed by Iraqi asylum-seekers from these parts of the country should normally be

considered to be well-founded. To the extent that the harm feared is from non-State actors, State protection is on the whole not available in Central and Southern Iraq. Moreover, state agents are themselves accused of carrying out violence and other forms of human rights transgressions. Consequently, an asylum-seeker should not be expected to seek the protection of the authorities, and failure to do so should not be the sole reason for doubting credibility or rejecting the claim.

Persecution

There is no definition of the term “persecution” in international law. Whether or not any measure amounts to persecution must be determined in light of all the circumstances of the case taking into account the personal profile, experiences and activities of the applicant which would put him or her at risk. A threat to life or freedom, other serious harm or serious violations of human rights would constitute persecution. Severe discrimination could also amount to persecution, in particular where livelihood is threatened. Measures which are not of a serious character by themselves may amount to persecution on a cumulative basis.

Acts of extreme violence and serious human rights violations, as in large parts of Iraq today, would rise to the level of persecution. There is no requirement under refugee criteria that an individual has to be “targeted” for persecution in order to qualify for refugee status. Violence perceived as generalized in nature, including against civilians, can often be linked to one or more of the 1951 Convention grounds. Car bombs, killings, torture, kidnappings, and other types of physical harm would amount to persecution. An asylum-seeker’s failure to identify the perpetrator of violence should not be considered as detrimental to his/her credibility.

Other forms of persecution are also present in relation to particular groups. They include restrictions on the ability to practice one’s religion (as a result of legal restrictions and/or threats of violence), severe discriminatory treatment, harassment and intimidation rising to the level of persecution, and domestic violence, including “honour killings.”

Link to a Convention Ground

In order to fall within the refugee criteria, there must be a nexus between the relevant act or measure and at least one of the Convention grounds. In the context of Iraq, the most relevant Convention grounds are political opinion and religion. The main religious divide is between the Sunnis and the Shi’ites. At the same time, given that the insurgency is Sunni-driven and the Government is predominantly Shi’ite, there are also clear political overtones. The ground “membership of a particular group” is also clearly applicable in some cases. Grounds for persecution are often overlapping. Even in instances of common criminal activity, victims are often targeted, at least in part, because of their religious or ethnic backgrounds or membership in a particular social group.

Internal Flight or Relocation Alternatives (IFA/IRA)

UNHCR considers that an internal flight or relocation alternative within Central or Southern Iraq for those fleeing violence and human rights violations is on the whole not available. The security situation throughout the region is highly volatile, with a risk of persecution or other serious harm present throughout. Travel within Central and Southern Iraq is also generally unsafe. Physical and legal barriers impede both travel to and residence in other areas. Finally, restrictions in access to food, shelter, basic services, income/employment and education are such that a relatively normal life generally cannot be pursued without undue hardship. When, however, the availability of an internal flight or relocation alternative must be assessed in a national procedure, it should be examined cautiously, taking into account the particular circumstances of the applicant.

The availability of an IFA/IRA for individuals from Central and Southern Iraq in the three Northern Governorates must be carefully assessed on a case-by-case basis, taking into consideration, in particular, the relevance and reasonable analyses in these Guidelines. The Governorates are not easily accessible from Central and Southern Iraq, with travel by road highly dangerous, and many parts of the unofficial borders heavily mined and subject to security checks. Travel by air, while relatively safer, is not without risks. Entry and residency measures require certain preconditions to be met, including having a sponsor and satisfying security checks. Political and demographic reasons may affect whether a person is admitted and granted legal residence. Even for those admitted, State or family/tribal protection from persecution may not be guaranteed due to their background. Others may have problems in accessing food, education, health and employment. A non-exhaustive listing of categories of persons who may not be able to find protection upon relocation to the three Northern Governorates is provided in these Guidelines.⁵

With regard to an IFA/IRA within the three Northern Governorates, it should be noted that, despite the unification of the KDP-administration in Erbil/Dahuk and the PUK-administration in Sulaymaniyah in January 2006, the two administrations still remain largely split. Thus, access to legal residence for those who relocate from one administered area to the other is highly unpredictable, and may be restricted, or, if obtained, could be withdrawn for political reasons. Basic services may also be difficult to access and protection from persecution may not be available. Each claim must thus be assessed on its individual merits.

Exclusion

In light of Iraq's history of serious human rights violations and transgressions of international humanitarian law in the country's long experience with conflicts, exclusion considerations may well arise in individual claims for refugee status. This may be particularly the case for Iraqis with certain backgrounds and profiles, including those affiliated with the previous Ba'athist regime, its armed forces, the police, the security and intelligence apparatus and the judiciary; members of armed groups that opposed the former regime; members of the current ISF; members of militias or insurgency groups; and those

⁵ See "Persons Who May Not Be Able to Find Protection".

affiliated with criminal groups. Individual responsibility for possible crimes against peace, war crimes, crimes against humanity, serious non-political crimes, or acts contrary to the purposes and principles of the United Nations, all under Article 1F of the 1951 Convention, would need to be assessed. In the context of Iraq, a presumption of individual responsibility for excludable crimes may arise as a result of a person's continued and voluntary functioning in very senior positions of the former regime, the Ba'ath Party or the security or military apparatus of the former regime as these institutions were clearly engaged in activities falling within the scope of Article 1F.

I. INTRODUCTION

“In the most significant displacement in the Middle East since the dramatic events of 1948, one in eight Iraqis have been driven from their homes. Some 1.9 million Iraqis are currently displaced inside the country and up to 2 million others have fled abroad.”

UN High Commissioner for Refugees, António Guterres,
opening speech at the International Conference on Addressing
the Humanitarian Needs of Refugees and Internally Displaced
Persons inside Iraq and in Neighbouring Countries,
17 April 2007

The fall of the regime of Saddam Hussein in April 2003, one of the most brutal and repressive governments in the world, was a water-shed event in the history of Iraq. For millions of Iraqis, it brought to a close an era marked by violence and fear. There was hope of new government institutions that would operate according to the rule of law and respect fundamental human rights. For hundreds of thousands refugees who fled Iraq during the preceding three decades, the fall of the regime of Saddam Hussein raised the possibility of returning home. Indeed, more than 300,000 Iraqis returned home between 2003 and 2005, either spontaneously or through the facilitation of UNHCR.

Four years have passed since then. Unfortunately, population movements have reversed. With the deteriorating security situation, increasing sectarianism and the lack of reconstruction and economic recovery, returns of refugees to Iraq have come to a standstill. The fatal bombing of the holy shrine in Samarra in February 2006 was a critical turning point in this regard. As the number of those returning to Iraq declined, those departing increased, unnoticed at first, but soon evolving into what has now been described as an exodus from the country. Iraqis from all walks of life, including Sunnis, Shi’ites, Kurds, Christians and members of other religious and ethnic minorities, the educated elite, former Ba’athists and persons suspected of being aligned with the current Government or the MNF, are now fleeing their homes for safety. It is estimated that between 1,000 and 1,500 Iraqis flee the country every day. There are some 1.9 million Iraqis displaced internally in Iraq, and up to two million in neighbouring countries, particularly Syria and Jordan. Increasingly, Iraqis are also seeking refuge outside the region.

These Guidelines⁶ are intended to facilitate the assessment of the international protection needs of Iraqi asylum-seekers. They complement UNHCR’s *Return Advisory and Position on International Protection Needs of Iraqis Outside Iraq*⁷ issued in December 2006, and

⁶ Information in this paper is updated as of mid-February 2007, except where otherwise stated. For more recent reporting, see: UN Assistance Mission in Iraq, Human Rights Office (UNAMI HRO), *Human Rights Report 1 January – 31 March 2007*, available at <http://www.uniraq.org/aboutus/HR.asp>. Links to Internet sites in the footnotes were accessed in February 2007, unless otherwise indicated, except for links to UNHCR’s Refworld website (www.refworld.org) which were accessed in July 2007.

⁷ UNHCR, *UNHCR Return Advisory and Position on International Protection Needs of Iraqis Outside Iraq*, 18 December 2006 (Corr., April 2007), available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=46371aa72> (further: “UNHCR, 2006 Return Advisory”).

expand on the legal and policy guidance provided therein, while providing a comprehensive review and analysis of available country-of-origin information. The Guidelines are intended to assist, among others, those responsible for the adjudication of individual claims for refugee status and those involved in the establishment of government policy in relation to this caseload. These Guidelines supersede UNHCR's *Guidelines Relating to the Eligibility of Iraqi Asylum-seekers* issued in October 2005.⁸

These Guidelines are divided into six sections including this Introduction (Section I). Section II provides background information regarding Iraq, including an overview of the current security, political and human rights situation, and information on the country's constitutional and legislative framework.

Sections III and IV provide detailed country-of-origin information relevant to the assessment of the international protection needs of Iraqi asylum-seekers. Section III provides an overview of the main groups currently perpetrating violence in Iraq, while Section IV sets out the main groups which are particularly at risk. The Guidelines elaborate on the groups' background, their treatment under the regime of Saddam Hussein (if relevant), events affecting them at present, and the reasons why they are considered to be particularly at risk today. Given that the security situation is different in Central and Southern Iraq and the three Northern Governorates of Sulaymaniyah, Erbil and Dahuk, information on the situation of these groups in each of these two regions of Iraq is provided as necessary.

Section V of the Guidelines sets out UNHCR's recommendations on the approaches to be taken to ensure the protection of Iraqis who are in need of international protection and provides the legal framework for analysing claims under Article 1A(2) of the 1951 Convention relating to the Status of Refugees. The various elements of the refugee criteria are evaluated in the context of the current situation in Iraq. Guidance on assessing the availability of an internal flight alternative as well as the applicability of the exclusion clauses is also provided.

Section VI deals with the international protection needs of Arab refugees in Iraq (i.e. Palestinians, Syrians and Iranians) who have fled the country due to the current conflict. Finally, the Guidelines contain a number of annexes chronicling specific attacks on particular groups-at-risk. Several annexes, including maps of Iraq, are also provided.

⁸ UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum-Seekers*, October 2005, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=4354e3594> (further: "UNHCR, 2005 Eligibility Guidelines").

II. BACKGROUND INFORMATION

A. *Security, Political and Human Rights Situation*

Since the invasion of Iraq in March 2003 by the US-led Coalition Forces and the fall of the Saddam Hussein regime shortly thereafter, Iraq has been plagued by extreme violence perpetrated for sectarian or political reasons, as well as a general collapse of the law and order system. A number of positive political developments have taken place, including the approval of a Constitution⁹ in October 2005, the holding of Council of Representatives elections in December 2005, and the formation of a national unity government in May 2006. On the other hand, there have been limited tangible improvements in the political or security situation. Despite the priority apparently given by the Iraqi authorities to re-establishing security and furthering national reconciliation, the situation has deteriorated over the past year, particularly in areas where mixed religious or ethnic groups reside. Daily suicide attacks, bombings, kidnappings and assassinations have become widespread and common in most of Central and Southern Iraq. Sectarian violence has fully erupted since the bombing of a holy Shi'ite shrine in Samarra in February 2006. The civilian death toll is high and millions of Iraqis have been displaced within and outside of Iraq.¹⁰

Daily life in Iraq, largely with the exception of the three Northern Governorates of Sulaymaniyah, Erbil and Dahuk, has been ruled by an extremely precarious security and human rights situation. Iraq's ethnic and religious mosaic is threatened by sectarian violence, in particular the escalation of violence between its Shi'ite and Sunni populations. Tensions and violence are also rising among the Arab, Turkmen and Kurdish communities as well as with other minorities. Even within the Shi'ite majority, tensions often flare among its political representatives and its armed militias.¹¹ Other religious and ethnic groups thus find themselves in an increasingly hostile environment.

⁹ See "Constitutional and Legislative Situation".

¹⁰ According to UNAMI HRO, a total of 34,452 civilians have been violently killed and 36,685 wounded in 2006 only; see: UNAMI HRO, *Human Rights Report, 1 November – 31 December 2006*, p. 2 and 4, http://www.uniraq.org/FileLib/misc/HR_Report_Nov_Dec_2006_EN.pdf (further: "UNAMI HRO, *December 2006 Human Rights Report*"). The Iraqi Government's estimate is considerably lower, at 12,357 persons killed in 2006; see: Ewen MacAskill, *UN clashes with Iraq on civilian death toll*, *The Guardian*, 17 January 2007, <http://www.guardian.co.uk/Iraq/Story/0,,1992010,00.html>. See also the website of "Iraq Body Count", which is run by academics and peace activists and bases its figures on reports from at least two public media sources. It estimates that between 56,256 and 61,974 civilians have been killed since the beginning of the conflict (by 14 February 2007); see: Iraq Body Count, *The Iraq Body Count Database*, available at <http://www.iraqbodycount.net/database>. Finally, a US research team, led by Gilbert Burnham of Johns Hopkins Bloomberg School of Public Health, estimates that 655,000 Iraqis, or around one in 40 of the Iraqi population, have died as a result of the 2003 invasion of their country; see: Gilbert Burnham, Riyadh Lafta, Shannon Doocy, Les Roberts, *Mortality after the 2003 invasion of Iraq: a cross-sectional cluster sample survey*, *The Lancet*, 11 October 2006, <http://www.thelancet.com/webfiles/images/journals/lancet/s0140673606694919.pdf>.

¹¹ Members of the Shi'ite coalition at times threaten to leave the alliance or suspend their participation in the Council of Representatives or the Cabinet. For example, the political movement of Shi'ite cleric Muqtada Al-Sadr boycotted the Council of Representatives for a period of two months in late 2006/early 2007; see: BBC News, *Sadr group ends political boycott*, 21 January 2007, http://news.bbc.co.uk/2/hi/middle_east/6283975.stm. In addition, Shi'ite militias, in particular the Badr Organization and Mehdi Army,

The general chaos following the invasion of the country and toppling of the former Government has provided fertile ground for many organized armed groups to fight the presence of international troops and the ongoing political process as well as target any perceived collaborators through the use of violence, often with total impunity. Other groups such as Al-Qa'eda in Iraq make use of the breakdown of law and order to pursue their goals through violent means, with mainly innocent civilians once again paying the price. Pervasive criminality adds to the insecurity.¹²

Armed conflict between the ISF and the MNF¹³ on the one hand, and insurgency groups – in particular in Al-Anbar Governorate and in Tel Afar (Ninewa Governorate) – on the other, has resulted in civilian deaths, destruction of property and displacement.¹⁴ Reports further point consistently to the systematic use of torture during interrogations at police stations and in unofficial detention centres of the Ministry of Interior and the Kurdish security and intelligence apparatus. Iraq is party to some key international human rights instruments, and the Iraqi Constitution provides guarantees in respect of a number of basic human rights.¹⁵ The situation, however, is such that both institutional and legislative

have clashed violently on several occasions. See also: UNHCR, *2005 Eligibility Guidelines*, p. 62-64 and 89, see above footnote 8.

¹² For more information on the various actors to the conflicts in Iraq, see “Main Groups Perpetrating Violence”.

¹³ See the website of the MNF at <http://www.mnf-iraq.com/>.

¹⁴ The hostilities between the MNF/ISF and the armed insurgency following the hand-over of sovereignty on 28 June 2004 to the Iraqi Interim Government have been qualified by the ICRC as a non-international armed conflict. See: ICRC, *Iraq post 28 June 2004: Protecting persons deprived of freedom remains a priority*, 5 August 2004, <http://www.icrc.org/Web/Eng/siteeng0.nsf/iwpList322/89060107D77D7299C1256EE7005200E8>. For a discussion of whether the conflict (or “conflicts”, given that the insurgency is not monolithic) could be considered as an “internationalized internal armed conflict”, see: Knut Dörmann and Laurent Colassis, *International Humanitarian Law in the Iraq Conflict*, German Yearbook of International Law, No. 47, 2004, p. 293-342, re-published at [http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/Iraq-legal-article-31122004/\\$File/IHL_in_Iraq_conflict.pdf](http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/Iraq-legal-article-31122004/$File/IHL_in_Iraq_conflict.pdf). On the issue of “internationalized internal armed conflict”, see: James G. Stewart, *Towards a single definition of armed conflict in international humanitarian law: A critique of internationalized armed conflict*, International Review of the Red Cross, No. 850, p. 313-350, June 2003, [http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/5PYAXX/\\$File/irrc_850_Stewart.pdf](http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/5PYAXX/$File/irrc_850_Stewart.pdf).

¹⁵ The instruments and their date of ratification are as follows:

- *International Covenant on Civil and Political Rights* (ICCPR, 25 January 1971), available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b3aa0>
- *International Covenant on Economic, Social and Cultural Rights* (ICESCR, 25 January 1971), available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3b00f47924>
- *International Convention for the Elimination of All Forms of Racial Discrimination* (CERD, 14 January 1970), available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=4269048a4>
- *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW, 13 August 1986), available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b3970>
- *Convention on the Rights of the Child* (CRC, 15 June 1994), available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b38f0>.

Iraq is not a party to the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT), and has neither signed nor ratified the 1951 *Convention relating to the Status of Refugees* or its 1967 *Protocol*.

structures in the country are not adequate to ensure or enforce implementation of human rights standards.

The dismantling of the former Iraqi army and security forces, the slow training of Iraq's new security forces and the high level of corruption and lack of equipment, resulted in a security "gap" that the current authorities have been unable to fill. Members of the ISF are themselves the target of insurgency attacks. The Ministry of Interior forces are reported to have been infiltrated by members of various armed groups, and their loyalty to the central Government has been questionable. In addition, the country suffers from high unemployment¹⁶ and corruption,¹⁷ chronic fuel, electricity and water shortages,¹⁸ and serious shortcomings in health¹⁹ and educational services,²⁰ creating the potential for major social unrest.

The situation in Iraq has led to massive displacement of Iraqis inside and outside the country. By May 2007, estimates by the UN's Cluster F²¹ suggested that over two million persons²² had been displaced inside Iraq, and up to two million others fled to nearby

¹⁶ The Brookings Institution estimates that unemployment ranges between 25 and 40 percent, but underemployment may be a much more significant factor; see: The Brookings Institution, *Iraq Index. Tracking Variables of Reconstruction & Security in Post-Saddam Iraq*, 26 February 2007, <http://www3.brookings.edu/fp/saban/iraq/index20070226.pdf>. UNAMI HRO has put the unemployment rate at 50 percent with up to 70 percent in Al-Anbar Governorate.

¹⁷ Transparency International (TI) said, in its annual *Corruption Perceptions Index 2006* covering 163 countries, that Iraq is among the world's most corrupt countries; see TI, *Corruption Perceptions Index 2006*, 6 November 2006, http://www.transparency.org/policy_research/surveys_indices/cpi/2006.

¹⁸ Fuel and electricity supplies continue to be below pre-2003 levels; see: The Brookings Institution, *Iraq Index*, see above footnote 16.

¹⁹ According to the Iraqi Medical Association (IMA), Iraq's healthcare system is continuing to deteriorate as not enough qualified staff or equipment is available. IMA says 90 percent of the nearly 180 hospitals countrywide are lacking resources; see: Integrated Regional Information Networks (IRIN), *Iraq: Country's healthcare system rapidly deteriorating*, 7 November 2006, <http://www.irinnews.org/report.aspx?reportid=61923>.

²⁰ Statistics from the Ministry of Education indicate that only 30 percent of Iraq's 3.5 million students are attending classes. This compares to approximately 75 percent of students attending classes in 2005, according to UK-based NGO Save the Children. See: IRIN, *Iraq: School attendance rates drop drastically*, 18 October 2006, <http://www.irinnews.org/report.aspx?reportid=61896>.

²¹ Within the framework of the UN's coordinated support, and pursuant to its mandate of direct protection and assistance, Cluster F will support "the Iraqi authorities in providing adequate assistance and effective protection to uprooted populations in Iraq, preventing new displacement, and creating conditions conducive to achieving durable solutions." The Cluster partners are UNHCR (Coordinator), IOM (Deputy Coordinator), UNAMI, UNOPS, UN-Habitat, WHO, UNICEF, WFP, ILO, UNIDO, UNEP, UNDP, OHCHR and FAO, all with wide-ranging experience in providing assistance, protection and durable solutions in conflict and transition situations. Since 2003, Cluster F has coordinated closely on protection and capacity building initiatives with national counterparts, including Iraq's Ministries of Displacement and Migration, Interior, Labour and Social Affairs, Justice, Human Rights, Health, Housing and Municipality along with other relevant line ministries, the Permanent Committee on Refugee Affairs, the Inter-Ministerial Committee on Displacement and Migration, the Commission for the Resolution of Real Property Disputes (CRRPD) and regional and local authorities. In addition, Cluster F advocates before other Clusters and the World Bank, and collaborates with humanitarian actors including both local and international NGOs.

²² Cluster F, *Internally Displaced Persons in Iraq*, Update 23 May 2007, http://www.unhcr.org/iq/clusterFreports/Cluster_F_Update_on_IDPs_May_23.pdf. Cluster F continues to issue regular updates on the situation of IDPs in Iraq, including on issues such as restriction of admission and access to basic services, which are made available at <http://www.unhcr.org/iq/>.

countries. While a good part of the displacement took place before 2003, increasing numbers of Iraqis are now fleeing escalating sectarian and political violence. In 2006 alone, Nearly 640,000 Iraqis are estimated to have fled within Governorates or to other areas inside the country, and between 40,000 and 50,000 continue to flee their homes every month. UNHCR's planning figures under its latest appeal are for up to 2.3 million internally displaced people within Iraq by the end of 2007.²³

The violence inflicted upon ordinary Iraqis often has sectarian underpinnings, since militant elements of religious and ethnic groups target individuals (e.g., religious figures, politicians, tribal leaders) as well as the civilian population of other groups at large. Violence is perpetrated by both state and non-state actors. Both the MNF and the ISF have been accused of inflicting torture and inhuman and degrading treatment upon individuals whom they have arrested and detained. Shi'ite-dominated militias and parts of the ISF, particularly the Ministry of Interior, also are accused of committing serious violations of human rights, including kidnappings and unlawful arrests, torture and extra-judicial killings, against individuals perceived to be supporters of Sunni-dominated insurgency groups.²⁴ The insurgency groups have also been involved in the kidnapping, torture and extra-judicial killings of civilians.²⁵

The lack of an effectively functioning law enforcement system²⁶ and the weak judiciary²⁷ generally prevent victims from receiving effective protection from, or remedy for, human rights abuses.²⁸ While the security situation in the three Northern Governorates is relatively calm and stable compared to Central and Southern Iraq, it nevertheless remains tense and unpredictable. There is the dispute over the status of *arabized* areas, mainly Kirkuk,²⁹ possible spill-over of violence from other parts of the country, the presence of both home-grown Islamist militant groups and the Kurdistan Workers' Party (PKK), and the population's growing dissatisfaction with alleged corruption and human rights abuses.³⁰

²³ UNHCR, *UNHCR launches new appeal for Iraq operations*, Press Release, 8 January 2007, available at <http://www.unhcr.org/news/NEWS/45a243a54.html>.

²⁴ See "Iraqi Security Forces and Shi'ite militias" and "Sunni Arabs".

²⁵ See "Insurgent Groups".

²⁶ UNAMI HRO stated that "(L)aw enforcement agencies are insufficient, inadequately equipped and in need of further training"; see UNAMI HRO, *Human Rights Report, 1 July – 31 August 2006*, p. 1, http://www.uniraq.org/documents/HR_Report_July_August_2006_EN.pdf (further: "UNAMI HRO, *August 2006 Human Rights Report*").

²⁷ UNAMI HRO reported that the Iraqi judiciary's capacity is limited, "*particularly in cases involving organized crime, corruption, terrorism and militia-sponsored armed activities [...] due to the high level of intimidation and threats, limited protection mechanisms for both witnesses and judiciary, as well as limited number of investigative judges*"; see UNAMI HRO, *Human Rights Report, 1 May – 30 June 2006*, p. 5, http://www.uniraq.org/documents/HR_Report_May_Jun_2006_EN.pdf (further: "UNAMI HRO, *June 2006 Human Rights Report*").

²⁸ US Department of State (USDOS), Bureau of Democracy, Human Rights and Labor, *International Religious Freedom Report 2006 – Iraq*, 15 September 2006, <http://www.state.gov/g/drl/rls/irf/2006/71422.htm>.

²⁹ See also "Kurds, Arabs, Turkmen"^{428F}, Ethnic-Based Christian Groups (Assyrians, Chaldeans, Armenians)^{429F}, Yazidis^{430F} and Shabak^{431F} in Ethnically Mixed Areas".

³⁰ See also "IFA/IRA in the Three Northern Governorates of Sulaymaniyah, Erbil and Dahuk".

B. *Constitutional and Legislative Situation*

With the approval of the Iraqi Constitution³¹ in a popular referendum on 15 October 2005, its publication in the Official Gazette and the seating of the new Government on 20 May 2006, the Constitution entered into force.³² It was drafted in 2005 by members of the Iraqi Constitutional Committee to replace the *Law of Administration for the State of Iraq for the Transitional Period* (TAL).³³

The drafting and adoption of the new Constitution was not without controversy, as sectarian tensions figured heavily in the process. Under a last-minute compromise brokered just days before the referendum in order to prevent another Sunni Arab election boycott, it was agreed that the first parliament elected pursuant to the new Constitution would institute a *Constitutional Review Committee* (CRC) with a view to determine whether the Constitution should be amended (Article 142).³⁴ Any amendments would have to be ratified by popular referendum. The referendum will be successful if approved by the majority of the voters, and if not rejected by two-thirds of the voters in three or more governorates. The 27-member CRC was formed by the Council of Representatives on 25 September 2006 and is slated to complete its work within one year.³⁵ The CRC, chaired by Iyad Al-Samarra'i of the Iraqi Islamic Party (IIP), established four subcommittees on political issues, the completion of the constitution, drafting text and public outreach.³⁶ To date, the CRC has not drafted any proposed amendments.³⁷

Constitutional review is widely considered essential to national reconciliation.³⁸ Major issues at stake include federalism,³⁹ *de-Ba'athification*⁴⁰ and the allocation of oil

³¹ See the unofficial English translation of the *Constitution of the Republic of Iraq* by UNAMI, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=454f50804>.

³² See Article 144 of the Constitution, *ibidem*.

³³ *Law of Administration for the State of Iraq for the Transitional Period*, available in UNHCR's Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=45263d612>.

³⁴ On the Constitution drafting process and the reported flaws of its outcome, see, for example, Jonathan Morrow, *Weak Viability – The Iraqi Federal State and the Constitutional Amendment Process*, United States Institute of Peace (USIP), Special Report, July 2006, <http://www.usip.org/pubs/specialreports/sr168.pdf>. See also: *ibidem*, *Iraq's Constitutional Process II – An Opportunity Lost*, USIP, Special Report, November 2005, <http://www.usip.org/pubs/specialreports/sr155.pdf>. See also: International Crisis Group (ICG), *Unmaking Iraq: A Constitutional Process Gone Awry*, Middle East Briefing No. 19, 26 September 2005, http://www.crisisgroup.org/library/documents/middle_east_north_africa/iraq_iran_gulf/b19_unmaking_iraq_a_constitutional_process_gone_away.pdf.

³⁵ James A. Baker, III and Lee H. Hamilton (Co-Chairs) *et al.*, *The Iraq Study Group Report*, December 2006, p. 19, http://www.usip.org/issg/iraq_study_group_report/report/1206/iraq_study_group_report.pdf (further: “*Iraq Study Group Report*”).

³⁶ UNAMI, *UNAMI Focus - Voice of the Mission*, First Issue, Mid February 2007, p. 2-3, [http://www.reliefweb.int/rw/RWFiles2007.nsf/FilesByRWDocUnidFilename/643453B526CAC7108525728F006E90BB-Full_Report.pdf/\\$File/Full_Report.pdf](http://www.reliefweb.int/rw/RWFiles2007.nsf/FilesByRWDocUnidFilename/643453B526CAC7108525728F006E90BB-Full_Report.pdf/$File/Full_Report.pdf).

³⁷ Kenneth Katzmann, *Iraq: Elections, Constitution, and Government*, CRS Report for Congress, 26 January 2007, p. 5, <http://italy.usembassy.gov/pdf/other/RS21968.pdf>.

³⁸ Prime Minister Al-Maliki, soon after entering office, announced a national reconciliation programme, which, *inter alia*, included constitutional review; see *Iraq Study Group Report*, p. 43, see above footnote 35.

³⁹ Federalism is a core issue dividing Iraq's major political groups. While the Kurdish and major Shi'a parties such as SCIRI favour a decentralized structure, Sunni Arabs vow for a strong central government, fearing federalism will lead to the break-up of the country and leave them with no access to the country's oil.

revenues.⁴¹ An understanding of various aspects of the Constitutional as well as legislative framework in relation to a number of key issues, facilitates assessment of the international protection needs of Iraqis with certain types of claims.

1. Freedom of Religion

There are constitutional ambiguities pertaining to the separation of religion and state institutions as well as the protection of freedom of religion. In general, while the

Article 118 of the Constitution empowers the Council of Representatives to pass a law which provides for the mechanism for forming autonomous federal regions that would hold considerable self-rule powers. An enabling law was passed by a slim majority on 11 October 2006 after an agreement was reached to form the CRC and to defer implementation of the law for 18 months, a concession to Sunni concerns. Legislators from the Sunni-dominated Iraqi Accord Front as well as the Shi'a Sadrist Movement and the Islamic Virtue Party opposed the bill and boycotted the voting. See: Reuters Alertnet, *Iraqi parliament approves federal law*, 11 October 2006, <http://www.alertnet.org/thenews/newsdesk/IBO145418.htm>. See also: Amit R. Paley, *Parliament Approves Measure Allowing Autonomous Regions*, The Washington Post, 12 October 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/10/11/AR2006101100809.html>. Under the law, a region can be created out of one or more existing governorates or two or more existing regions. A governorate can also join an existing region to create a new region. There is no limit to the number of governorates that can form a region, unlike the TAL which limited it to three. A new region can be proposed by one third or more of the Governorate Council members in each affected governorate plus 500 voters or by one tenth or more of the voters in each affected governorate. A referendum must then be held within three months, which requires a simple majority in favour to pass. See, for example, The Associated Press (AP), *Sunni accuse Shi'ites of dirty tricks in passing controversial federalism law*, 12 October 2006, http://www.ihf.com/articles/ap/2006/10/12/africa/ME_GEN_Iraq_Federalism.php. See also: Steve Negus, *Iraq approves controversial federalism law*, Financial Times, 11 October 2006, <http://www.ft.com/cms/s/dfc59c52-594c-11db-9eb1-0000779e2340.html>; Kathleen Ridolfo, *Iraq: Divisive Federalism Debate Continues*, Radio Free Europe/Radio Liberty (RFE/RL), 14 September 2006, <http://www.rferl.org/featuresarticle/2006/09/ef6b9842-9cab-4d93-a3f8-bed27c398756.html>.

⁴⁰ See "Members and Associates of the Ba'ath Party and the Former Regime".

⁴¹ Article 111 of the Constitution provides that "(o)il and gas are owned by all the people of Iraq in all the regions and governorates" while Article 112 tasks the federal government with "the management of oil and gas extracted from current fields." This language has led to controversy over what constitutes a "new" or an "existing" resource, a question that has ramifications for the control of future oil revenue. The distribution of oil shall be regulated by law. Sectarianism was the major obstacle in reaching an agreement on a draft oil and gas law, which touches upon the division of powers between the central government and regional governments. While many Kurds and Shi'ites want to retain control of Iraq's oil resources, Sunni Arabs favour a strong role for the central Government. The law is widely considered a crucial means to foster national reconciliation as it provides the guidelines for the distribution of Iraq's oil wealth, the third-largest oil reserves in the world. The Iraq Study Group said that an equitable distribution of oil is necessary for national reconciliation and recommended that the central government retain full control of revenues and oil fields. On 27 February 2007, the cabinet approved a draft oil law which states that oil revenues will be spread evenly according to population around the country rather than staying in the region where the oil is found. However, this would require a politically sensitive census to be undertaken. The draft law also grants regional governments or oil companies the right to draw up contracts with foreign companies for the exploration and development of new oil fields. The draft has yet to be approved by the Council of Representatives before it can take effect later this year. See: BBC News, *Breakthrough in Iraq oil standoff*, 27 February 2007, http://news.bbc.co.uk/2/hi/middle_east/6399257.stm; Edward Wong, *Iraqi oil law stalled by dispute over division of powers*, International Herald Tribune, 14 December 2006, <http://www.ihf.com/articles/2006/12/14/news/iraq.php>. See also *Iraq Study Group Report*, p. 22-23 and 45, see above footnote 35. The draft *Oil and Gas Law* of 15 February 2007 can be found at: http://www.iraqrevenuewatch.org/documents/oil_law_english_20070306.pdf.

Constitution endeavours to provide baseline protection of freedom of religion, such protection is constrained by numerous state objectives.

Article 2 and Article 40 of the Iraqi Constitution guarantee religious rights and freedom of religious practices and worship for all individuals as well as administration of religious endowments. The protection of Shi'ite religious rites is specifically mentioned in Article 40. At the same time, Article 2 guarantees the Islamic identity of the “majority of the Iraqi people” and provides that Islam is the official religion of the State and a basic source of legislation. The provision provides specifically that no law may be enacted contrary to “*established provisions of Islam*”. The interpretation of the scope and legal meaning of the “*established provisions of Islam*” remains ambiguous, and, based on analysis of the Constitution’s provisions, it will likely be tasked to the Federal Supreme Court, the highest court of the land, which according to Article 93(2) has jurisdiction over “*(i)nterpreting the provisions of the Constitution*”.⁴² Until this is clarified, the scope of protection of non-Islamic religious practices, provided by Article 2 and Article 40 remains unclear. In particular, this pertains to the teaching of non-Islamic faiths to Muslims, blasphemy, conversion of Muslims to other beliefs and activities considered as contrary to the Islamic religion.

The prominence given to the Islamic faith and the Islamic identity of the state would also appear to be at odds with Article 14 which provides for equality before the law of all Iraqis without discrimination on basis of “sex, ethnicity, nationality, origin, color, religion, sect, belief, opinion or social or economic status”. It is therefore unclear the extent to which non-Muslims are protected under the Constitution against serious discrimination by the Muslim majority.

2. De-Arabization

Article 140 of the Constitution provides for the “normalization” of the situation in Kirkuk and other *arabized* areas by 31 December 2007.

The former Governments’ *Arabization* policies, which began in the 1930s and included the settlement of Arab tribes in certain areas, sought to change the demographic make-up of Kirkuk and other mixed areas. In particular, after the unsuccessful Kurdish Uprising in the aftermath of the 1991 Gulf War, *Arabization* policies were further intensified, with the forced assimilation and deportation of Kurds, Turkmen, Christians, Yazidis and Shabak from Kirkuk and other multi-ethnic areas. Most settled in the Kurdish-controlled three Northern Governorates.⁴³

⁴² The wording is not clear as to whether this provision applies only to legislation passed after the Constitution was adopted or to all Iraqi legislation; see: Nathan J. Brown, *The Final Draft of the Iraqi Constitution: Analysis and Commentary*, Carnegie Endowment for International Peace, 16 September 2005, p. 3, <http://www.carnegieendowment.org/files/FinalDraftSept16.pdf>. See also: United States Commission on International Religious Freedom (USCIRF), *USCIRF Analysis of Proposed Iraqi Constitution: Ambiguities in Text Threaten Human Rights Protections*, Press release, 6 October 2005, http://www.uscirf.gov/mediaroom/press/2005/october/10062005_iraq.html.

⁴³ According to Human Rights Watch (HRW), from the 1991 Gulf War until 2003, the former Iraqi Government systematically expelled an estimated 120,000 Kurds, Turkmen and Assyrians from Kirkuk and

Article 140 of the Constitution calls for a three-step process to normalize the situation in Kirkuk and other disputed areas by reversing the *Arabization* policy, including the return of the formerly displaced and restitution of their properties, the taking of a census and, finally, the holding of a referendum no later than 31 December 2007 to determine the status of these areas. To date, developments linked to the “normalization” of Kirkuk have been highly controversial and delayed by political disputes. After the fall of the former regime in 2003, thousands of Kurds returned to Kirkuk and other mixed areas, and reports appeared that Arab and Turkmen residents in some neighbourhoods of Kirkuk were pressured by Kurdish armed groups to leave their homes.⁴⁴

In particular, there has been considerable ethnic violence in the city of Kirkuk among various communities as it is claimed by Kurds, Turkmen and Arabs. The issues of demographics and numbers, and therefore political influence, are highly disputed. Each of the three groups has its own evidence proving that Kirkuk has historically been dominated by it.

A *Kirkuk Normalization Committee* was first established in January 2005. However, with no funds and staff, it never came to function. Accused of being pro-Kurdish by Turkmen and Arab representatives, Prime Minister Nouri Al-Maliki appointed Mr. Ali Mahdi, a Shi'ite Turkoman from Kirkuk, as the Committee's chair, on 4 July 2006, a move that was, however, rejected by the Kurdish coalition. On 9 August 2006, the Prime Minister announced that the Kirkuk Normalization Committee would be replaced by the “*Article 140 Implementation Committee*”, to be chaired by Mr. Hashim Abdulrahman Al-Shibli, the current Minister of Justice. The Committee was allocated US \$200 million to perform its task.⁴⁵ On 4 February 2007, the Committee ruled that Arabs who relocated to Kirkuk and other disputed areas as part of the Governments' *Arabization* policies would be returned to their original home towns in Central and Southern Iraq and given land and financial compensation. This decision implies that thousands of Arabs may lose their right to vote in the referendum on the status of the disputed areas if they are returned to their original towns

other towns and villages in this oil-rich region; see: HRW, *Claims in Conflict: Reversing Ethnic Cleansing in Northern Iraq*, August 2004, <http://hrw.org/reports/2004/iraq0804/iraq0804.pdf>. See also: *ibidem*, *Iraq: Forcible Expulsion of Ethnic Minorities*, March 2003, <http://www.hrw.org/reports/2003/iraq0303/>.

⁴⁴ According to Judith Yaphe, a senior fellow at the National Defense University, as many as 150,000 Arabs have left the city since the war as a result of violence and intimidation. See: Soner Cagaptay and Daniel Fink, *The Battle for Kirkuk: How to Prevent a New Front in Iraq*, Policy Watch No. 1183, The Washington Institute, 16 January 2007, <http://www.washingtoninstitute.org/templateC05.php?CID=2552>; HRW, *World Report 2003, Iraq and Iraqi Kurdistan*, <http://www.hrw.org/wr2k3/mideast4.html>; Daniel Williams, *11 Killed In Ethnic Violence In N. Iraq*, The Washington Post, 24 August 2003, <http://www.washingtonpost.com/ac2/wp-dyn/A37367-2003Aug23>. See also “Kurds, Arabs, Turkmen 428F, Ethnic-Based Christian Groups (Assyrians, Chaldeans, Armenians)429F, Yazidis430F and Shabak431F in Ethnically Mixed Areas”.

⁴⁵ UNAMI HRO, *December 2006 Human Rights Report*, p. 23, see above footnote 10; Sumedha Senanayake, *Iraq: Ethnic Tensions Increasing In Oil-Rich City*, RFE/RL, 2 November 2006, <http://www.rferl.org/featuresarticle/2006/11/304874c7-d3ff-471c-bfa3-087b0618c459.html>.

before then. This decision, which faces resistance from Arabs and Turkmen, has yet to be endorsed by the Iraqi cabinet.⁴⁶

The Iraq Study Group said that a referendum on Kirkuk by the end of 2007 “*would be explosive*” and recommended that it be delayed. It further called for international arbitration on the issue to prevent communal violence.⁴⁷ In addition, Turkey has called for the referendum to be postponed. The Kurdish parties consider such statements an affront to Iraq’s sovereignty, particularly since the Kirkuk referendum is enshrined in the Constitution.⁴⁸ They indicated that the Kirkuk issue should not be deferred and, that if it was not solved politically, then military options would come into play.⁴⁹ In October 2006, the Iraqi Turkmen Front (ITF) announced that it would not take part in the referendum on Kirkuk, indicating the potential turmoil that may arise in connection to the referendum.⁵⁰ Kurdish politicians have called new Arab IDPs arriving in Kirkuk from the South and Centre “*a new style of Arabisation*”, which, in their view, “*makes de-Arabisation extremely difficult, if not impossible.*”⁵¹

3. Personal Status

Before 1959, family laws were based on tradition or customary law and had not been codified. Since the adoption of the Personal Status Law (Law No. 188 of 1959)⁵², it, and subsequent amendments, govern the manner in which courts settle disputes in marriage, divorce, child custody, inheritance, endowments and other similar matters. It applies to both Sunnis and Shi’ites⁵³ and is considered one of the most progressive personal status laws in

⁴⁶ RFE/RL, Sumedha Senanayake, *Iraq: Committee Decision Increases Tensions In Kirkuk*, 8 February 2007, <http://www.rferl.org/featuresarticle/2007/02/3a63f415-eb59-4a80-b97e-64c245661555.html>;

Al Jazeera, *Kirkuk Arabs face relocation*, 6 February 2007, http://www.iraqupdates.com/p_articles.php?refid=DH-S-07-02-2007&article=14276; Asharq Al-Awsat, *Iraqi Supreme Committee Attempts to Normalize Kirkuk*, 5 February 2007, <http://www.aawsat.com/english/news.asp?section=1&id=7901>.

⁴⁷ *Iraq Study Group Report*, p. 45, see above footnote 35.

⁴⁸ Sumedha Senanayake, *Iraq: Kurds Warn Against Delaying Kirkuk Referendum*, RFE/RL, 14 December 2006, <http://rfe.rferl.org/featuresarticle/2006/12/38b72bcc-9ef3-4fd7-a7f3-05a650dcd190.html?rapage=2>.

⁴⁹ For example, Sadi Ahmed Pire, leader of the PUK, said, “*Kirkuk can be solved two ways: We can discuss it with the neighboring countries and Iraqi communities and solve the situation politically or we can solve it militarily. We hope to solve it peacefully, but this is an issue that cannot wait. It will be resolved.*” See: The Chicago Tribune, *Iraq’s Kurds press their claim on Kirkuk*, 10 November 2006, <http://kurdistanmedia.org/english/modules.php?name=News&file=article&sid=367>.

⁵⁰ The Kurdish Globe, *Turkoman Front to boycott Kirkuk Referendum*, 6 October 2006, <http://www.moera-krq.org/articles/detail.asp?smap=01030000&lngnr=12&anr=11548&rmr=140>.

⁵¹ KurdishMedia.com, *During last 8 months 800 Arab families settled in Kirkuk, official*, 30 January 2007, <http://www.kurdmedia.com/news.asp?id=13973>.

⁵² *Law No. (188) of 1959, Personal Status Law* (as amended), available in UNHCR’s Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=469cdf3011>. See also: Emory Law School, *Iraq, Republic Of*, <http://www.law.emory.edu/IFL/legal/iraq.htm>.

⁵³ Non-Muslims were allowed to keep their separate systems. Their family matters are adjudicated by the Personal Matters Court, which seeks advice from the relevant religious authorities. See also: UNHCR, *Country of Origin Information Iraq*, October 2005, p. 122, available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=435637914> (further: “UNHCR, 2005 *Country of Origin Information Iraq*”).

the Middle East in terms of women's rights.⁵⁴ Where, however, the Personal Status Law does not make explicit provision for a situation, Shari'a law is applicable. It may then be applied differently to members of the two communities as they follow different schools of jurisprudence.

On 29 December 2003, the former Iraqi Governing Council (IGC) issued Resolution 137 that would have cancelled the 1959 Personal Status Law and placed issues of family law under religious rather than civil jurisdiction. Former CPA administrator Paul Bremer did not endorse the decision after domestic and international human rights groups protested the resolution on the grounds that the imposition of Islamic law would erode Iraqi women's rights. The IGC finally repealed Decision 137 by a vote of 15 to 10.⁵⁵ The role of Islam and Shari'a law vis-à-vis the more secular 1959 Personal Status Law was a major issue in the drafting of the Constitution and continues to be highly contentious because enabling legislation is required for Article 41 of the Constitution (requiring that Iraqis be free in matters of personal status according to their religions, sects, beliefs or choices). It remains unclear whether the Personal Status Law will be modified or cancelled altogether, leaving different sects to apply their own sets of laws and interpretation as was done before 1959. Certainly, any such decision will strongly affect the lives of Iraqis as it regulates relationships within families.⁵⁶ Particular concerns are thereby expressed with regard to women, LGBT and minority rights.⁵⁷

4. Criminal Sanctions

The two main sources of criminal law are the *Law on Criminal Proceedings* (Law No. 23 of 1971)⁵⁸ – which details the procedures to be followed for the investigation of offences, the collection of evidence, trials and appeals – and the *Penal Code* (Law No. 111 of 1969),⁵⁹ which lists offences and applicable sentences. In addition, a number of laws and orders of the Revolutionary Command Council (RCC)⁶⁰ also exist. The Penal laws of the

⁵⁴ Isobel Coleman, *Women, Islam, and the New Iraq*, Foreign Affairs, January/February 2006, <http://www.foreignaffairs.org/20060101faessay85104-p10/isobel-coleman/women-islam-and-the-new-iraq.html>; Edward Wong, *Draft Iraqi charter backs Islamic law*, The New York Times, 20 July 2005, <http://www.ihf.com/articles/2005/07/19/news/charter.php>.

⁵⁵ Coleman, *ibid.*; The New Standard, Chris Shumway, Rise of Extremism, *Islamic Law Threaten Iraqi Women*, 30 March 2005, <http://newstandardnews.net/content/?items=1600>; IRIN, *Iraq: New family law on hold*, 4 February 2004, <http://www.irinnews.org/report.aspx?reportid=23381>.

⁵⁶ Coleman, *Women, Islam, and the New Iraq*, see above footnote 54; Nathan J. Brown, *Debating Islam in Post-Baathist Iraq*, Carnegie Endowment for International Peace, p. 6-7, March 2005, <http://www.carnegieendowment.org/files/PO13.Brown.FINAL2.pdf>.

⁵⁷ See also above "Freedom of Religion".

⁵⁸ *Law No. 23 of 1971, Law on Criminal Proceedings*, 4 February 1971, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=468a674a2>. See also Case Western Reserve University / School of Law, *Summary of Iraqi Criminal Procedure Law*, http://law.case.edu/saddamtrial/documents/Iraqi_Crim_Procedure_Code_Summary.pdf.

⁵⁹ The unofficial English translation, as prepared by the US Armed Forces Judge Advocate General, is available in UNHCR's Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=452514424>. For further information on Iraq's Penal Law, see UNHCR, *2005 Country of Origin Information Iraq*, p. 116-117, see above footnote 53.

⁶⁰ The RCC was established after the military coup in 1968 and was the ultimate decision making body in Iraq until the fall of the former regime. It exercised executive and legislative authority in Iraq, whereas the

former Iraqi regime remain in effect, though they exist in slightly different versions in the three Northern Governorates which introduced a number of changes to the Iraqi *Penal Code* and the *Law on Criminal Proceedings* after obtaining *de facto* autonomy in 1991.

The CPA undertook a review of the *Penal Code* and the *Law on Criminal Proceedings* in order to assess their compatibility with international human rights standards. CPA Memorandum No. 3 amended the *Law on Criminal Proceedings*, introducing new procedural rights such as the right to be silent, the right to legal counsel, the right against self-incrimination, the right to be informed of these rights and the exclusion of evidence obtained by torture.⁶¹ By Order No. 7, the CPA amended the Iraqi *Penal Code*, repealing a number of provisions introduced by the Ba'athist regime that listed acts detrimental to the political goals of the state as crimes, and suspended the death penalty.⁶² However, Order No. 3 of 2004 of the Interim Iraqi Government (IIG), passed on 8 August 2004, reintroduced the death penalty and provides for capital punishment for certain crimes affecting internal state security, public safety, attacks on means of transportation, premeditated murder, drug trafficking, and abduction.⁶³ The first executions under the amended law were carried out on 1 September 2005, when three people were put to death. Since then, the death penalty has been pronounced on a regular basis by Iraqi Courts, in particular the Central Criminal Court of Iraq (CCCI). Concerns have been raised by the UN and human rights organizations about the high number of death sentences and actual executions.⁶⁴ In addition, following a trial by the Iraqi High Tribunal, set up to try the most senior members of the former regime, former President Saddam Hussein and other ex-senior officials were executed.⁶⁵ On 2 September 2006, the Kurdistan National Assembly

National Assembly could only enact laws approved by the RCC. As of 1979, Saddam Hussein was the Chairman of the RCC; all members of the RCC were high-ranking members of the Ba'ath Party. See, for example, FAS Intelligence Resource Program, *Introduction*, <http://www.fas.org/irp/world/iraq/intro.htm> [last updated 15 December 1997]. See also: *Iraq Interim Constitution* of 1990, Articles 37-45, available in UNHCR's Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b4ec44>.

⁶¹ Coalition Provisional Authority (CPA) Memorandum No. 3 (revised), *Criminal Procedures*, 27 June 2004, available in UNHCR's Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=469cd1b32>. The complete Refworld collection of national legislation from Iraq is available at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=type&skip=0&coi=IRQ&type=LEGISLATION>.

⁶² CPA Order No. 7, *Penal Code*, Section 2 para. 1, 10 June 2003, available in UNHCR's Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=452524304>.

⁶³ See UNHCR, *2005 Country of Origin Information Iraq*, p. 142, see above footnote 53.

⁶⁴ Officially, since August 2004, more than 150 individuals have received death sentences, 51 of whom have already been executed. The UN Secretary General's Special Representative for Iraq, Ashraf Qazi, called for a moratorium on death sentences, urging the Iraqi Government "to commute all sentences of capital punishment and to base its quest for justice on the protection and promotion of the right to life"; see United Nations Security Council (UNSC), *Report of the Secretary-General pursuant to paragraph 30 of resolution 1546 (2004)*, 5 December 2006, p. 9-10, http://www.uniraq.org/FileLib/misc/SG_Report_S_2006_945_EN.pdf. See also: UNAMI, *The Special Representative of the Secretary-General for Iraq Ashraf Qazi expresses concern over capital punishment in Iraq*, 23 September 2006, <http://www.uniraq.org/newsroom/articles.asp?pagename=pressreleases&category=P>. See also: IPS, Srabani Roy, *Increase in Executions Condemned*, 13 October 2006, <http://ipsnews.net/news.asp?idnews=35096>.

⁶⁵ See "Members and Associates of the Ba'ath Party and the Former Regime".

repealed the CPA's decision to suspend the death penalty, and on 21 September 2006, 11 alleged members of the insurgency group Ansar Al-Islam were hanged in Erbil.⁶⁶

5. National Security

The Order of Safeguarding National Security of 2004 grants the Prime Minister extraordinary powers, including the authority to impose curfews, restrict movement between cities and set up around-the-clock courts where the Government can obtain arrest warrants. Measures on the basis of this Order have resulted in frequent abuse by those implementing them.⁶⁷ The measures, in place everywhere except in the three Northern Governorates, have been renewed by successive parliaments every month since they were first authorized in November 2004.⁶⁸ Curfews and other restrictions on freedom of movement limit the possibilities of individuals relocating from one place to another, including for purpose of safety.

⁶⁶ UNAMI HRO, *Human Rights Report, 1 September – 31 October 2006*, p. 20, http://www.uniraq.org/documents/HR_Report_Sep_Oct_2006_EN.pdf (further: "UNAMI HRO, *October 2006 Human Rights Report*"); Amnesty International, *Iraq: Amnesty International alarmed at rise in executions*, 25 September 2006, <http://web.amnesty.org/library/Index/ENGMDE140332006?open&of=ENG-IRQ>.

⁶⁷ See, for example, "Sunni Arabs".

⁶⁸ See UNHCR, *2005 Country of Origin Information Iraq*, p. 17-18, see above footnote 53.

III. MAIN GROUPS PRACTICING VIOLENCE

A. General

While non-state actors were identified as the main groups violating human rights and international humanitarian law, when UNHCR's issued its *Guidelines Relating to the Eligibility of Iraqi Asylum-seekers*⁶⁹ in October 2005, increasingly state actors have come to the forefront, including members of the ISF. Furthermore, with the escalation of sectarian violence since 2006, armed militias have not only filled the security vacuum in the country, but have also become responsible for targeted attacks and displacement. Militias are linked to major Shi'ite political parties and personalities such as the Supreme Council for the Islamic Revolution in Iraq (SCIRI) and Muqtada Al-Sadr,⁷⁰ and have infiltrated the Shi'ite-dominated law enforcement agencies or closely collaborate with them. In addition, criminal groups have also become involved in human rights violations targeting individuals of specific profile.

In many cases, it will prove difficult, if not impossible, for victims to identify who harmed them or why they were targeted. Perpetrators of violence often remain unidentified for a number of reasons, such as the failure or inability of the State to undertake criminal investigation or the sheer number of actors actively engaged in violent activities in today's Iraq. Although they have diverse agendas, these actors often share common targets, e.g. members of religious minorities or certain professions.

B. Lack of National Protection

Pervasive violence, institutional weaknesses, and a general lack of rule of law seriously impede the ability of Iraqi authorities to provide protection to its citizens. The ISF is itself a major target of the insurgency⁷¹ and has been infiltrated by, or has collaborated with, armed groups practicing violence. The ISF also reportedly lacks leadership, training, equipment and personnel and continues to be highly dependent on the support of the MNF.⁷²

⁶⁹ See above footnote 8.

⁷⁰ For an overview of these Shi'ite militias, see: UNHCR, UNHCR, *2005 Country of Origin Information Iraq*, p. 59 and further, see above footnote 53.

⁷¹ On 24 December 2006, Jawad Al-Bolani, the Iraqi Minister of Interior, indicated that 12,000 police officers had been killed since 2003, an average of ten police officers every day. See: BBC News, *Iraqi police deaths "hit 12,000"*, 24 December 2006, http://news.bbc.co.uk/2/hi/middle_east/6208331.stm.

⁷² UNAMI HRO assessed that "(L)aw enforcement agencies are insufficient, inadequately equipped and in need of further training"; see UNAMI HRO, *August 2006 Human Rights Report*, p. 1, see above footnote 26. According to the CRS, "President Bush tacitly acknowledged the lack of capability of the ISF by announcing that "we will increase the embedding of American advisers in Iraqi Army units and partner a Coalition brigade with every Iraqi Army division"; see: The Library of Congress, Congressional Research Service, *The Iraqi Security Forces: The Challenge of Sectarian and Ethnic Influences*, CRS Report for Congress, 18 January 2007, p. 3, <http://fpc.state.gov/documents/organization/79272.pdf>. See also *Iraq Study Group Report*, p. 12-14, see above footnote 35.

The Iraqi judiciary continues to be understaffed and badly equipped⁷³ and generally lacks the capacity to provide judicial redress or protection. The Human Rights Office of the United Nations Assistance Mission for Iraq (UNAMI HRO) stated that “(e)xisting mechanisms for redressing violations are insufficient”, and expressed serious concern that

*“(The) investigative capacity of the State remains limited because of security conditions as well as for lack of adequate resources and the limited number of investigative judges. Allegations made that some sectors of the security forces are colluding with armed militias or other armed groups risk eroding support for the security forces and increase the perception that the impunity gap in Iraq is growing.”*⁷⁴

As a result of these institutional weaknesses, most human rights violations are committed with impunity,⁷⁵ with protection generally unavailable from national law enforcement or security bodies.⁷⁶ It is common that victims or their families do not report attacks to the police, either because they do not expect the police to investigate the case for lack of resources, inertia or sympathy with the perpetrators, or for fear of repercussions.⁷⁷ The MNF is generally unable to fill this protection void. Like the ISF, the MNF is itself a frequent target of armed groups, having suffered 3,410 troop fatalities by 25 February 2007, and also has a restrictive mandate with regard to the overall protection of civilians.⁷⁸

⁷³ According to UNAMI HRO, “(C)ourts require adequate facilities, more investigative judges, computerized and integrated management systems and greater security for all judicial personnel”. Furthermore, the capacity of the Iraqi judiciary is limited, “particularly in cases involving organized crime, corruption, terrorism and militia-sponsored armed activities are due to the high level of intimidation and threats, limited protection mechanisms for both witnesses and judiciary, as well as limited number of investigative judges”. UNAMI HRO, *December 2006 Human Rights Report*, p. 1 and 5, see above footnote 10. See also US Department of Defense, *Measuring Stability and Security in Iraq*, Report to Congress in accordance with the Department of Defense Appropriations Act 2007 (Section 9010, Public Law 109-289), p. 8, November 2006, <http://www.defenselink.mil/pubs/pdfs/9010Quarterly-Report-20061216.pdf>.

⁷⁴ UNAMI HRO, *Human Rights Report, 1 March – 30 April 2006*, p. 5-6, http://www.uniraq.org/documents/HR_Report_Mar_Apr_06_EN.PDF (further: “UNAMI HRO, *April 2006 Human Rights Report*”).

⁷⁵ See, for example, UNAMI HRO, *December 2006 Human Rights Report*, p. 2, 3 and 13, see above footnote 10.

⁷⁶ The mandate of the MNF in Iraq, as laid down in UNSC Resolution 1546 (2004) and the letters annexed to it, is to “contribute to the maintenance of security in Iraq, including by preventing and deterring terrorism and protecting the territory of Iraq. The goal of the MNF will be to help the Iraqi people to complete the political transition and will permit the United Nations and the international community to work to facilitate Iraq’s reconstruction”; see UNSC, *Resolution 1546 (2004)*, 8 June 2004, available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=411340244d>. In November 2006, the UNSC voted to extend the mandate of the MNF until 31 December 2007. The presence of the MNF is at the request of the Iraqi Government, which says the troops were needed for another year while it continues to build up its own security forces; see UNSC, *Resolution 1723 (2006)*, 28 November 2006, <http://www.un.org/News/Press/docs/2006/sc8879.doc.htm>. The MNF are a frequent target by various armed groups and, by 25 February 2007, have suffered 3,410 troop fatalities; see: The Brookings Institution, *Iraq Index*, see above footnote 16.

⁷⁷ For example, it was reported that Sabaeen-Mandaeans “encounter intimidation by public and religious officials”; see UNAMI HRO, *December 2006 Human Rights Report*, p. 13, see above footnote 10. The Iraq Study Group assessed that the “Iraqi police cannot control crime, and they routinely engage in sectarian violence, including the unnecessary detention, torture, and targeted execution of Sunni Arab civilians”; see *Iraq Study Group Report*, p. 13, see above footnote 35.

⁷⁸ The Brookings Institution, *Iraq Index*, see above footnote 16.

Traditional mechanisms⁷⁹ of conflict resolution, e.g. by tribal or religious leaders, may not always be available or be ineffective in providing protection to the individual concerned. In some cases, reliance on these mechanisms may result in further harm, for example, for women who fear “honour killings” or individuals who fear becoming victims of a blood feud.⁸⁰

C. Main Groups Perpetrating Violence

The analysis which follows below provides a non-exhaustive overview of the main groups in Iraq currently perpetrating violence.

1. Insurgent Groups

With the fall of the former regime in 2003, political power in Iraq shifted to the Shi’ite majority, which dominated the national elections in January and December 2005.⁸¹ Sunni Arabs, who had largely dominated the country under the previous regime, perceived themselves as politically and economically marginalized, particularly by two far-reaching decisions of the CPA, namely the *de-Ba’athification* Order and the Order to dissolve the Iraqi Army.⁸² Sunni Arabs now form the backbone of the ongoing insurgency in Iraq. The insurgency appears to consist of a number of groups, including former Ba’athists, army and intelligence officers, and indigenous and foreign Islamists as well as nationalists fighting foreign “occupation”.

⁷⁹ These comprise of the protection provided by family networks and tribal links. Because Iraq is a largely tribal society with at least three-quarters of the Iraqi people belonging to one of the country’s 150 tribes, people often rely on community leaders to resolve disputes instead of going to court. See also: UNHCR, *2005 Country of Origin Information Iraq*, p. 17, see above footnote 53.

⁸⁰ See: UNHCR, *2005 Country of Origin Information Iraq*, p. 123, see above footnote 53. See also: UNHCR, *UNHCR Position on Claims for Refugee Status Under the 1951 Convention relating to the Status of Refugees Based on a Fear of Persecution Due to an Individual’s Membership of a Family or Clan Engaged in a Blood Feud*, 17 March 2006, available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/txis/vtx/refworld/rwmain?docid=44201a574>.

⁸¹ The Shi’ite coalition *United Iraqi Alliance* currently holds 128 of the 275 seats in the Council of Representatives. The main Sunni Arab bloc, the *Tawafiq Iraqi Front*, won 44 seats; Independent Electoral Commission in Iraq, *Certification of the Council of Representatives Elections Final Results*, 10 February 2006, http://www.ieciraq.org/English/Frameset_english.htm.

⁸² CPA Order No. 1, *De-Ba’athification of Iraqi Society*, 16 May 2003, available in UNHCR’s Refworld at <http://www.unhcr.org/cgi-bin/txis/vtx/refworld/rwmain?docid=468d097d2>; CPA Order No. 2, *Dissolution of Entities*, 23 August 2003, available in UNHCR’s Refworld at <http://www.unhcr.org/cgi-bin/txis/vtx/refworld/rwmain?docid=4691f4d62>. See also “Members and Associates of the Ba’ath Party and the Former Regime”.

Several groups, including the *Mujahideen Shura Council*,⁸³ the *Jaish Al-Fatiheen* (a break-away from the Islamic Army in Iraq), *Jund Al-Sahaba*, *Kataeb Ansar Al-Tawheed Wal-Sunna* and several tribal chiefs,⁸⁴ announced the establishment of the *Islamic State of Iraq* on 15 October 2006. According to these groups, the Islamic State of Iraq consists of Sunni areas of Baghdad and the Governorates of Al-Anbar, Diyala, Kirkuk, Salah Al-Din, Ninewa and parts of Babil and Wassit. Abu Omar Al-Hussaini Al-Qurahsi Al-Baghdadi has been declared the state's *Emir*.⁸⁵ Other groups, which appear to be composed of former regime officials, members of the former security and intelligence agencies and paramilitary forces, include, but are not limited to, *Al-Awda*, *Al-Awda Al-Jadida* and the New Ba'ath Party. Also Mohammed's Army (*Jaish Mohammed*) is believed to have links to former Ba'athists. Other Sunni groups, some with a more Islamist orientation, others with a more nationalist orientation, include, *inter alia*, the Islamic Army in Iraq (*Al-Jaish Al-Islami fil-Iraq*), the 1920 Revolutionary Brigade (*Kata'ib Thawrat 'Ashrin*), Al-Rashideen Army (*Jaish Al-Rashideen*), *Jaish Al-Mujahideen*, Jihad Factions of Iraq (*Asaeb Al-Iraq Al-Jihadiya*), Abu Bakr Al-Siddiq Army, Al-Qassas Brigade (Revenge Brigades), *Salahuddin Al-Ayyubi* Brigades (Iraqi Islamic Resistance Front), *Saraya Al-Dawa Wal Ribat* (Missionary and Frontier Guarding Movement).⁸⁶ Yet other groups appear locally or only in relation to a certain event. For example, the *Fallujah Mujahideen* is a group with suspected links to Al-Qa'eda in Iraq and operates exclusively in the city of Fallujah.⁸⁷ The *Mujahideen of Nineveh* abducted three members of the Iraqi Independent Electoral Commission prior to the January 2005 elections in Mosul and threatened attacks against polling stations.⁸⁸

While these groups do not necessarily share a common ideology, they are unified by a common desire to expel the MNF from Iraq and undermine the new political order in the country.⁸⁹ Other goals, however, vary. Al-Qa'eda in Iraq and Ansar Al-Sunna, for example,

⁸³ The Mujahideen Shura Council operated as an umbrella organization with the goal of unifying Iraqi insurgent efforts. It included Al-Qa'eda in Iraq, the Victorious Army Group (*Jaish Al-Taifa Al-Mansoura*), Monotheism Supporters Brigades, Saray Al-Jihad Group, *Al-Ghuraba* Brigades, *Al-Ahwal* Brigades, Army of *Al-Sunnah Wal Jama'a* and possibly, despite its Salafist/Islamist orientation, more nationalist groups; see MIPT Terrorism Knowledge, *Mujahideen Shura Council*, <http://www.tkb.org/Group.jsp?groupID=4575> [last updated 16 January 2007]; SITE Institute, *The Army of al-Sunnah Wal Jama'a Announces its Intention to Join the Mujahideen Shura Council, which is Accepted by the Council*, 30 January 2006, <http://www.siteinstitute.org/bin/articles.cgi?ID=publications143306&Category=publications&Subcategory=0>.

⁸⁴ According to commander Abu Omar Al-Hussaini Al-Qurahsi Al-Baghdadi of the Islamic State, the following tribes are represented: Al-Dulaim, Al-Jabbour, Al-Obaid, Zoubaa, Qays, Azza, Al-Tai, Al-Janabiyeen, Al-Halalyeen, Al-Mushahada, Al-Dayniya, Bani Zayd, Al-Mujamaa, Bani Shammam, Ineza, Al-Suwaidah, Al-Nuaim, Khazraj, Bani Al-Heem, Al-Buhayrat, Bani Hamdan, Al-Saadun, Al-Ghanem, Al-Saadiya, Al-Maawid, Al-Karabla, Al-Salman and Al-Qubaysat. See: Evan F. Kohlmann, *State of the Sunni Insurgency in Iraq: 2006*, Global Terror Alert, 29 December 2006, p. 2, <http://www.globalterroralert.com/pdf/1206/iraqinsurgency1206.pdf>.

⁸⁵ MIPT Terrorism Knowledge Base, *Mujahideen Shura Council*, see above footnote 83; Kohlmann, *ibidem*.

⁸⁶ Kohlmann, see above footnote 84. For profiles of the various groups, see MIPT Terrorism Knowledge Base, *Iraq*, <http://www.tkb.org/Country.jsp?countryCd=IZ>. See also: UNHCR, *2005 Country of Origin Information Iraq*, p. 66-73, see above footnote 53.

⁸⁷ MIPT Terrorism Knowledge Base, *Fallujah Mujahideen*, <http://www.tkb.org/Group.jsp?groupID=4550> [last updated 16 January 2007].

⁸⁸ MIPT Terrorism Knowledge Base, *Ninawa Mujahideen in the City of Mosul*, <http://www.tkb.org/Group.jsp?groupID=4539> [last updated 16 January 2007].

⁸⁹ See, for example, *Iraq Study Group Report*, p. 10, see above footnote 35.

also aim to foment civil war, including by targeting Shi'ite civilians. The *Islamic State of Iraq* in an internet statement in December 2006, called for a war on Iraq's Shi'ites, saying

*“Stand like one man ... and cut their (Shi'ites’) throats, spill their blood, burn the ground underneath them, and rain bombs on them.”*⁹⁰

Furthermore:

*“They (Shi'ites) have done more than the crusaders (U.S.-led forces) have been doing. They killed men, rendering women widows and children orphans, burned houses of God and tore his book.”*⁹¹

They and others also aim for the establishment of an Islamic State based on Shari'a law. However, there are major divisions among some of the groups, in particular among foreign and indigenous groups, for example over the legitimacy of targeting civilians,⁹² the goal of establishing an Islamic state⁹³ and their willingness to consider an amnesty and join the political process under certain conditions.⁹⁴

The insurgency against the MNF and the present Government is mainly active in the “Sunni triangle”,⁹⁵ in which Arab Sunnis make up the majority as well as in mixed areas in the Governorates of Diyala, Babel and Kirkuk.⁹⁶

Insurgency groups continue to target persons affiliated with or supporting the MNF/ISF⁹⁷ as well as the Iraqi Government.⁹⁸ Furthermore, they are considered responsible for attacks on members of the Shi'ite community⁹⁹ as well as religious minorities¹⁰⁰ in an aim to create a situation of civil war and bring Iraq's institutions to collapse. Most high-profile attacks causing large numbers of civilian casualties are attributed to Al-Qa'eda in Iraq and Ansar

⁹⁰ According to Reuters, the authenticity of the posted recording could not be verified; see: Reuters Alertnet, *Iraq Qaeda-linked group calls for war on Shi'ites*, 17 December 2006, <http://www.alertnet.org/thenews/newsdesk/L17355726.htm>.

⁹¹ *Ibid.*

⁹² See, for example, Khalid Al-Ansary and Ali Adeeb, *Most Tribes in Anbar Agree to Unite Against Insurgents*, The New York Times, 18 September 2006, <http://www.nytimes.com/2006/09/18/world/middleeast/18iraq.html>.

⁹³ See, for example, Rick Jervis, *General sees rift in Iraq enemy*, USA Today, 25 January 2006, http://www.usatoday.com/news/world/iraq/2006-01-25-insurgency-rift_x.htm.

⁹⁴ Sabrina Tavernise and Dexter Filkins, *Evidence increases of an Iraqi-Qaeda split*, The New York Times, 12 January 2006, <http://www.ihf.com/articles/2006/01/12/news/rebels.php>; Sabrina Tavernise, *“Enemy on enemy” fire signals split among insurgents in Iraq*, The New York Times, 22 June 2005, <http://www.ihf.com/articles/2005/06/21/news/rebels.php>.

⁹⁵ The “Sunni triangle” comprises parts of the Governorates of Al-Anbar, Salah Al-Din, Ninewa and Baghdad.

⁹⁶ Military Review, Jeffrey White, *Assessing Iraq's Sunni Arab insurgency (political activities of Saddam Hussein)*, May-June 2006, <http://www.encyclopedia.com/doc/1G1-147346137.html>. For an overview on the insurgency in Iraq, see UNHCR, *2005 Country of Origin Information Iraq*, p. 64-73, see above footnote 53.

⁹⁷ See “Actual or Perceived Sympathizers of the US-Led Invasion and/or the Multi-National Force in Iraq” and “Employees of the Former CPA, MNF or Iraqis Employed by Foreign Embassies or Foreign Companies”.

⁹⁸ See “Government Officials and Other Persons Associated With the Current Iraqi Government, Administration and Institutions”.

⁹⁹ See “Shi'ites and Sunnis Civilians”.

¹⁰⁰ See “Non-Muslim Religious Groups”.

Al-Sunna. In addition, members of the educated elite such as journalists, doctors, academics and teachers, have been frequent targets.¹⁰¹

There are reports that insurgents have infiltrated parts of the ISF.¹⁰² For example, several brigades of the Ministry of Defence in charge of protecting oil pipelines have been accused of running death squads killing (Shi'ite) Government officials and appear to have links to insurgency groups.¹⁰³

Iraqi Government officials blame the Sunni parties for supporting “terrorism”, in particular the Iraqi Islamic Party (IIP), the largest Sunni Muslim bloc in the Council of Representatives, and the Association of Muslim Scholars (AMS), the most influential Sunni organization in Iraq.¹⁰⁴ However, it is unclear how closely these parties are involved in directing or funding the insurgency.

2. Iraqi Security Forces and Shi'ite militias

Shi'ite-dominated ISF and militias, often wearing police or Special Forces uniforms,¹⁰⁵ regularly target members of the Sunni population.¹⁰⁶ Those targeted include also Sunni Arab refugees such as Palestinians and those from Syria and Iran,¹⁰⁷ as well as former members of the Ba'ath Party and security services,¹⁰⁸ who are considered supporters of the former regime and the ongoing insurgency. The fact that Shi'ite militias have infiltrated or collaborate with the ISF¹⁰⁹ blurs the line between state and non-state actors.¹¹⁰

¹⁰¹ See “Certain Professions”.

¹⁰² UNAMI HRO, *December 2006 Human Rights Report*, p. 8, see above footnote 10.

¹⁰³ Dexter Filkins, *Armed groups propel Iraq toward chaos*, The New York Times, 24 May 2006, <http://www.iht.com/articles/2006/05/24/africa/web.0525police.php>.

¹⁰⁴ See, for example, Ned Parker and Ali Hamdani, *How violence is forging a brutal divide in Baghdad*, The Times, 14 December 2006, <http://www.timesonline.co.uk/tol/news/world/iraq/article753899.ece>. See also: UNHCR, *2005 Country of Origin Information Iraq*, p. 15, see above footnote 53.

¹⁰⁵ Damien Cave, *In Iraq, It's Hard to Trust Anyone in Uniform*, The New York Times, 3 August 2006, <http://www.nytimes.com/2006/08/03/world/middleeast/03uniforms.html>.

¹⁰⁶ See “Shi'ites and Sunnis Civilians” and “Sunni Arabs”.

¹⁰⁷ See “VI. EFFECTIVE PROTECTION OF REFUGEES OF ARAB ORIGIN IN IRAQ”.

¹⁰⁸ See “Members and Associates of the Ba'ath Party and the Former Regime”.

¹⁰⁹ According to the US Department of Defense, “(m)ilitia influence exists in the Iraqi Police”. However, “there is currently no screening process specifically designed to ascertain militia allegiance. Recruits take an oath of office denouncing militia influence and pledging allegiance to Iraq’s constitution”; see US Department of Defense, p. 34, see above footnote 73. See also: Robert Perito, *Reforming the Iraqi Interior Ministry, Police, and Facilities Protection Service*, USIP, USIPeace Briefing, February 2007, http://www.usip.org/pubs/usipeace_briefings/2007/0207_iraqi_interior_ministry.html; The Library of Congress, see above footnote 72; HRW, *Iraq: End Interior Ministry Death Squads*, 29 October 2006, <http://hrw.org/english/docs/2006/10/29/iraq14473.htm>.

¹¹⁰ See, for example, Filkins, see above footnote 103.

Two rival Shi'ite militias¹¹¹ have been blamed for much of the violence. The Badr Organization, formerly known as the Badr Brigade and SCIRI's armed wing, is a powerful party that once took refuge in Iran from oppression by Saddam Hussein's regime.¹¹² The Mehdi Army, which has on several occasions clashed with the MNF, was formed in 2003 by the radical cleric Muqtada Al-Sadr.¹¹³ Some reports suggest that parts of the Mehdi Army are no longer under the control of Muqtada Al-Sadr and act independently under the command of other individuals, e.g. Abu Dir, who became known for killing Sunnis.¹¹⁴ According to the US Department of State, the Mehdi Army "*has replaced al-Qaeda in Iraq as the most dangerous accelerant of potentially self-sustaining sectarian violence in Iraq*".¹¹⁵

Since the Shi'ites came to power in the January 2005 elections, and in particular under the term of SCIRI Minister of Interior Bayan Jabr,¹¹⁶ Shi'ite militia members entered the ISF in large numbers.¹¹⁷ The Mehdi Army has built a strong presence in the regular Police and in the 150,000-strong Facilities Protection Service (FPS),¹¹⁸ while the Badr Brigade

¹¹¹ In several incidents, the Badr Organization and the Mehdi Army have engaged in battles over power and influence among Iraq's Shi'ites. For example, after the killing of a local head of intelligence in Al-Amarah, a member of the Badr Brigade, his family kidnapped a local Mehdi Army chief in October 2006. This incident triggered a cycle of violent reprisals between the two parties, leaving some 25 people dead and several dozens wounded; see AP, *Relative quiet returns to Iraq's south; concerns linger over emboldened militias*, 21 October 2006, http://www.usatoday.com/news/world/iraq/2006-10-20-shia-militias_x.htm; John Ward Anderson, *Sadr Militia Briefly Seizes Southern City*, The Washington Post, 21 October 2006, http://www.washingtonpost.com/wp-dyn/content/article/2006/10/20/AR2006102000244_pf.html. See also: ICG, *After Baker-Hamilton: What To Do in Iraq?*, Middle East Report No. 60, 19 December 2006, p. 9-10, http://www.crisisgroup.org/library/documents/middle_east_north_africa/60_after_baker_hamilton_what_to_do_in_iraq.pdf; Reuters Alertnet, *Battle highlights splits in Iraq's Shi'ite south*, 29 August 2006, <http://www.uruknet.info/?p=26222>.

¹¹² For more information on the Badr Organization, see UNHCR, *2005 Country of Origin Information Iraq*, p. 61-62, see above footnote 53.

¹¹³ For more information on the Mehdi Army and the armed confrontations with the MNF in 2004, see UNHCR, *2005 Country of Origin Information Iraq*, p. 62-64 and 89, see above footnote 53.

¹¹⁴ Scott Johnson, *Iraq: A New Enemy Emerges – "The Shi'ite Zarqawi"*, Newsweek, 13 November 2006, <http://www.msnbc.msn.com/id/15564792/site/newsweek/>; Sudarsan Raghavan, *Militias Splintering Into Radicalized Cells*, The Washington Post, 19 October 2006, http://www.washingtonpost.com/wp-dyn/content/article/2006/10/18/AR2006101801865_pf.html; Sabrina Tavernise, *Cleric Said to Lose Reins Over Part of Iraqi Militia*, The New York Times, 28 September 2006, <http://www.nytimes.com/2006/09/28/world/middleeast/28sadr.html>.

¹¹⁵ US Department of Defense, p. 19, see above footnote 73.

¹¹⁶ Bayan Jabr became Finance Minister in the Government of Prime Minister Al-Maliki where he continues to control the Interior Ministry's budget and police salaries; see: Perito, see above footnote 109.

¹¹⁷ See, for example, Perito, see above footnote 109; Filkins, see above footnote 103; RFE/RL, Charles Recknagel, *Iraq: Sectarian Violence Highlights Increasing Power Of Militias*, 22 March 2006, <http://www.rferl.org/featuresarticle/2006/03/3f8ef645-5fec-497d-8502-99a72fc4c9d8.html>.

¹¹⁸ The FPS was formed by the former CPA, and is charged with guarding government buildings and infrastructure, including hospitals, ports and power plants. See: CPA Order No. 27, *Establishment of the Facilities Protection Service*, 4 September 2003, available in UNHCR's Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=469cda862>. There is no unified command and the various FPS units stand under the control of the respective ministers. FPS officers were issued police-style uniforms, badges and weapons, but did not receive police training nor were they given police authority. Loyalists to Muqtada Al-Sadr control the ministries of health, transportation and agriculture and, according to the Iraq Study Group, FPS units employed by those ministries are "*a source of funding and jobs for the Mahdi Army*". Iraq's Minister of Interior, Jawad Al-Bolani, accused the FPS of running death squads, but rejected the notion that

dominated Special Police Commando units, which since May 2006 have been consolidated into the Iraqi National Police.¹¹⁹ Consistent reports have indicated the involvement of the ISF in kidnappings, torture and summary executions of Sunnis.¹²⁰ In November 2005, a joint MNF/ISF raid on the Ministry of Interior's *Al-Jadiriyya Facility* in Baghdad discovered some 170 weakened and malnourished detainees, mostly Sunni Arabs, many bearing injuries consistent with torture. At least 18 others allegedly had died in custody and the fate of others remained unknown. The Government of Iraq initiated an investigation into the incident, but to date has failed to publish its findings or to initiate criminal proceedings against those involved in the abuse.¹²¹ Between December 2005 and May 2006, joint MNF/ISF teams inspected at least eight facilities run by the Ministry of Interior and the Ministry of Defence in and around Baghdad. The inspectors found consistent evidence of detainee abuse at most locations, including the Ministry of Interior's *Site 4 Facility*. According to UNAMI HRO, the inspection at *Site 4* had revealed "systematic evidence of physical and psychological abuse." UNAMI HRO in December 2006 reported that while an investigation revealed that 57 employees, including high-ranking officers, of the Ministry of Interior were involved in degrading treatment of prisoners at *Site 4*, nobody has yet been held accountable. It further reported that it continues to receive information pointing to torture and other cruel, inhumane or degrading treatment in detention centres administered by the Ministry of Interior or security forces throughout Iraq.¹²²

Apart from the forces of the Ministry of Interior, forces of the Ministry of Defence have also reportedly been infiltrated by Shi'ite militiamen. For example, the Iraqi Army's Fifth

the Iraqi Police and Military were infiltrated by militias. Former Minister of Interior, Bayan Jabr, said that the FPS was "out of control". The Iraqi Government has plans to consolidate the various FPS units and bring them under control of the Ministry of Interior; however, the Iraq Study Group questions whether the Ministry of Interior had the capability to do so; see: *Iraq Study Group Report*, p. 14, see above footnote 35. See also: Perito, see above footnote 109; Walter Pincus, *U.S. Military Urging Iraq to Rein In Guard Force*, *The Washington Post*, 25 December 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/12/24/AR2006122400551.html>; Inter Press Service (IPS), Dahr Jamail, Ali al-Fadhily, *Iraqi Militias Take Refuge in Facilities Protection Service*, 8 November 2006, <http://www.antiwar.com/jamail/?articleid=9979>; Filkins, see above footnote 103; Ellen Knickmeyer, *Iraq Begins to Rein In Paramilitary Force*, *The Washington Post*, 14 May 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/05/13/AR2006051300843.html>; Scott Johnson, *Phantom Force*, *Newsweek*, 24 April 2006, <http://www.msnbc.msn.com/id/12335716/site/newsweek/>.

¹¹⁹ See, for example, Pincus, *ibidem*; HRW, *Iraq: End Interior Ministry Death Squads*, 29 October 2006, <http://hrw.org/english/docs/2006/10/29/iraq14473.htm>; BBC News, *Guide: Armed groups in Iraq*, 15 August 2006, http://news.bbc.co.uk/2/hi/middle_east/4268904.stm#badr; Filkins, see above footnote 103; RFE/RL, Charles Recknagel, *Iraq: Sectarian Violence Highlights Increasing Power Of Militias*, 22 March 2006, <http://www.rferl.org/featuresarticle/2006/03/3f8ef645-5fec-497d-8502-99a72fc4c9d8.html>. See also: Christopher Allbritton, *Why Iraq's Police Are a Menace*, *Time Magazine*, 20 March 2006, <http://www.time.com/time/world/article/0,8599,1175055,00.html>.

¹²⁰ Perito, see above footnote 109; CBS / The Associated Press, *Sectarian Rhetoric Flies In Baghdad*, 5 January 2007, <http://www.cbsnews.com/stories/2007/01/05/iraq/main2332897.shtml>. See also: UNHCR, *2005 Country of Origin Information Iraq*, p. 144 and 146-148, see above footnote 53.

¹²¹ Edward Wong and John F. Burns, *Secret prison adds to divisions in Iraq*, *The New York Times*, 22 November 2005, <http://www.ihf.com/articles/2005/11/16/news/torture.php>; Ellen Knickmeyer and K.I. Ibrahim, *U.S. to Probe All Iraqi-Run Prisons*, *The Washington Post*, 18 November 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/11/17/AR2005111700649.html>.

¹²² UNAMI HRO, *December 2006 Human Rights Report*, p. 19, see above footnote 10. See also: HRW, *World Report 2007, Iraq*, January 2007, <http://hrw.org/englishwr2k7/docs/2007/01/11/iraq14705.htm>.

Division, based in the Governorate of Diyala, was penetrated by a Shi'ite militia and conducted a campaign of intimidation against Sunnis in the mixed Governorate. Colonel Brian D. Jones, the commander of US Forces in Diyala, said "*I believe this is a larger plan to make Diyala a Shia province, rather than a Sunni province.*"¹²³

Despite repeated announcements by the current Government of Prime Minister Nouri Al-Maliki to purge the ISF and crack down on militias, the government has shown little will and ability to confront these powerful groups.¹²⁴ On 18 January 2007, Iraqi officials announced that, for the first time, they had taken significant action against the Mehdi Army by arresting dozens of its senior leaders. Four days later, the US military announced it had arrested more than 600 Mehdi Army fighters.¹²⁵ On 8 February 2007, the MNF/ISF arrested Deputy Health Minister Al-Zamili, accusing him of diverting millions of dollars to the Mehdi Army and allowing death squads to use ambulances and government hospitals to carry out kidnappings and killings.¹²⁶ On 14 February 2007, the Iraqi Government declared a new security crackdown, dubbed "*Operation Imposing Law*" (or the Baghdad Security Plan), in conjunction with US forces in Iraq in an aim to put an end to sectarian violence. Al-Maliki vowed to go against all armed groups, irrespective of their religious affiliation.¹²⁷ Significant improvements of the security situation in Baghdad and Al-Anbar Governorate are not expected until the summer and fall 2007 and there is wide consensus that security measures must be accompanied by political steps towards reconciliation.¹²⁸ The U.S.

¹²³ Solomon Moore, *A promising Iraqi province is now a tinderbox*, Los Angeles Times, 3 January 2007, <http://www.siteinstitute.org/bin/articles.cgi?ID=news234907&Category=news&Subcategory=0>; Richard A. Oppel Jr., *Sectarian rifts foretell pitfalls of Iraqi troops' taking control*, The New York Times, 11 November 2006, <http://www.iht.com/articles/2006/11/11/africa/web.1111diyala.php>.

¹²⁴ For example, on 28 October 2006, Al-Maliki criticised a raid carried out by the MNF/ISF on Sadr City, which, according to US military had taken place with the permission of the Iraqi Government; and on 31 October 2006, Al-Maliki ordered US and Iraqi units to lift a blockade around Sadr City, the stronghold of the Mehdi Army; Middle East Online, Hassen Jouini, *Iraqi PM hands Sadr victory over US blockade*, 31 October 2006, http://www.iraqupdates.com/p_articles.php/article/11454; Al Jazeera, *Iraqi PM criticises raid on Sadr City*, 28 October 2006, <http://english.aljazeera.net/news/archive/archive?ArchiveId=38105>; NPR, Jamie Tarabay, *Troops Raid Sadr City; Maliki Disavows Timeline*, 25 October 2006, <http://www.npr.org/templates/story/story.php?storyId=6383365>. On Al-Maliki's relationship with Muqtada Al-Sadr and his difficulties to rein in the militias, see also: Lionel Beehner, *Maliki and Sadr: An Alliance of Convenience*, 24 October 2006, Council on Foreign Relations (CFR), <http://www.cfr.org/publication/11787/>; Sumedha Senanayake, *Iraq: Shi'ite Militia Continues To Pose Dilemma*, RFE/RL, 20 October 2006, <http://www.rferl.org/featuresarticle/2006/10/62bf8567-beb1-4fbb-a3f9-773bc68560c7.html>.

¹²⁵ Sumedha Senanayake, *Iraq: Cracking Down On Al-Sadr No Easy Task*, RFE/RL, 26 January 2006, <http://www.rferl.org/featuresarticle/2007/01/6816daab-ebad-400e-a71a-bc852515f8b7.html>; Sabrina Tavernise, *Shi'ite Fighters Are Arrested, Iraq Says*, The New York Times, 18 January 2007, <http://www.nytimes.com/2007/01/18/world/middleeast/18mahdi.html>.

¹²⁶ Kim Gamel, *Iraqi Official Tied to Militia Jailed*, AP, 8 February 2007, <http://www.washingtonpost.com/wp-dyn/content/article/2007/02/08/AR2007020801049.html>.

¹²⁷ BBC News, *Iraqi PM wins key security vote*, 25 January 2007, http://news.bbc.co.uk/2/hi/middle_east/6298839.stm.

¹²⁸ See Marc Santora, *Top U.S. General in Iraq Says New Plan to Pacify Baghdad May Take Months to Show Results*, The New York Times, 15 January 2007, <http://www.nytimes.com/2007/01/16/world/middleeast/16iraq.html?ex=1326603600&en=f09d6094c80a4294&ei=5090&partner=rssuserland&emc=rss>.

military commander in Iraq, General David Petraeus, said that Iraq was “doomed to continuing violence and civil strife” if the security plan failed.¹²⁹

However, questions remain as to the political will and ability of the Government to move against the militia, which, through its social services network, is deeply embedded in the fabric of society and is considered by many the only protection against the Sunni-led insurgency.¹³⁰ A *National Intelligence Estimate* (NIE), prepared by the US National Intelligence Council in January 2007¹³¹ and titled *Prospects for Iraq’s Stability: A Challenging Road Ahead*, questioned the Iraqi Government’s ability to effectively move against those militias that are linked to the ruling parties in Iraq in the coming 12 to 18 months.¹³² Also, there are concerns that the advance publicity given to the new security plan provided militiamen with the opportunity to leave Baghdad or to keep a low profile, only to re-emerge after the operation is completed.¹³³ There have also been speculations that Muqtada Al-Sadr used the security operation to have his movement purged of undesirable elements.¹³⁴

3. Criminal Groups

Criminal groups are also capitalizing on Iraq’s instability. It is increasingly difficult to distinguish common criminals from insurgents and militias, as all engage in kidnappings and extra-judicial killings and illegal activities such as trafficking in weapons, drugs and oil to fund their activities.¹³⁵ According to the Iraq Study Group, “some criminal gangs

¹²⁹ See Reuters, *New US general warns Iraq doomed if crackdown fails*, 10 February 2007, <http://www.alertnet.org/thenews/newsdesk/L10750830.htm>; AP, *Stakes very high, says new US commander in Iraq*, 11 February 2007, http://www.smh.com.au/news/world/new-us-commander-in-iraq-says-stakes-are-very-high/2007/02/11/1171128800952.html?s_cid=rss_smh.

¹³⁰ Senanayake, *Iraq: Cracking Down On Al-Sadr No Easy Task*, see above footnote 125; Tavernise, *Shi’ite Fighters Are Arrested, Iraq Says*, see above footnote 125; Beehner, see above footnote 124.

¹³¹ The National Intelligence Council is a “center of strategic thinking within the US Government, reporting to the Director of National Intelligence (DNI) and providing the President and senior policymakers with analyses of foreign policy issues that have been reviewed and coordinated throughout the Intelligence Community”; see http://www.dni.gov/nic/NIC_home.html. The key judgements of the report can be found at: http://dni.gov/press_releases/20070202_release.pdf.

¹³² National Intelligence Council, *Prospects for Iraq’s Stability: A Challenging Road Ahead*, January 2007, p. 7, http://dni.gov/press_releases/20070202_release.pdf.

¹³³ Reuters Alertnet, Ross Colvin, *Sadr orders militia heads out of Iraq – president*, 16 February 2007, <http://www.alertnet.org/thenews/newsdesk/L15740660.htm>; Senanayake, *Iraq: Cracking Down On Al-Sadr No Easy Task*, see above footnote 125; Leila Fadel and Zaineb Obeid, *Mahdi Army lowers its profile, anticipating arrival of U.S. troops*, McClatchy Newspapers, 13 January 2007, <http://www.realcities.com/mld/kwashington/16454939.htm>.

¹³⁴ Senanayake, *Iraq: Cracking Down On Al-Sadr No Easy Task*, see above footnote 125; Tavernise, *Shi’ite Fighters Are Arrested, Iraq Says*, see above footnote 125.

¹³⁵ UNAMI HRO, *December 2006 Human Rights Report*, p. 9, see above footnote 10. See also: US Department of Defense, p. 21, see above footnote 73; John F. Burns, Kirk Semple, *U.S. Finds Iraq Insurgency Has Funds to Sustain Itself*, The New York Times, 26 November 2006, <http://www.nytimes.com/2006/11/26/world/middleeast/26insurgency.html?ex=1322197200&en=1bd1f805c30e2ae2&ei=5088&partner=rssnyt&emc=rss>; Oliver Poole, *Shia killers rake in £500,000 a day from crime, says US*, The Telegraph, 22 September 2006, <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2006/09/22/wiraq22.xml>.

cooperate with, finance, or purport to be part of the Sunni insurgency or a Shi'ite militia in order to gain legitimacy."¹³⁶

Criminal activities often reveal a sectarian dimension.¹³⁷ At times, criminal gangs abduct victims in order to sell them to sectarian groups.¹³⁸ Accordingly, criminal groups are fuelling sectarian violence and causing displacement. Increasingly, criminal gangs are working in collusion with or have infiltrated the ISF, leaving victims without access to protection.¹³⁹

4. Kurdish Armed Forces

The Kurdish parties and their armed forces are considered responsible for arbitrary arrests, incommunicado detention and torture of political opponents (e.g. (perceived) Islamists¹⁴⁰ and members of ethnic/religious minorities¹⁴¹) in their areas of jurisdiction in the three Northern Governorates and in areas under their *de facto* control further south, in particular the Governorates of Kirkuk and Ninewa. There are also concerns over the treatment of journalists perceived as critical of the authorities.¹⁴²

5. Family, Community, Tribe

Iraqis might be at risk of harm at the hand of their own family, community or tribe; this is particularly the case with regard to so-called "honour killings".¹⁴³ Such "honour killings" occur mainly in conservative Muslim families (both Shi'ite and Sunni, of both Arab and Kurdish backgrounds), in all areas of Iraq. "Honour killings" are a "tribal custom stemming from the patriarchal and patrilineal society's interest in keeping strict control over familial power structures".¹⁴⁴ Cases of domestic violence (including "honour killings") are reportedly on the rise since the fall of the former regime.¹⁴⁵

¹³⁶ *Iraq Study Group Report*, p. 11, see above footnote 35.

¹³⁷ UNAMI HRO, *October 2006 Human Rights Report*, p. 1 and 15, see above footnote 66; *ibidem*, *August 2006 Human Rights Report*, p. 2, see above footnote 26. See also: Scott Peterson, *Kidnappings tear at Iraq's frayed social fabric*, *The Christian Science Monitor*, 8 June 2006, <http://www.csmonitor.com/2006/0608/p01s03-woiq.html>.

¹³⁸ US Department of Defense, p. 21, see above footnote 73.

¹³⁹ UNAMI HRO, *December 2006 Human Rights Report*, p. 2 and 9, see above footnote 10.

¹⁴⁰ See "Actual or Perceived Opponents of the Ruling Parties in the Region of Kurdistan as well as in Areas Under the *de facto* Control of the KRG".

¹⁴¹ See "Kurds, Arabs, Turkmen428F, Ethnic-Based Christian Groups (Assyrians, Chaldeans, Armenians)429F, Yazidis430F and Shabak431F in Ethnically Mixed Areas".

¹⁴² See "Journalists and Media Workers".

¹⁴³ See "Women" and "Sexual Orientation".

¹⁴⁴ See UNHCR, *2005 Country of Origin Information Iraq*, p. 37, see above footnote 53.

¹⁴⁵ UNAMI HRO, *December 2006 Human Rights Report*, p. 11, see above footnote 10.

IV. PARTICULAR GROUPS AT RISK

A. *Religious Groups*

1. Muslims

a) Shi'ites and Sunnis Civilians

i) *Historical Background of the Sectarian Division in Iraq*

The religious division of the Muslim community into Sunni and Shi'ite sects traces back to the 7th century, when Muslim scholars disputed the question of who was rightfully qualified to lead the Muslim community after the Prophet Mohammed's death. This dispute resulted in the most important schism in Islam. The Shi'ites believed that leadership should stay within the family of the Prophet, and thus designated Ali ibn Abi Talib, Mohammed's son-in-law and cousin, as his successor (*caliph*). Sunni Muslims, however, believed that the caliph should be chosen based on a community consensus and elected Abdullah ibn Uthman (also known as Abu Bakr) as the first caliph. He was followed by Omar and Othman, while Ali ibn Abi Talib became only the fourth caliph. The Shi'a do not recognize Abu Bakr, Omar and Othman as the first three caliphs and instead consider Ali as the first caliph, which the Shi'ites call *Imam*. Ali moved the Islamic capital from Medina in present-day Saudi-Arabia to Kufa in Iraq. He was buried in Najaf, which is, therefore, of great religious significance for the Shi'ites.

The division over the question of succession led to a violent power struggle and split the community of Muslims into two branches. Both observe the same fundamental tenets of Islam, but have different approaches to religious law and practice. A major difference is the significance of the Imam. For the Shi'ites, the Imams have a spiritual significance which no Sunni cleric would be given. The 12th Shi'ite Imam disappeared in the 10th century and the majority of Shi'ites (Twelver Shi'a) believes that he will return at the end of time. He is known as the *Hidden Imam* or the *Mehdi*.¹⁴⁶

Generally, Sunni Muslims constitute the vast majority in most Muslim countries (an estimated 85%), but the Muslim population in Iraq is divided into a 60 to 65% majority of Shi'ites and a 32 to 37% minority of Sunni Muslims, the latter including ethnic Arabs, Kurds and Turkmen.¹⁴⁷ Arabs of Sunni faith constitute between 15% and 20% of the total Iraqi population.¹⁴⁸ Shi'ites in Iraq are almost exclusively ethnic Arabs, with some Kurds and Turkmen. Iraq's Sunni Arabs are concentrated in the valleys of the Euphrates River north of Baghdad and of the Tigris River between Baghdad and Mosul in the so-called

¹⁴⁶ Matthew S. Gordon, *Islam: Origins – Practices – Holy Texts – Sacred Persons – Sacred Places*, New York 2002, p. 16; Hussein Abdulwaheed Amin, *The Origins of the Sunni/Shia split in Islam*, <http://www.islamfortoday.com/shia.htm>; Mike Shuster, *The Origins of the Shia-Sunni Split*, NPR, 12 February 2007, <http://www.npr.org/templates/story/story.php?storyId=7332087>.

¹⁴⁷ CIA, *The World Factbook, Iraq*, <https://www.cia.gov/library/publications/the-world-factbook/geos/iz.html> [last updated 8 February 2007].

¹⁴⁸ CFR, *Iraq: The Sunnis*, 12 December 2003, <http://www.cfr.org/publication/7678/>.

“Sunni triangle”. Around half of them live in urban areas, mainly in Baghdad and Mosul, while the Shi’ites dominate the areas south of Baghdad as well as a large portion of Baghdad, in particular Sadr City.¹⁴⁹

The contemporary divide between Shi’ites and Sunnis in Iraq, however, includes more than the above-described schism. In fact, there has been considerable intermarriage between the two groups among the urban middle class and some Iraqi tribes have both Sunni and Shi’ite branches.¹⁵⁰ In reality, the schism is also a result of the politics of the former regimes, exacerbated by post-2003 emphasis on religious and ethnic identities.¹⁵¹ Despite the fact that, since its formation in 1921, Iraq has been largely secular, Sunni Arabs by-and-large dominated the country’s government, military and economy. The Ba’athist Government of Saddam Hussein targeted the Shi’a clergy and the Shi’ite population at large. According to Global Security,

“Forces from the Intelligence Service (Mukhabarat), General Security (Amn al-Amm), the Military Bureau, Saddam’s Commandos (Fedayeen Saddam), and the Ba’ath Party [...] killed senior Shi’a clerics, desecrated Shi’a mosques and holy sites (particularly in the aftermath of the 1991 civil uprising), arrested tens of thousands of Shi’a, interfered with Shi’a religious education, prevented Shi’a adherents from performing their religious rites, and fired upon or arrested Shi’a who sought to take part in their religious processions. Security agents reportedly are stationed at all the major Shi’a mosques and shrines, and search, harass, and arbitrarily arrest worshippers.”¹⁵²

Furthermore, the regime of Saddam Hussein was responsible for military campaigns against Shi’ite civilians, extra-judicial killings, the confiscation of land and the drainage of the Southern marsh areas and forcible relocation of its original inhabitants, the Marsh Arabs. The unequal distribution of the country’s resources led to the under-development of the mainly Shi’ite South of Iraq.¹⁵³

ii) The Emergence of the Current Sectarian Violence

The Sunni-driven insurgency initially targeted US troops. Soon, with the involvement of Al-Qa’eda in Iraq, parts of the insurgency deliberately attacked Shi’a targets. Igniting sectarian violence is central to Al-Qa’eda’s strategy in Iraq. In a 15 June 2004 letter purportedly authored by Abu Musab Al-Zarqawi, Al-Qa’eda’s former leader, and addressed

¹⁴⁹ Global Security, *Sunni Islam in Iraq*, <http://www.globalsecurity.org/military/world/iraq/religion-sunni.htm> [last updated 22 June 2005].

¹⁵⁰ CFR, *Iraq: The Sunnis*, see above footnote 148.

¹⁵¹ According to the ICG, Iraq’s electoral law, drafted in 2004, had also furthered “communalism” and “deepened ethnic and sectarian identities (...)”; see ICG, *After Baker-Hamilton*, p. 19, see above footnote 111. The USIP assessed that “(i)n order to gain power in a political vacuum, among an electorate with few institutions and little experience, leaders appealed to ethnic and sectarian identity with great success, mobilizing these sentiments and organizing coalitions on this basis, and thus furthering the division of Iraq largely along ethnic and sectarian lines”; Phebe Marr, *Iraq’s New Political Map*, USIP, Special Report, January 2007, p. 7, <http://www.usip.org/pubs/specialreports/sr179.pdf>.

¹⁵² Global Security, *Sunni Islam in Iraq*, see above footnote 149. However, the Ba’athist regime of former President Saddam Hussein exploited religion to mobilize his people, in particular during the Iraq-Iran War in the 1980s. See: Global Security, *Shia-Baath Relations*, <http://www.globalsecurity.org/military/world/iraq/religion-shia-baath.htm> [last updated 22 June 2005].

¹⁵³ Global Security, *Shia-Baath Relations*, see above footnote 152.

to Osama Bin Laden, the Shi'ites are described as “a sect of treachery and betrayal through the ages.”¹⁵⁴ Ansar Al-Islam issued a statement in January 2007, calling on Sunnis to wage a war against the Shi'ites, saying

“Come to jihad...those (Shi'ites) do not respond to condemnations or threats, only fire and steel bring good in dealing with them.”¹⁵⁵

Furthermore:

“Organise yourself in groups of four, each of which should cleanse their area from every spy, agent, traitor who stalks the mujahideen and all employees of the interior and defence ministries. Most of those are hateful rejectionists (Shi'ites).”¹⁵⁶

Suicide car bombs and improvised explosive devices (IEDs) became the main weapons to target Shi'ite civilians in mosques as well as Shi'ite-dominated police stations and recruiting centres. Sunni militants forced Shi'ites out of religiously mixed neighbourhoods and systematically killed bakers,¹⁵⁷ barbers¹⁵⁸ and trash collectors,¹⁵⁹ who are often Shi'ites.¹⁶⁰ To a large extent, the Shi'ites, including the various militias, did not answer with serious retribution. Grand Ayatollah Ali Al-Sistani repeatedly issued statements and *fatwas* speaking out against violence.¹⁶¹ However, since May 2005, Sunni and Shi'ite victims of execution-style killings have routinely been discovered around the country.¹⁶² The growing violence has also been reflected on the political level, with Sunni and Shi'ite

¹⁵⁴ Abdel Bari Atwan, *Al Qaeda's hand in tipping Iraq toward civil war*, The Christian Science Monitor, 20 March 2006, <http://www.csmonitor.com/2006/0320/p09s01-coop.html?s=widedp>.

¹⁵⁵ According to Reuters, the authenticity of the statement could not be verified; see: Reuters Alertnet, *Iraq Sunni militant group urges war on Shi'ites*, 17 January 2007, <http://www.alertnet.org/thenews/newsdesk/L17862862.htm>.

¹⁵⁶ *Ibid.*

¹⁵⁷ See, for example, BBC News, *Iraq ministry hostages “tortured”*, 16 November 2006, http://news.bbc.co.uk/2/hi/middle_east/6153316.stm; Sabrina Tavernise, *Sects' Strife Takes a Toll on Baghdad's Daily Bread*, The New York Times, 21 July 2006, <http://www.nytimes.com/2006/07/21/world/middleeast/21bakers.html?pagewanted=2&ei=5088&en=0182007d054b4df7&ex=1311134400&partner=rssnyt&emc=rss>; Agence France-Presse (AFP), *Ten Iraqi bakers kidnapped*, 18 June 2006, <http://www.abc.net.au/news/newsitems/200606/s1665781.htm>; ABC News, *Iraq Violence Sweeps Up Unlikely Group – Bakers*, 15 April 2006, <http://abcnews.go.com/WNT/IraqCoverage/story?id=1846519&CMP=OTC-RSSFeeds0312&WNT=true>; NPR, *Bakeries Get Caught in Iraq's Sectarian Crossfire*, 4 April 2006, <http://www.npr.org/templates/story/story.php?storyId=5321698>; Agencies, *23 die in Iraq attacks on bakery, mosque*, 12 February 2005, http://www.chinadaily.com.cn/english/doc/2005-02/12/content_416202.htm.

¹⁵⁸ See “Persons Accused of “Un-Islamic” Behaviour”.

¹⁵⁹ Michael Luo, *The danger in the trash of Baghdad*, The New York Times, 11 October 2006, <http://www.iht.com/articles/2006/10/11/news/trash.php>; Sabrina Tavernise, *As death toll mounts, middle class flees Iraq*, The New York Times, 19 May 2006, <http://www.iht.com/articles/2006/05/19/news/exodus.php>.

¹⁶⁰ Sabrina Tavernise, *District by District, Shiites Make Baghdad Their Own*, The New York Times, 22 December 2006, <http://www.nytimes.com/2006/12/23/world/middleeast/23shiites.html?ex=1324530000&en=127a0eb6a78cc578&ei=5088&partner=rssnyt&emc=rss>.

¹⁶¹ AP, *Top Iraqi Shiite: Sectarian bloodshed aids agitators*, 3 February 2007, <http://www.cnn.com/2007/WORLD/meast/02/03/iraq.cleric.ap/index.html>. For earlier statements and fatwas, see: Ashraf Al-Khalidi and Victor Tanner, *Sectarian Violence: Radical Groups Drive Internal Displacement in Iraq*, The Brookings Institution/University of Bern Project on Internal Displacement, October 2006, p. 15, http://www.brookings.edu/fp/projects/idp/20061018_DisplacementinIraq_Khalidi-Tanner.pdf.

¹⁶² Al-Khalidi and Tanner, p. 7, see above footnote 161. See also: UNHCR, *2005 Country of Origin Information Iraq*, p. 15 and Annex I, see above footnote 53.

politicians accusing each other of stirring sectarian tensions.¹⁶³ In addition to the insurgency, the lack of rule of law, the election of a sectarian-based government and its inability to promote reconciliation, the empowerment of militias and human rights abuses by Shi'ite-dominated ISF against Sunnis, have all contributed to further sectarianism.

After the bombing of the revered Shi'ite Al-Askari Shrine in the predominantly Sunni city of Samarra on 22 February 2006, allegedly by Sunni extremists, sectarian violence has escalated and “*has become one of the most significant forms of human rights violation.*”¹⁶⁴ The attack spawned days of reprisals and set off a cycle of sectarian violence across Iraq, including violent clashes between Sunnis and Shi'ites, targeted kidnappings and assassinations as well as attacks on mosques.¹⁶⁵ Ayatollah Ali Al-Sistani urged his followers not to retaliate against Sunnis, but revenge killings have now become a daily occurrence. The moderating influence of Al-Sistani appears to be waning.¹⁶⁶ Since the Samarra bombing, more Iraqis have died in execution-style sectarian killings than in terrorist attacks carried out by insurgents, which had previously been the major threat to security in Iraq.¹⁶⁷

iii) Current Situation

Sunni armed groups are held responsible for (suicide) attacks targeting Shi'ite-dominated ISF bases and recruitment centres, Shi'ite religious sites and gatherings (e.g. during the festivities of *Ashura*), as well as religious leaders and Shi'ite civilians at large. For example, on 3 February 2007, a suicide bombing hit a crowded market in Al-Sadriya, a predominantly Shi'ite district in Baghdad, leaving at least 130 Iraqis dead.¹⁶⁸ A series of car bombs and mortar attacks in Sadr City, home to more than two million Shi'ites, on 23 November 2006 caused the death of over 200 persons and injured many more.¹⁶⁹

¹⁶³ See, for example, Parker and Hamdani, see above footnote 104. See also: UNHCR, *2005 Country of Origin Information Iraq*, p. 15-16, see above footnote 53.

¹⁶⁴ UNAMI HRO, *April 2006 Human Rights Report*, p. 1, see above footnote 74.

¹⁶⁵ See, for example, UNAMI HRO, *Human Rights Report, 1 January – 28 February 2006*, p. 1-2, <http://www.uniraq.org/documents/HR%20Report%20Jan%20Feb%2006%20EN.PDF> (further: “UNAMI HRO, *February 2006 Human Rights Report*”).

¹⁶⁶ See, for example, *Iraq Study Group Report*, p. 16, see above footnote 35.

¹⁶⁷ The National Intelligence Estimate (NIE) on Iraq, written by the US National Intelligence Council, parts of which became public in early February 2007, emphasized that Iraqi-on-Iraqi violence has become the primary source of conflict. See: Karen DeYoung and Walter Pincus, *Iraq at Risk of Further Strife, Intelligence Report Warns*, The Washington Post, 2 February 2007, <http://www.washingtonpost.com/wp-dyn/content/article/2007/02/01/AR2007020101152.html>. The US Department of Defense assessed that “(i)t is likely that Shi'a militants were responsible for more civilian casualties than those associated with terrorist organizations”; see: US Department of Defense, p. 17, see above footnote 73; Farah Stockman and Bryan Bender, *Iraq militias' wave of death*, The Boston Globe, 2 April 2006, http://www.boston.com/news/world/articles/2006/04/02/iraq_militias_wave_of_death/.

¹⁶⁸ BBC News, *Baghdad market bomb “kills 130”*, 3 February 2007, http://news.bbc.co.uk/2/hi/middle_east/6327057.stm.

¹⁶⁹ Sudarsan Raghavan and Nancy Trejos, *Assault on Iraqi Civilians Is Deadliest Since 2003*, The Washington Post, 24 November 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/11/23/AR2006112300399.html>.

Shi'ite militias on the other hand are mainly operating in the form of death squads, but have also launched a series of mortar attacks on (homogenous) Sunni neighbourhoods.¹⁷⁰ For example, after the devastating attack in Sadr City on 23 November 2006, Shi'ites responded almost immediately with reprisals, firing ten mortar rounds at the Sunni Abu Hanifa mosque in Adhamiya, the holiest Sunni shrine in Baghdad, killing one person and wounding seven. The morning of 24 November 2006, AP reported that Shi'ite militiamen retaliated for the previous day's attacks, dousing six Sunni Arabs in kerosene and burning them alive. The Iraqi Army could not confirm the reports of Sunnis being burned alive, and found only one mosque that had suffered fire damage. However, the AP stood by its story after reconfirming its details with their sources.¹⁷¹

Both Sunni and Shi'ite armed groups are held responsible for running death squads that conduct kidnappings and execution-style killings in Baghdad and other parts of the country. Bodies are routinely found dumped in the streets, rivers and mass graves. Most bear signs of torture, including bound hands and feet and beheadings.¹⁷² It has also been reported that armed groups and militias try individuals in extra-judicial courts before executing them.¹⁷³ The Observer reported that rape is being used to exact revenge and humiliate the other community.¹⁷⁴

Kidnappings and extra-judicial killings reportedly often take place on the basis of the victim's name. As a result, Iraqis are resorting to changing their names, holding forged ID cards and learning religious history and customs in order to avoid being identified as belonging to either community.¹⁷⁵ Even selling or reading the "wrong" newspaper could

¹⁷⁰ According to the ICG, "(t)erritorial polarization also makes possible a transformation in the nature of warfare: from individual killings to mortar attacks, labour-intensive operations, and other highly indiscriminate forms of violence"; see: ICG, *After Baker-Hamilton*, p. 8, see above footnote 111.

¹⁷¹ AP, *AP Defies Military, Bloggers on Story of 6 Iraqis Set on Fire*, 29 November 2006, http://www.editorandpublisher.com/eandp/news/article_display.jsp?vnu_content_id=1003439706; AP, *Iraqi militias take fiery revenge for slaughter*, 25 November 2006, <http://www.msnbc.msn.com/id/15873863/>; AP, *Shi'ites burn six Sunni worshippers alive*, 25 November 2006, <http://www.kansas.com/mlid/kansas/news/world/16089847.htm>; Robin Wright, *U.S. Says Violence Is Meant To Topple Iraqi Government*, The Washington Post, 25 November 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/11/24/AR2006112400203.html>; Multinational Force – Iraq, *One Mosque Burned in Hurriya*, 25 November 2006, http://www.mnf-iraq.com/index.php?option=com_content&task=view&id=7540&Itemid=21.

¹⁷² UNAMI HRO, *December 2006 Human Rights Report*, p. 8, see above footnote 10. See also: US Department of Defense, p. 19, see above footnote 73.

¹⁷³ UNAMI HRO, *April 2006 Human Rights Report*, p. 5, see above footnote 74. See also "Sexual Orientation".

¹⁷⁴ Peter Beaumont, *Hidden victims of a brutal conflict: Iraq's women*, The Observer, 8 October 2006, <http://observer.guardian.co.uk/world/story/0,,1890260,00.html>.

¹⁷⁵ Times Online, *Inside Iraq – The invisible man*, 11 December 2006, http://timesonline.typepad.com/inside_iraq_weblog/2006/12/the_invisible_m.html; Ahmad Ali, Oliver Poole, *Sunnis learn Shia customs to bluff Baghdad death squads*, The Telegraph, 10 October 2006, <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2006/10/09/wiraq109.xml>; Al-Khalidi and Tanner, p. 14, see above footnote 161; James Hider and Ali al-Hamdani, *Faking faith to fool death squads*, The Times, 15 August 2006, <http://www.timesonline.co.uk/tol/news/world/iraq/article609188.ece>; Patrick Cockburn, *Dozens Die as Sectarian Attacks Escalate in Iraq*, The Independent, 10 July 2006, <http://www.truthout.org/cgi-bin/artman/exec/view.cgi/62/21024>; Nancy A. Youssef, *Iraqis faking their IDs to hide religious affiliations*, Knight Ridder Newspaper, 26 April 2006, <http://www.wwrn.org/article.php?idd=21315&sec=46&con=34>; Sabrina Tavernise, *Sectarian Hatred Pulls Apart Iraq's Mixed Towns*, The New York Times, 20 November

reveal a person's identity and put him/her at risk of sectarian killings.¹⁷⁶ For example, on 9 July 2006, gunmen, believed to belong to the Mehdi Army, set up checkpoints in Baghdad's Al-Jihad neighbourhood, inspected ID cards and killed 42 unarmed Iraqis as soon as they identified them as Sunnis.¹⁷⁷ On 17 October 2006, in an area inhabited by Turkmen on the highway between Toz Khurmato and Tikrit, unknown gunmen arrested 17 Turkmen officials working in Tikrit at an illegal checkpoint and questioned them about their ethnicity. Those of Sunni identity were released while 15 Shi'ites were arrested and their whereabouts are unknown.¹⁷⁸ On 22 February 2006, ten Sunni Arab detainees accused of terrorism, both Iraqis and foreigners, were extra-judicially executed by gunmen in a detention facility inside Basrah's port.¹⁷⁹

A more recent phenomenon is mass kidnappings of members of either sect. For example, on 14 November 2006, gunmen wearing police uniforms kidnapped up to 150 employees and visitors from the Ministry of Higher Education in Baghdad. Nine persons, all Shi'ites, were released shortly, while the others were reportedly brought to Sadr City. Seventy were released bearing signs of torture, while the whereabouts of another 70 persons, mostly Sunnis, are unknown to date.¹⁸⁰ In another incident, on 14 December 2006, gunmen in police uniforms kidnapped some 50 merchants, workers and customers from the Sinak wholesale market, near the headquarters of the Ministry of Defense. Some 29 were subsequently released, all of Shi'ite origin.¹⁸¹

In October 2006, open warfare between Shi'ite militias and armed Sunni groups broke out in Tigris river towns north of Baghdad in the Governorate of Salah Al-Din. The sectarian killings exploded after suspected Sunni insurgents kidnapped and beheaded 17 Shi'ite labourers from the predominantly Sunni area of Duluiyah, across the river from Shi'a-dominated Balad. In retaliation, Shi'ite militias forced out Sunni families, set their houses on fire and reportedly killed up to 90 Sunni men from Duluiyah and neighbouring Sunni towns. According to a physician at Balad's hospital, almost all had been shot and some had been tortured with electric drills. Sunni families fleeing Balad described Shi'ite militias going door-to-door, giving people two hours to leave.¹⁸² Reportedly, two Iraqi police officers were detained for collaborating in the killings with the militias.¹⁸³ The incident

2005, <http://www.globalpolicy.org/security/issues/iraq/sectarian/2005/1120towns.htm>; Tavernise, see above footnote 157.

¹⁷⁶ Institute for War and Peace Reporting (IWPR), Hussein Ali, *Baghdad Paper Sellers Risk Wrath of Militants*, Iraqi Crisis Report No. 190, 17 August 2006, http://iwpr.net/?p=icr&s=f&o=323109&apc_state=heniicr200608.

¹⁷⁷ Phillip Robertson, *City of vengeance*, Salon, 12 July 2006, <http://www.salon.com/news/feature/2006/07/12/baghdad/>; BBC News, *Dozens Killed in Baghdad Attacks*, 9 July 2006, http://news.bbc.co.uk/2/hi/middle_east/5162510.stm.

¹⁷⁸ UNAMI HRO, *October 2006 Human Rights Report*, p. 8, see above footnote 66.

¹⁷⁹ UNAMI HRO, *February 2006 Human Rights Report*, p. 2, see above footnote 165.

¹⁸⁰ *Ibidem*, *December 2006 Human Rights Report*, p. 10, see above footnote 10.

¹⁸¹ *Ibid.*

¹⁸² IRIN, *Iraq: No end to violence in Saddam's home province*, 24 January 2007, <http://www.irinnews.org/report.aspx?reportid=64549>; Ellen Knickmeyer and Muhanned Saif Aldin, *Families Flee Iraqi River Towns On 4th Day of Sectarian Warfare*, The Washington Post, 16 October 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/10/16/AR2006101600485.html>.

¹⁸³ UNAMI HRO, *October 2006 Human Rights Report*, p. 8, see above footnote 66.

underscored how explosive the conflict between Iraq's Sunni and Shi'ite communities has become and how little the ISF is able to do in preventing the violence, if they are not themselves involved.¹⁸⁴

Both Sunni and Shi'ite armed groups use violence to drive the other community from their areas. Systematic forced displacement serves as a tool to increase territorial influence and political leverage.¹⁸⁵ According to the Brookings Institution, “(t)he displacements clearly help further the political agenda of these extremist groups.”¹⁸⁶

UNAMI reported that

*“(T)his forced displacement has been achieved by means of large scale attacks targeting civilians, kidnappings, extra-judicial killings, dropping of threatening leaflets, destruction of properties, and intimidation.”*¹⁸⁷

Both Sunni and Shi'ite armed groups are held responsible for widespread human rights violations directed against members of the other community or their own members if considered as “traitors”. Both sides operate largely with impunity. On the one hand, the MNF/ISF are largely unable to quell Sunni insurgent violence against civilians. On the other hand, consistent reports suggest that the Shi'ite-dominated ISF are infiltrated by militias, which collude with death squads in targeting Sunnis, e.g. through the facilitation of movement despite curfews and provision of advance warnings of upcoming security operations.¹⁸⁸

Criminal gangs often work hand-in-hand with armed groups and militias, bolstering the latter's sectarian agenda.¹⁸⁹

iv) Affected Areas

Particularly affected by the ongoing violence and sectarian cleansing are areas with (formerly) mixed populations such as the cities of Baghdad, Mosul and Basrah, the Governorates of Salah Al-Din and Diyala¹⁹⁰ (in particular Samarra, Tikrit, Balad, Dujail and Baqouba and Miqdadiyah) as well as Yusufiyah, Latifiyah and Mahmoudiyah in the so-called “Triangle of Death” south of Baghdad in the Governorate of Babel.¹⁹¹ Sectarian

¹⁸⁴ Nancy A. Youssef, *U.S. forces move to quell sectarian violence in Balad*, McClatchy Newspapers, 17 October 2006, <http://www.realcities.com/mld/kwashington/15782387.htm>.

¹⁸⁵ See, for example, Parker and Hamdani, see above footnote 104.

¹⁸⁶ Al-Khalidi and Tanner, p. 1, see above footnote 161. See also: ICG, *After Baker-Hamilton*, p. 9, see above footnote 111, which states that “among Iraqis, the feeling is widespread that the violence is more a function of expedient calculations by politicians obsessed with their short-term survival than a deep-seated and long-term animosity between Sunnis and Shi'ites.”

¹⁸⁷ UNAMI HRO, *December 2006 Human Rights Report*, p. 8, see above footnote 10.

¹⁸⁸ US Department of Defense, p. 18, see above footnote 73; Al-Khalidi and Tanner, p. 7-8, see above footnote 161.

¹⁸⁹ See “Criminal Groups”.

¹⁹⁰ On the situation in the Governorate of Diyala, and in particular the town of Baqouba, see: Oppel Jr., see above footnote 123.

¹⁹¹ Al-Khalidi and Tanner, p. 16, see above footnote 161.

violence has also engulfed Kirkuk.¹⁹² The fear caused by sectarian violence has led many Iraqi families to abandon their homes and move to areas within the country dominated by their own religious or ethnic group. Shi'ites flee to Shi'ite areas, Sunnis go to Sunni areas.¹⁹³ In 2006, according to Cluster F, an estimated 640,000 persons were forced to flee their homes due to sectarian violence after the 22 February Samarra bombing.¹⁹⁴ By March 2007, this figure had climbed to 736,000.

Baghdad, which features all ethnic and religious groups in Iraq and is home to one quarter of the Iraqi population, is particularly affected. Sunni and Shi'ite armed groups aim to take control of religiously mixed neighbourhoods such as Al-Doura, Hurriyah, Adhamiya, Khadimiyah, Ghazaliyah, Amiriyah and Qadissiyah, and drive out civilians belonging to the "other" group.¹⁹⁵ This violence is splitting Baghdad into sectarian enclaves as civilians move to their majority-areas, which become virtual no-go areas for outsiders.¹⁹⁶ The New York Times reported in December 2006 that according to residents, US and Iraqi military commanders and local officials, at least ten formerly mixed neighbourhoods are now almost entirely Shi'a.¹⁹⁷ Some reports suggest that Baghdad is being systematically cleansed of Sunnis, but to date no reliable data is available to support this claim.¹⁹⁸ Such developments have not provided any improvements in security, but rather led to an easier targeting of opposing groups and exacerbation of the violence.

The same groups involved in sectarian violence also offer humanitarian assistance to their own communities¹⁹⁹ and distribute illegally seized homes of displaced persons.²⁰⁰ As part

¹⁹² See also "Kurds, Arabs, Turkmen428F, Ethnic-Based Christian Groups (Assyrians, Chaldeans, Armenians)429F, Yazidis430F and Shabak431F in Ethnically Mixed Areas".

¹⁹³ Al-Khalidi and Tanner, p. 2-3, see above footnote 161; David Enders, *Shi'ite exodus from mixed towns*, The Christian Science Monitor, 13 April 2006, <http://www.csmonitor.com/2006/0413/p01s03-woiq.html>; Edward Wong and Kirk Semple, *Civilians in Iraq Flee Mixed Areas as Attacks Shift*, The New York Times, 2 April 2006, <http://www.nytimes.com/2006/04/02/world/middleeast/02iraq.html?pagewanted=1&ei=5088&en=2ea339a4c657df7f&ex=1301630400&partner=rssnyt&emc=rss>; Sabrina Tavernise, *Sectarian Hatred Pulls Apart Iraq's Mixed Towns*, The New York Times, 20 November 2005, <http://www.globalpolicy.org/security/issues/iraq/sectarian/2005/1120towns.htm>.

¹⁹⁴ Cluster F, *New Displacement in Iraq in 2006 from a Protection Perspective*, 15 February 2007, http://www.unhcr.org/cluster/Reports/Cluster_F_-_IDP_Update_for_2006_from_a_Protection_Angle_f.pdf.

¹⁹⁵ Parker and Hamdani, see above footnote 104; John F. Burns, *Shi'ites rout Sunni families in mixed area of Baghdad*, The International Herald Tribune, 9 December 2006, <http://www.ihf.com/articles/2006/12/10/africa/web.1210baghdad.php>.

¹⁹⁶ Sumedha Senanayake, *Iraq: Growing Numbers Flee Sectarian Violence*, RFE/RL, 26 January 2007, <http://rfe.rferl.org/featuresarticle/2007/01/022dcf6f-769e-4f17-b689-bd0b0bb7fa87.html>; IRIN, *Iraq: Baghdad most violent province in Iraq*, 17 January 2007, <http://www.irinnews.org/report.aspx?reportid=64493>; ICG, *After Baker-Hamilton*, p. 8, see above footnote 111; IRIN, *Iraq: Sectarian violence tears Baghdad into two parts*, 5 December 2006, <http://www.irinnews.org/Report.aspx?ReportId=62310>; Al-Khalidi and Tanner, p. 17, see above footnote 161.

¹⁹⁷ Tavernise, *District by District, Shi'ites Make Baghdad Their Own*, see above footnote 160. The New York Times also provides a map of Baghdad showing approximate boundaries of Sunni/Shi'ite neighbourhoods.

¹⁹⁸ IRIN, *Iraq: No end to the year-old sectarian strife*, 21 February 2007, <http://www.irinnews.org/Report.aspx?ReportId=70294>. See also: *ibid*.

¹⁹⁹ IRIN, *Iraq: Fighters fill humanitarian vacuum*, 14 February 2007, <http://www.irinnews.org/Report.aspx?ReportId=70170>.

²⁰⁰ UNAMI HRO, *October 2006 Human Rights Report*, p. 16, see above footnote 66; UNAMI HRO, *August 2006 Human Rights Report*, p. 9, see above footnote 26.

of the latest security crack-down in Baghdad, the government has promulgated that those who had occupied the homes of displaced families would be given 15 days to return the properties to their original owners or prove they had permission to be there. This approach is meant to open the way to return.²⁰¹

b) Shi'ite-Sunni Mixed Families

The ongoing sectarian violence has also affected mixed Shi'ite-Sunni couples and their children, resulting in discrimination, pressure to divorce and, in individual cases, even killings at the hands of insurgents, militias or their own families. Before the fall of the former regime and escalating violence among the various communities in Iraq, mixed marriages between Sunnis and Shi'ites and also between Sunni Kurds and Arabs of both sects were common. According to Government estimates, two million of Iraq's 6.5 million marriages are between Arab Sunnis and Arab Shi'ites. An Iraqi organization called *Union for Peace in Iraq* (UPI) that aimed to protect mixed marriages from sectarian violence was forced to stop its activities after three mixed couples, including founding members of UPI, were killed. With many areas, in particular in Baghdad, being "cleansed" along sectarian lines and becoming virtual "no-go" zones for members of the other sect, mixed couples and their children are in a particular difficult situation with no majority area to seek refuge.²⁰²

c) Shabak

According to the *Encyclopaedia of the Orient*, the Shabak are both

*"a people and a religion. The Shabaks live in the region of Mosul, Iraq, and are united in culture and language, but they cover more than one ethnic group and among them there is more than one religion."*²⁰³

The Encyclopaedia further explains that a large part of the Shabak is ethnically related to the Kurds and the Turkmen and subgroups of the Shabak include the *Gergari*, *Bajalan*, *Hariri* and *Mosul*.²⁰⁴ Though some identify the Shabak as Kurds,²⁰⁵ they have their own

²⁰¹ IRIN, *Iraq: New security plan could make more homeless*, 15 February 2007, <http://www.irinnews.org/Report.aspx?ReportId=70208>; Senanayake, *Iraq: Growing Numbers Flee Sectarian Violence*, see above footnote 196.

²⁰² IRIN, *Iraq: Sectarian violence forces mixed couples to divorce*, 8 November 2006, <http://www.irinnews.org/report.aspx?reportid=61927>; Amit R. Paley, *Even Dating Is Perilous In Polarized Baghdad*, The Washington Post, 12 September 2006, http://www.washingtonpost.com/wp-dyn/content/article/2006/09/11/AR2006091101044_pf.html; IRIN, *Iraq: Mixed marriages confront sectarian violence*, 6 April 2006, <http://www.irinnews.org/report.aspx?reportid=61927>; Babak Dehghanpisheh, Rod Nordland and Michael Hastings, *Love in a Time of Madness*, Newsweek, 13 March 2006, <http://www.msnbc.msn.com/id/11677916/site/newsweek/>; Sabrina Tavernise, *In Iraq, a sectarian identity crisis*, The New York Times, 19 February 2006, <http://www.ihf.com/articles/2006/02/19/news/sect.php>; Aqueel Hussein and Colin Freeman, *Iraqi mixed marriages dwindle as terror blitz divorces Sunni from Shia*, The Telegraph, 17 September 2005, <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2005/09/18/nirq118.xml>.

²⁰³ Encyclopaedia of the Orient, *Shabak*, <http://lexicorient.com/e.o/shabak.htm> [accessed January 2007].

²⁰⁴ *Ibid.*

²⁰⁵ In particular the Kurdish parties view the Shabak as Kurds, thereby increasing their political leverage in the Ninewa Plain in view of the forthcoming referendum on the status of "disputed areas". UNHCR received information that the main representatives of Shabak tribes held meetings with the Kurdish authorities with the

values, traditions and dresses and consider themselves as a distinct ethnic group.²⁰⁶ However, during the *Arabization*,²⁰⁷ the Shabak were registered as either Kurds or Arabs. Most Shabak consider themselves Muslims (mainly belonging to the Shi'ite branch of Islam, with a smaller Sunni minority), though they follow their own unique form of Islam, which includes elements of Christianity and other religions and has its own sacred book known as *Buyruk*, written in the Turkoman language. There is a close relationship between the Shabak and the Yazidis, and the Shabak perform pilgrimage to Yazidi shrines.²⁰⁸ The Shabak language is called *Shabaki* and is related to Kurdish, Turkish, Farsi and Arabic.²⁰⁹

As there is no recent or non-politicized census, there are no clear estimates as to the number of Shabak in Iraq and estimates range from 15,000 to 400,000 persons.²¹⁰ They predominantly reside in Mosul city (mainly on the left side of the Tigris river) and in towns and villages of the Ninewa Plain such as Nimrod, Qaraqosh, Bartilla, Basheqa and Telkep. According to Dr. Hunain Al-Qaddo,²¹¹ the Shabak comprise a third of the inhabitants of the town of Bartilla.²¹²

During the *Arabization* campaign, numbers of Shabak were forcibly expelled from their places of origin in the Governorate of Ninewa. According to Dr. Hunain Al-Qaddo, the former regime destroyed 22 Shabak villages and deported 3,000 families to the north of Iraq. Reportedly, many Shabak were falsely accused by the former regime of being members of the Shi'ite Dawa Party and were executed.²¹³

Like other religious minorities, the Shabak have come under increasing pressure from Islamic extremists. The fact that the Shabak primarily adhere to the Shi'ite branch of Islam makes them a target for Sunni Islamists. Others may look at them as “infidels” altogether given that they adhere to a distinct form of Islam. Possibly, they may also be targeted based on their (perceived) Kurdish ethnicity.²¹⁴ UNAMI HRO reported that Shabak in the

aim of being recognized as a distinct ethnic group; however this demand was not met with sympathy by the Kurds.

²⁰⁶ In 1952, the Shabak were recognized as distinct ethnic group in Iraq. Therefore, consideration could also be given to persecution on the basis of ethnicity.

²⁰⁷ On the former Governments' *Arabization* policies, see “De-Arabization”.

²⁰⁸ Encyclopaedia of the Orient, *Shabak*, see above footnote 203. See also: AINA, *Kurdish Gunmen Open Fire on Demonstrators in North Iraq*, 16 August 2005, <http://www.aina.org/news/20050816114539.htm>.

²⁰⁹ Dr. Hunain Al-Qaddo, *Iraq's Shabaks Are Being Oppressed By Kurds*, 28 August 2005, <http://www.aina.org/guesteds/20050828120403.htm>.

²¹⁰ During the former regime's *Arabization* campaign, the Shabak were defined as either Arabs or Kurds and as a result census figures do not exist for Shabak. See, for example, American Aid for Children of Nineveh, *Ethnic Groups in Nineveh, Shabak Culture*, <http://www.iraqkids.org/ethnicdetail.html> [accessed January 2007]. See also: Al-Qaddo, see above footnote 209, and *ibidem*, *A letter from the Rep. of Shabak in the National Assembly*, 23 August 2005, <http://www.christiansofiraq.com/shabak8235.html>.

²¹¹ Dr. Hunain Al-Qaddo is the General Secretary of the Democratic Shabak Assembly and former Shabak representative in the TNA. He was also a member of Iraq's Constitution Drafting Committee and Chairman of the Iraqi Minorities Council.

²¹² Al-Qaddo, see above footnote 209.

²¹³ *Ibid.*

²¹⁴ See also “Kurds, Arabs, Turkmen428F, Ethnic-Based Christian Groups (Assyrians, Chaldeans, Armenians)429F, Yazidis430F and Shabak431F in Ethnically Mixed Areas”, “Actual or Perceived

Ninewa Plains in particular have been pressured to convert to Islam.²¹⁵ The Shabak community in the Governorate of Ninewa reported being subjected to violence and intimidation with more than one hundred of their followers murdered since the beginning of June 2006.²¹⁶ Reportedly, over one thousand families have moved to villages outside Mosul city.²¹⁷ UNHCR received information that the Shabak in Mosul city are under constant threat of being kidnapped or killed by Sunni extremists and have stopped going to school and work. UNAMI HRO reported that it was given a list by Shabak representatives documenting the killings of 41 members of their community during June 2006 in Mosul.²¹⁸ It further reported that in late December 2006, two members of the Shabak community were murdered in Mosul. According to the police, they were targeted only on the basis of their religion.²¹⁹

2. Non-Muslim Religious Groups

A number of non-Muslim minorities, principally Chaldean, Assyrian, Syriac, Armenian and Protestant Christians, as well as Yazidi, Sabaean-Mandaean, Kaka'i, Baha'i, and a small number of Iraqi Jews live in Iraq. Since the fall of the former regime, Iraq has been in a state of considerable political, social and economic transition and, as seen in both national elections held in 2005, is witnessing increased polarization along sectarian lines.²²⁰

Generally, the Government of Iraq undertakes to protect the right of all religious groups to believe, assemble and worship freely within the applicable legal framework.²²¹ However, such protection is strictly limited by ongoing violence and the limited capacity of the ISF.²²² While the upsurge in sectarian violence since the bombing of the Al-Askari Shrine in Samarra on 22 February 2006 has been between members of Iraq's Sunni minority and Shi'ite majority, non-Muslim minorities remain well within the current escalation in

Sympathizers of the US-Led Invasion and/or the Multi-National Force in Iraq” and “Kurds and Other Segments of Iraqi Society”.

²¹⁵ UNAMI HRO, *December 2006 Human Rights Report*, p. 3, 4 and 24, see above footnote 10.

²¹⁶ UNAMI HRO, *August 2006 Human Rights Report*, p. 13, see above footnote 26. See also: Keith Roderick, *The Unholy Month of Ramadan*, National Review Online, 18 October 2006, <http://article.nationalreview.com/?q=NGZhNmUwNjdmMDcwODhkNDMyMTQ2Y2UzYTFkMDQxNmY=>.

²¹⁷ *Ibid.*

²¹⁸ UNAMI HRO, *June 2006 Human Rights Report*, p. 12, see above footnote 27.

²¹⁹ *Ibidem*, *December 2006 Human Rights Report*, p. 14, see above footnote 10. Other incidents reported in public media include: (1) Shabak Faris Nasir Hussein, member of the Kurdish coalition in the Transitional National Assembly (TNA), was ambushed by gunmen on his way from Mosul to Baghdad where he was to attend a parliamentary session; and (2) on 16 September 2004, a Kurdish website reported the finding of two Shabaks' decapitated bodies near the village of Ali-Rash in the Governorate of Ninewa. See: Los Angeles Times, *Iraq's National Assembly OKs final draft of constitution*, 19 September 2005, http://www.pittsburghlive.com/x/pittsburghtrib/s_375566.html; Dr. Rebwar Fatah, *When religious intolerance turns to deadly war*, Kurdishmedia.com, 5 July 2006, <http://www.kurdmedia.com/articles.asp?id=12779>.

²²⁰ In both the elections for the National Assembly (held on 30 January 2005) and the elections for the Council of Representatives (held on 15 December 2005), Iraqis cast their ballots based on sectarian or ethnic allegiances. See: Phebe Marr, *Who Are Iraq's New Leaders? What Do They Want?*, USIP, Special Report, March 2006, p. 1, <http://www.usip.org/pubs/specialreports/sr160.pdf>.

²²¹ See “Constitutional and Legislative Situation”.

²²² See USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28.

violence and have been subject to regular attacks since 2003.²²³ The Brookings Institution/ University of Bern Project on Internal Displacement cited an Iraqi observer saying that the broader problem of sectarian violence in Iraq was not only an issue between the country's Shi'a and Sunni communities, "*but rather an organized effort to target all "other" communities*".²²⁴ Largely without protection on the basis of tribe, militia or political party,²²⁵ and often perceived as relatively wealthy, non-Muslim minorities are particularly vulnerable to attacks for perceived threat to the Islamic nature of the state, imputed affiliation with international actors, break-down of law and order, and general criminality. There is undoubtedly a strong subjective fear among religious communities in Iraq that their very existence is at stake.²²⁶

Members of non-Muslim religious minorities have become regular victims of discrimination, harassment and serious human rights violations, with incidents ranging from intimidation and threats to the destruction of property, kidnapping,²²⁷ rape, forced conversion and murder. Along with the deterioration of the situation for Iraqi women in general due to the strict embracing of Islamic values and traditions as well as the high rate of criminality, women belonging to religious minority groups are often forced to comply with strict Islamic dress codes.²²⁸ Their freedom of movement is also restricted due to the threat of kidnapping and rape.²²⁹

²²³ UNAMI HRO reported that "*(W)hile the initial violence randomly targeted the Arab Sunni community, allegedly for their unproven association with the destruction of Al Askari Shrine, members of all communities were negatively affected by the unleashed violence and tit-for-tat attacks*"; see UNAMI HRO, *February 2006 Human Rights Report*, p. 2, see above footnote 165. See also: USCIRF, *Iraq: USCIRF Letter to Under Secretary of State Dobriansky Urges Refugee Protections for Iraqi Religious Minorities*, 9 November 2006, <http://www.uscifr.gov/mediaroom/press/2006/november/20061109IraqRefugees.html>.

²²⁴ Al-Khalidi and Tanner, p. 24-25, see above footnote 161.

²²⁵ Christians currently have the following representation in the central government: Wijdan Mikha'il, a town planner and member of the secular Iraqi National List, is the Minister of Human Rights; Yonadem Kanna of the Assyrian Democratic Movement is a member of the Council of Representatives.

²²⁶ UNAMI HRO indicated that "*Sabeian-Mandeans continue to be targeted by extremists and their continuous presence in the country is endangered*"; see UNAMI HRO, *October 2006 Human Rights Report*, p. 3, see above footnote 66. In an earlier report it said: "*Members of Iraqi ethnic, religious or linguistic minorities feel that their identity and even physical existence is threatened*"; see UNAMI HRO, *August 2006 Human Rights Report*, p. 2 and 13, see above footnote 26.

²²⁷ According to UNAMI HRO, "*(K)idnappings by criminal gangs have revealed a sectarian dimension*"; see UNAMI HRO, *August 2006 Human Rights Report*, p. 2 and 8, see above footnote 26.

²²⁸ Strict Islamic dress codes includes the requirement that women wear an *abaya*, a traditional full-length cloak and a headscarf; see: IRIN, *Iraq: Christians live in fear of death squads*, 19 October 2006, <http://www.irinnews.org/report.aspx?reportid=61897>. According to the USDOS, Basrah's Education Director introduced a rule requiring all females in the schools to cover their hair. The same report states that female university students in Mosul, even non-Muslims, were required to wear the *hijab*; see: USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28. UNAMI HRO reported that "*(I)ndividuals continue to face harassment and intimidation by extremist elements if they are not inclined to conform to traditional dressing. Women, national and religious minorities as well as homosexual were particularly targeted*"; see UNAMI HRO, *June 2006 Human Rights Report*, p. 8-10, see above footnote 27. See also "Persons Accused of "Un-Islamic" Behaviour".

²²⁹ UNAMI HRO, *August 2006 Human Rights Report*, p. 10, see above footnote 26.

The overall climate results in non-Muslim minority groups fearing to publicly practice their religion.²³⁰ Members of non-Muslim minority groups also reported employment discrimination in the public sector due to their religious identity.²³¹ The US Department of State's 2006 *International Freedom Report* states that

*“(T)he combination of discriminatory hiring practices, attacks against non-Muslim businesses and the overall lack of rule of law, have also had a detrimental economic impact on the non-Muslim community and contributed to the significant numbers of non-Muslims who left the country.”*²³²

a) Christians²³³

i) General

The last census covering all of Iraq's Governorates²³⁴, in 1987, showed 1.4 million Christians. Since 2003, the number has decreased and estimates now place the number of Christians within Iraq at less than one million, with an estimated 700,000 Iraqi Christians living abroad.²³⁵ Iraqi Christians belong to different churches, including the Chaldean Catholic Church,²³⁶ the Syriac Orthodox Church,²³⁷ the Syrian Catholic Church,²³⁸ the

²³⁰ See, for example, USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28.

²³¹ UNAMI HRO, *October 2006 Human Rights Report*, p. 14, see above footnote 66.

²³² USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28.

²³³ Christians in Iraq, in particular Assyrians, Chaldeans and Armenians, consider themselves as both religious and ethnic minorities; therefore consideration could also be given to persecution on the basis of ethnicity. See also “Kurds, Arabs, Turkmen428F, Ethnic-Based Christian Groups (Assyrians, Chaldeans, Armenians)429F, Yazidis430F and Shabak431F in Ethnically Mixed Areas”.

²³⁴ A later census was held by the Government of Iraq in October 1997; however, it did not include the three Northern Governorates of Sulaymaniyah, Erbil and Dahuk. See: UN, *Press Briefing on Iraq Demographics*, 8 August 2003, <http://www.un.org/News/briefings/docs/2003/iraqdemobrf.doc.htm>.

²³⁵ USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28. According to the local Christians Peace Association about 700,000 Christians remain in Iraq; see: IRIN, *Iraq: Christians live in fear of death squads*, see above footnote 228; Judi McLeod, *Forgotten Christians of Iraq*, 19 October 2006, Canada Free Press, <http://www.canadafreepress.com/2006/cover101906.htm>. Statistics regarding the number of Christians currently in Iraq have varied somewhat. The Society for Threatened People, an independent German human rights organization with consultative status at the Economic and Social Council of the United Nations (ECOSOC) and participant status at the Council of Europe, estimates that 700,000 Christians were present in Iraq before 2003, of which at least 500,000 have since fled. The remaining 200,000 have either not the material means to flee or are afraid of being killed in the attempt to flee. The NGO estimates that the number of Christians in Baghdad has dropped from 400,000 to just 100,000. In Basrah only about 1,000 out of formerly 30,000 remain, and in Mosul, which was once inhabited by 80,000 Christians, only a few hundred are believed to be still there; see: Society for Threatened People, *Iraq: Germany must take Christian refugees!*, 22 December 2006, <http://www.gfbv.de/pressemit.php?id=788&stayInsideTree=1>.

²³⁶ Chaldean Catholics have one patriarch (currently Mar Emmanuel III Delly, Patriarch of Babylon in Baghdad), four archdioceses (in Kirkuk, Mosul, Basrah and Erbil) and five dioceses (in Alqosh, Amadiyah, Akre, Sulaymaniyah and Zakho). See: The Chaldean Church, *The Christians in Iraq*, <http://www.byzantines.net/epiphany/chaldean.htm> [accessed December 2006].

²³⁷ Led by the Patriarch of Antioch, currently Patriarch Moran Mor Ignatius Zakka I Iwas, who resides in Damascus, Syria. Often the Church is referred to as the *Syrian Orthodox Church*. However, in 2000, a Holy Synod ruled that the name of the church in English should be the *Syriac Orthodox Church*.

²³⁸ The current *Patriarch of Antioch and all the East of the Syrians* is Mar Ignace Pierre VIII Abdel-Ahad, who resides in Beirut, Lebanon. The church has two archdioceses in Baghdad and Mosul; see Club Syriac, *History of The Syriac Catholic Church*, <http://www.clubsyriaque.org/glance-fr.html>.

Assyrian Church of the East,²³⁹ the Roman Catholic Church,²⁴⁰ the Armenian Catholic Church,²⁴¹ and the Armenian Orthodox Church. An estimated thirty percent of Iraq's Christians reside in the Northern Governorates of Dahuk, Erbil and Sulaymaniyah, which are administered by the Kurdistan Regional Government (KRG).²⁴² The remainder is principally located in Baghdad, in and around Mosul (Ninewa Plain) and Basrah. An estimated 15,000 Christians reside in Kirkuk.²⁴³

The Qur'an considers the Christians "People of the Book" (*Ahl Al-Kitab*) and provides them with toleration and protection by Islam, including the right to worship and protection of their properties. However, since the fall of the former regime a number of religious edicts (*fatwas*) and letters have been issued by Muslim clerics in Iraq calling the Christians "infidels" (*kuffar*).

ii) Displacement of Christians Since 2003

Since the fall of the former regime in 2003, the Christian communities have seen a steady decline in numbers due to the generally dire security situation and targeted attacks on community members by armed groups. A steady outflow of Iraqi Christians from Iraq to countries in the region (in particular Jordan and Syria) as well as further abroad is taking place,²⁴⁴ peaking with events such as the church bombings in 2004²⁴⁵ and the consequences of the "cartoon controversy"²⁴⁶ in early 2006. In August 2006, the Chaldean Catholic Auxiliary Bishop of Baghdad, Andreos Abouna, stated that insecurity and targeted attacks had forced half of Iraq's Christian population to depart the country since March 2003, and that those remaining were either too poor, old or sick to leave.²⁴⁷ Many others have sought

²³⁹ The Church of the East emerged in the 5th century when it broke away from the Byzantine Orthodox Church during the Third Ecumenical Council (Nestorian Shism). In the late 1800s, the Church of the East officially took on the name *Assyrian Church of the East*. The current patriarch is Mar Dinkha IV. The Patriarch paid an official visit to Ainkawa in the Governorate of Erbil on 17 September 2006 to open new churches and other religious projects; see Assyrianchurchnews.com, *His Holiness Mar Dinkha IV Visits Iraq*, <http://www.assyrianchurchnews.com/index.php?modul=news&iy=1>.

²⁴⁰ With one archdiocese in Baghdad. See: The Chaldean Church, *The Christians in Iraq*, <http://www.byzantines.net/epiphany/chaldean.htm> [accessed December 2006].

²⁴¹ *Ibid.*

²⁴² The geographical coverage of the Region of Kurdistan roughly approximates but is distinct from the former "Kurdish Autonomous Zone", a semi-autonomous area of Iraq administered by Kurdish political parties following the establishment of a no-fly zone above the 36th northern latitude.

²⁴³ USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28.

²⁴⁴ Between 17 March 2003 and 31 January 2007, 7,492 Christians had registered with UNHCR Jordan, constituting 38% of the total of 19,664 Iraqis who had registered with UNHCR Jordan during that period. UNHCR Syria registered a total of 45,150 Iraqis between 21 December 2003 and 6 February 2007, of whom 15,588 were Christians (34% of the total). It should be noted that the percentage of Iraqi Christians registered with UNHCR probably over represents their proportion in host states.

²⁴⁵ See UNHCR, *2005 Country of Origin Information Iraq*, p. 160-161, see above footnote 53.

²⁴⁶ See, further below, footnotes 257 and 258.

²⁴⁷ The Guardian, "In 20 years, there will be no more Christians in Iraq", 6 October 2006, <http://www.guardian.co.uk/Iraq/Story/0,,1888848,00.html>; Simon Caldwell, *Half of all Christians have fled Iraq since 2003, says Baghdad bishop*, Catholic News Service, 6 August 2006, <http://www.catholicnews.com/data/stories/cns/0604409.htm>.

refuge in the three Northern Governorates, mainly the Governorate of Dahuk, and in the Ninewa Plain.²⁴⁸

iii) Current Situation

The security environment and political climate has steadily worsened for religious minorities in Iraq since the 2003 toppling of the former regime. There have been a number of targeted attacks on Christian places of worship, religious figures²⁴⁹ as well as individuals. After attacks on several Christian churches in 2004, several additional incidents were again reported in 2006.²⁵⁰ According to UNAMI HRO, attacks against Christians in Iraq have intensified since September 2006 and are still on the rise.²⁵¹

Christian clergy have reported that priests in Iraq no longer dare to wear their clerical robes in public for fear of being attacked.²⁵² The Babel College, the only Christian theological university in the country, and the Chaldean St. Peter seminary were transferred from Baghdad to Ainkawa in Erbil Governorate in early 2007 after senior staff had been kidnapped.²⁵³

Acts of violence against many members of the Christian community include, *inter alia*, harassment and intimidation, killings (often with extreme violence), kidnappings, armed robbery, forced closure, destruction or confiscation of property, forced conversion to Islam²⁵⁴ and rape and forced marriage of Christian women. The Director of the Iraqi Museum, Donny George, a respected Assyrian, says that he was forced to flee Iraq to Syria in fear for his life and that Islamic fundamentalists obstructed all of his work that was not

²⁴⁸ According to the Society for Threatened People, only about 40,000 Christians have been able to find refuge in the three Northern Governorates, while another 40,000 have fled to the Ninewa Plain; see: Society for Threatened People, *Iraq: Germany must take Christian refugees!*, 22 December 2006, <http://www.gfbv.de/pressemit.php?id=788&stayInsideTree=1>.

²⁴⁹ See “Annex I: Attacks on Christian Religious and Political Representatives”.

²⁵⁰ In the days following the attack in Samarra on 22 February 2006, militias shot at a church near Al-Sadr City, lightly wounding a priest; see UNAMI HRO, *February 2006 Human Rights Report*, p. 5, see above footnote 165. On 29 January 2006, car bombs targeted the Catholic Church of the Virgin Mary and the Orthodox Church in Kirkuk, the Saint Joseph’s Catholic Church and an Anglican Church in Baghdad, killing at least three people and wounding several. A car bomb also exploded outside the residence of the Apostolic Nuncio in Baghdad, without causing any casualties; see: USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28; BBC News, *Churches targeted in Iraq blasts*, 29 January 2006, http://news.bbc.co.uk/2/hi/middle_east/4660104.stm. On 26 September 2006, attackers launched rockets against the Chaldean Church of the Holy Spirit, causing no injuries; see Asia News, *Second attack in three days against a Chaldean church*, 26 September 2006, <http://www.asianews.it/view.php?l=en&art=7321>.

²⁵¹ UNAMI HRO, *December 2006 Human Rights Report*, p. 3, see above footnote 10. See also: UNAMI HRO, *October 2006 Human Rights Report*, p. 3, see above footnote 66.

²⁵² UNAMI HRO, *October 2006 Human Rights Report*, p. 13, see above footnote 66. See also: Charles Tannock, *The Assyrians: Ignored among fears of an Iraqi Civil War*, *The Daily Star*, 10 July 2006, http://www.dailystar.com.lb/article.asp?edition_id=1&categ_id=5&article_id=75907.

²⁵³ Asia News, *Theological university and seminary leave unsafe Baghdad and head north*, 5 January 2007, <http://www.asianews.it/index.php?l=en&art=8150&size=A>.

²⁵⁴ According to UNAMI HRO, “(...) and Assyrians in the Nineveh Plains in particular have been pressured to convert to Islam”; see UNAMI HRO, *December 2006 Human Rights Report*, p. 13, see above footnote 10.

focused on Islamic artifacts.²⁵⁵ The predominantly Christian area of Camp Sara in central Baghdad has repeatedly come under attack, including by mortar fire and car bombs, causing a number of casualties.²⁵⁶

The situation further worsened with the onset of controversy regarding cartoons of the Prophet Mohammed²⁵⁷ and the speech made by Pope Benedict XVI on 12 September 2006 that included the quotation of a 14th Century Byzantine emperor that outraged segments of the Muslim community worldwide and triggered protests and even attacks on churches in several Muslim countries.²⁵⁸ In February 2006, Iraqi Christian students at Mosul University were attacked by other students who described the Christian students as atheists and US traitors. The attacks may have been motivated by *fatwas* and militia statements calling on Iraqis to expel Christians and atheists from schools, institutions and the streets of Iraq because they offended the Prophet. Following these attacks, one Christian female student at Mosul University was reportedly killed while awaiting transportation.²⁵⁹ Christian students in Mosul face a climate of extreme insecurity, and UNHCR has received reports that Christian students have sharply curtailed their class attendance and strictly avoid moving alone. IRIN reported that Christian parents have stopped their children from attending schools and universities, after many fellow students made verbal threats against them.²⁶⁰

Hundreds of angry demonstrators burned an effigy of the Pope in the southern city of Basrah, angered that the Pope's speech had insulted Islam, and called for him to be tried by

²⁵⁵ BBC News, *Leading Iraq archaeologist flees*, 26 August 2006, http://news.bbc.co.uk/2/hi/middle_east/5289046.stm.

²⁵⁶ For example, on 14 February 2007, a car bomb near a hospital killed four people and wounded 10 others; see: Reuters Alertnet, *Factbox – Security developments in Iraq, Feb 14*, 14 February 2007, <http://www.reuters.com/article/latestCrisis/idUSL14532109>. On 4 October 2006, a car bomb and two roadside bombs killed 16 persons and injured at least 72; see: AP, *String of bomb blasts in Baghdad kills 13*, 4 October 2006, http://www.usatoday.com/news/world/2006-10-04-baghdad-blasts_x.htm.

²⁵⁷ According to reports in Iraqi and international media, numerous Christian institutions in Iraq were targeted in reprisal attacks during the “cartoon controversy”. Iraqi sources linked the bombings of seven churches in Kirkuk, Baghdad and Mosul on 29 January 2006 to the protest campaigns. These attacks led to an increase in flight to Jordan and Syria; see IRIN, *Iraq: Sectarian tensions on the rise*, 30 January 2006, <http://www.irinnews.org/Report.aspx?ReportId=26094>; Elaph News (in Arabic), *Bombing of Iraqi Churches Linked to Danish Cartoons*, 29 January 2006, <http://www.elaph.com/ElaphWeb/Politics/2006/1/124132.htm>.

²⁵⁸ The “cartoons controversy” began after editorial cartoons depicting the Muslim Prophet Mohammed, were published in the Danish newspaper Jyllands-Posten on 30 September 2005. The newspaper announced that this publication was an attempt to contribute to the debate regarding criticism of Islam and self-censorship. The controversy deepened when further examples of the cartoons were reprinted in newspapers in more than fifty other countries. This led to numerous protests, including violent rioting particularly in the Muslim world. See, for example, The Washington Post, *The Mohammed Cartoon Controversy*, <http://www.washingtonpost.com/wp-dyn/content/linkset/2006/02/07/LI2006020701366.html> [last updated 7 January 2007]. The Pope Benedict XVI controversy arose from a lecture delivered on 12 September 2006 by Pope Benedict XVI at the University of Regensburg in Germany. He explored the historical and philosophical differences between Islam and Christianity and the relationship between violence and faith. His quote from Emperor Manuel II Paleologos of the Orthodox Christian Byzantine Empire, who said the Prophet Mohammed had brought the world only “evil and inhuman” things, stood at the centre of the controversy. See, for example, Reuters / The New York Times, *Pope apologizes after fury over Islam remarks*, 17 September 2006, <http://www.iht.com/articles/2006/09/17/news/apology.php>.

²⁵⁹ Information received by UNHCR.

²⁶⁰ IRIN, *Iraq: Christians live in fear of death squads*, see above footnote 228.

an international court.²⁶¹ Several armed Islamist groups, including the *Mujahedeen Shura Council* (an umbrella group led by Al-Qa'eda in Iraq),²⁶² Mohammed's Army,²⁶³ *Jaish Al-Mujahedeen* (the Mujahedeen Army), the *Asaeb Al-Iraq Al-Jihadiya* (League of Jihadists in Iraq) as well as Ansar Al-Sunna threatened the Vatican in particular and Christians in general with reprisals in statements posted on Islamist internet websites.²⁶⁴

UNAMI HRO reported that as a result of such threats, many churches have cancelled services and attendance has dwindled. Christian churches in Baghdad and elsewhere have reportedly publicly displayed banners dissociating themselves from the Pope's comments. It was reported that, on 24 and 25 September 2006, the Chaldean Church of the Holy Spirit in Mosul was attacked with rockets and an explosive device was detonated outside the church's door.²⁶⁵ Furthermore, on 4 and 5 October 2006, unidentified men opened fire on the same church, injuring one of the guards. It was reported that the following message was written on church doors: "*If the Pope does not apologize, we will bomb all churches, kill more Christians and steal their property and money.*" On 2 October 2006, a convent of Iraqi Dominican Sisters in Mosul was fired upon. In addition, on 16 October 2006, unknown gunmen fired at Al-Safena Church in Mosul, causing some damage to the church.²⁶⁶

In Mosul, Father Boulos Iskander Behnam, a priest from the Syriac Orthodox Church of the Virgin Mary, was kidnapped and beheaded by men seeking retribution for Pope Benedict's comments about Islam. His death intensified fear within the Christian community, who are calling for international assistance to help them leave the country.²⁶⁷ In September 2006, the new Al-Qa'eda chief in Iraq and successor of Abu Musab Al-Zarqawi, Abu Hamza Al-Muhajer, called for the kidnapping of "*Christian dogs*" who could be exchanged for

²⁶¹ Jenny Booth and agencies, *Al-Qaeda threatens jihad over Pope's remarks*, Times Online, 18 September 2006, http://www.timesonline.co.uk/tol/news/world/middle_east/article642645.ece.

²⁶² A statement published on the internet by the *Mujahedeen Shura Council* threatened reprisals against "*worshippers of the cross*" for the Pope's remarks. The statement appeared on a website frequently used by militant groups, but its authenticity could not be verified. Referring to a *hadith* (saying of the Prophet Mohammed), it further stated: "*We shall break the cross and spill the wine. [...] (you will have no choice but) Islam or death.*" It continued: "*(We) tell the worshipper of the cross that you and the West will be defeated, as is the case in Iraq, Afghanistan, Chechnya. God enable us to slit their throats, and make their money and descendants the bounty of the Mujahideen.* Furthermore: "*The Pope in the Vatican turns in the orbit of Bush. His remarks form part of the mobilisation for a crusade announced by Bush, to raise the morale of the crusader armies*"; see: *ibid*.

²⁶³ Abu Jaffar, a member of Mohammed's Army, was quoted as saying "*(T)heir leader [the Pope] has verbally abused and offended our religion and the Prophet. Unfortunately, he did not analyse the consequences of his speech. Our country is an Islamic land and they [Christians] will have to rely on the Pope's charity from now on*"; see IRIN, *Iraq: Christians live in fear of death squads*, see above footnote 228.

²⁶⁴ Jenny Booth and agencies, see above footnote 261.

²⁶⁵ UNAMI HRO, *October 2006 Human Rights Report*, p. 13, see above footnote 66. See also: Asia News reported that Mgr Raho, Mosul's Chaldean bishop, had placed posters on the walls of the Chaldean Church of the Holy Spirit, saying "*neither Iraqi Christians, nor the Pope, want to destroy the relationship with Muslims.*" Nevertheless, the church was again attacked on 26 September 2006; see Asia News, *Second attack in three days against a Chaldean church*, 26 September 2006, <http://www.asianews.it/view.php?l=en&art=7321>.

²⁶⁶ UNAMI HRO, *October 2006 Human Rights Report*, p. 13, see above footnote 66.

²⁶⁷ Al Jazeera, *Iraq priest "killed over pope speech"*, 13 October 2006, <http://english.aljazeera.net/news/archive/archive?ArchiveId=36747>.

Omar Abdel-Rahman, an Egyptian Muslim cleric imprisoned since 1995 for conspiring to blow up landmarks in New York.

The alleged main perpetrators of attacks against Christians are radical Shi'ite militias, Sunni insurgency groups as well as criminal gangs who use religion to justify their attacks.²⁶⁸ Religion seems to be a major, but not the only, reason for these attacks against Christians. Rising extremist attitudes that are fuelling the trend towards a stricter interpretation of Islam can be observed in most parts of the country, including in the south, Baghdad, Mosul and Kirkuk. Many Christians engage in professions perceived as proscribed under Islam, such as hairdressing, public entertainment and the sale of liquor or music and have been threatened, attacked and killed due to their vocations, their shops and businesses looted, burned or forcibly closed down.²⁶⁹ The strict embracing of Islamic values as well as the high rate of criminality has a particular bearing on non-Muslim women. They are forced to comply with strict Islamic dress codes²⁷⁰ and fear of kidnapping and rape restricts their freedom of movement.²⁷¹ *Asia News* reported kidnapped Christian women having committed suicide after their release, due to the shock and shame they experienced.²⁷² The first Armenian Christian named Miss Iraq, Ms. Tamar Goregian, resigned and went into hiding on 9 April 2006 after being labelled the “queen of the infidels” and receiving numerous threats against her life and family. Ms. Silva Shahakian, also an Armenian Christian, later assumed the title, and has reportedly changed her residence due to fear of reprisal attacks.²⁷³

²⁶⁸ Elizabeth Kendal, *Mandaeans face genocide*, World Evangelical Alliance Religious Liberty News and Analysis, 30 June 2006, http://www.hrwf.net/html/2006PDF/Iraq_2006.pdf; BBC News, *Iraq chaos threatens ancient faith*, 20 September 2005, http://news.bbc.co.uk/2/hi/middle_east/4260170.stm.

²⁶⁹ According to the USDOS, more than 50 liquor stores operated by Christians in Baghdad were closed during the reporting period due to threats by Islamic extremists; see USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28. See also: NPR, *War Makes It Hard to Find a Drink in Baghdad*, 17 December 2006, <http://www.npr.org/templates/story/story.php?storyId=6637655>; Michael Luo, *Iraq's Christians Flee as Extremist Threat Worsens*, The New York Times, 17 October 2006, <http://www.nytimes.com/2006/10/17/world/middleeast/17christians.html?pagewanted=1&ei=5088&en=b17170ae4207bca0&ex=1318737600&partner=rssnyt&emc=rss>; Al Jazeera, *Fighting robs Iraq of Christian heritage*, 8 June 2006, <http://english.aljazeera.net/news/archive/archive?ArchiveId=22771>; Azzaman, *Militants blow up alcohol shops; threaten to kill owners*, 16 January 2006, <http://www.azzaman.com/english/index.asp?fname=news%5C2006-01-16%5C155.htm>; Pamela Constable, *In Iraq, Booze Becomes a Risky Business*, The Washington Post, 20 July 2004, <http://www.washingtonpost.com/ac2/wp-dyn/A93-2004Jul20>; Jamie Tarabay, *Militants trying to make Iraq drier place for alcohol seekers*, AP, 20 July 2004, http://media.www.dailytexanonline.com/media/storage/paper410/news/2004/07/20/WorldNation/Militants_Trying_To_Make_Iraq_Drier_Place_For_Alcohol_Seekers-694516.shtml. See also “Persons Accused of “Un-Islamic” Behaviour”.

²⁷⁰ According to UNAMI HRO, on 6 October 2006, two Christian women in Basrah received anonymous letters demanding that they wear headscarves, and in Mosul, leaflets warned female Christian and Muslim students to wear “proper Muslim attire” at the universities; see UNAMI HRO, *October 2006 Human Rights Report*, p. 12, see above footnote 66. See also: IRIN, *Iraq: Christians live in fear of death squads*, see above footnote 228. According to the USDOS, Basrah’s Education Director introduced a rule requiring all females in the schools to cover their hair. The same report states that female university students in Mosul, even non-Muslims, were required to wear the *hijab*; see: USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28.

²⁷¹ UNAMI HRO, *August 2006 Human Rights Report*, p. 10, see above footnote 26. See also “Women”.

²⁷² *Asia News*, *Abducted and raped, young Christian women and girls are driven to suicide in Iraq*, 11 October 2006, <http://www.asianews.it/view.php?l=en&art=7450>.

²⁷³ AP, *Miss Iraq goes into hiding from militants*, 12 April 2006, <http://www.msnbc.msn.com/id/12289502>.

Other motives may come into play, at times cumulatively. There is widespread belief among insurgents that Christians assisted and supported the US invasion of Iraq and continue to support the presence of the MNF, as the MNF is composed of mainly Western Christian “infidel” nations. Therefore, Christians may also be subjected to attacks on the basis of their perceived political opinion.²⁷⁴ In fact, a number of Christians worked for the MNF in Iraq in trusted positions given that they are usually well-educated.²⁷⁵ Another motive is the perceived wealth of Christians, coupled with a lack of protection by tribes or militias, which makes them an easy target for kidnapping for ransom.²⁷⁶ In April 2006, UNHCR received reports of the kidnapping for ransom and subsequent killing of five Christians in Mosul.

iv) Christians in “Disputed Areas” and in the Three Northern Governorates

A significant number of Christians live in areas currently classified as “disputed areas”, including in the Ninewa Plain and Kirkuk.²⁷⁷ These areas have come under *de facto* control of Kurdish parties and militias since the fall of the former regime and Christians have resisted attempts by Kurds to assimilate them into Kurdish culture, language and political parties.²⁷⁸ They have further complained of the use of force, discrimination and electoral fraud by the Kurdish parties and militias. For example, on 16 October 2006, KRG security officers reportedly broke into the offices of Ashur satellite channel, a Christian run media outlet, assaulted the staff and detained them for several hours.²⁷⁹

In the three Northern Governorates of Sulaymaniyah, Erbil and Dahuk, the rights of Christians are generally respected and a significant number of them have sought refuge in the region, in particular in the Governorate of Dahuk (from where many originate) and the Christian town of Ainkawa, near the city of Erbil. Some reports suggest that Christian villages are being discriminated against by the Kurdish authorities, which do not share reconstruction funds and oil revenues and have confiscated farms and villages.²⁸⁰

v) Converts

²⁷⁴ See also “Actual or Perceived Sympathizers of the US-Led Invasion and/or the Multi-National Force in Iraq”.

²⁷⁵ Dr. Nimrod Raphaeli, *The Plight of Iraqi Christians*, The Middle East Media Research Institute, 22 March 2005, <http://memri.org/bin/articles.cgi?Page=archives&Area=ia&ID=IA21305>; Nina Shea and James Y. Rayis, *Christian Crisis*, National Review Online, 6 January 2005, <http://www.nationalreview.com/comment/shearavis200501060730.asp>.

²⁷⁶ The Christian Science Monitor, *Iraq’s Christians consider fleeing as attacks on them rise*, 13 July 2004, <http://csmonitor.com/2004/0713/p07s01-woiq.html>.

²⁷⁷ USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28.

²⁷⁸ Global Security, *Christians in Iraq*, <http://www.globalsecurity.org/military/world/iraq/religion-christian.htm> [last updated 22 June 2005].

²⁷⁹ UNAMI HRO, *October 2006 Human Rights Report*, p. 13, see above footnote 66.

²⁸⁰ Nina Shea, *Testimony before the US Congressional Committee On International Relations, Subcommittee On Africa, Global Human Rights, And International Operations*, Center For Religious Freedom, 21 December 2006, <http://www.christiansofiraq.com/ninashheatestifiesdec216.html>; see also statements made by Nimrud Baito, the KRG Minister for Tourism and Secretary General of the Assyrian Patriotic Party, who rejects such reports and notes that there is a “massive rebuilding effort going on” in Christian villages in Northern Iraq; see Zinda Magazine, *Minister Nimrud Baito discusses position of Christians in Kurdistan Region and Iraq*, 22 November 2006, http://www.zindamagazine.com/ThisWeek/11.20.06/index_thu.php.

In the current climate of religious intolerance, in particular vis-à-vis religious minorities, the conversion of a Muslim to Christianity would result in ostracism as leaving Islam is unacceptable in many communities and families. In certain cases, there is a risk that the convert might be killed by his/her own family members, who consider themselves disgraced by the person's conversion.

According to *Shari'a* Law, a Muslim who converts to Christianity is considered an apostate and the punishment can be execution. Although the Qur'an threatens apostates with eternal retribution, it does not clearly specify any punishment in this world. Rather, the punishment for apostasy is found in the *Hadith* (the written record of Prophet Mohammed's words and deeds). Although some contemporary Islamic scholars have repudiated the traditional interpretation that the punishment required for apostasy is death, it is still widely held. While there are no *Shari'a* courts in Iraq that could sentence a convert to death,²⁸¹ individual actors may take matters into their own hands and carry out attacks against converts.

Although not forbidden by law, the State of Iraq does not recognize conversions from Islam to Christianity or to other religions. Converts have no legal means to register their change in religious status. Iraq's *Personal Status Law* (Law No. 188 of 1959)²⁸² denies converts any inheritance rights.²⁸³ Furthermore, Muslims who convert to Christianity may, in practice, be subject to other forms of severe discrimination, as their family/community may force their spouses into divorce or confiscate their properties. In addition they are reportedly often harassed by government officials and police.²⁸⁴

It is highly unlikely that a crime committed against a convert, be it by his/her family or by Islamist groups, would be properly investigated and prosecuted in Iraq, either in Central/Southern Iraq or the three Northern Governorates under administration of the KRG. In Central/Southern Iraq, the police are unlikely to provide protection, perhaps due to lack of personnel/equipment, fear of armed Islamist groups or sympathy with the perpetrators. In the KRG-administered areas, the general population does not tolerate a Muslim's conversion to Christianity and, accordingly, law enforcement organs are unwilling to interfere and provide protection to a convert at risk.²⁸⁵

²⁸¹ It is not yet clear how the provisions relating to Islam in the Constitution will be applied in practice.

²⁸² See "Personal Status".

²⁸³ If a person converts from Islam to Christianity, he will not be able to inherit from his wife or parents as they are Muslims while he is a Christian. A Non-Muslim cannot inherit from his family according to Islamic law.

²⁸⁴ Information received by UNHCR Iraq.

²⁸⁵ See, for example, a statement by Sulaymaniyah's Minister for Religious Affairs, Muhammed Ahmed Gaznayi, saying that people who turn to Christianity are "*renegades*" in the eyes of Islam and "*I consider that those who turn to Christianity pose a threat to society*"; see IWPR, *Kurdish Converts to Christianity Ostracised By Society and Family*, Iraqi Crisis Report No. 130, 28 June 2005, http://iwpr.net/index.php?apc_state=hen&s=o&o=archive/irq/irq_130_5_eng.txt.

b) Sabaean-Mandaeans²⁸⁶

i) General

The Sabaean-Mandaean religion is monotheistic and reflects numerous religious influences, including ancient Gnostic, Jewish, Christian and Islamic beliefs and exists in Iran (Khuzestan) and Iraq. The exact number of its followers in Iraq is not known but estimates are between 10,000²⁸⁷ and 75,000.²⁸⁸ In addition, there are Sabaean-Mandaean communities in Europe, America, Australia and other countries.²⁸⁹ The religion's precise date of origin is still disputed by religious academics. John the Baptist is a central figure in the Sabaean-Mandaean religion and considered a prophet.²⁹⁰ Ritual cleanliness and holding baptism (*Masbuta*) are central to the religion. The custom, which antedated the baptisms of St. John and is repeatedly practiced,²⁹¹ stems from the belief that living water is the principle of life. Accordingly, Sabaean-Mandaeans traditionally live nearby rivers. The word "sabaean" comes from the Aramaic-Mandaic²⁹² word *saba*, or "baptized", "immersed in water". "Mandaean" comes from the Mandaic word *menda* and means "knowledge".²⁹³

Their chief holy book is the *Ginza Raba* ("The Great Treasure"), a compendium of cosmology, prayers, legends, and rituals.²⁹⁴ Sabaean-Mandaeans' moral rules include the

²⁸⁶ Within the Middle East, but outside of their community, the Mandaeans are more commonly known as the *Subba* (singular *Subbi*). Muslims usually refer to them collectively as the Sabians (Arabic الصابئون *Al-Sābi'ūn*) in reference to the Sabians mentioned in the Qur'an.

²⁸⁷ Figure provided by Mandaean leaders; see: USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28.

²⁸⁸ Valentinas Mite, *Iraq: Old Sabaean-Mandaean Community Is Proud of Its Ancient Faith*, RFE/RL, 14 July 2004, <http://www.rferl.org/featuresarticle/2004/07/97177af0-16bc-46ae-99b9-7c3779e31e3c.html>. According to the Mandaean Human Rights Group, there are around 50,000 Sabaean-Mandaeans in Iraq; see Mandaean Human Rights Group, *The Mandaean Crisis in Iraq*, April 2006, http://mandaeunion.org/HMRG/EN_HMRG_011.html.

²⁸⁹ Mandaean Human Rights Group, *ibidem*.

²⁹⁰ There exists a widespread but erroneous belief that the Mandaeans consider John the Baptist to be the founder of their religion, calling them the "Christians of St. John the Baptist". This misidentification stems from Portuguese missionaries who came into contact with the communities in the 7th century A.D. and does not represent Mandaic beliefs. In fact, St. John the Baptist was merely one of their greatest teachers and is considered a prophet; see Dr. Erica C.D. Hunter, *The Mandaeans*, Manchester University, 1995, <http://home.iprimus.com.au/yardna/html/mandaeian.htm>.

²⁹¹ For example, couples will be baptized after their engagement, again before the wedding ceremony and again after the marriage is consummated. Pall-bearers must be baptized before and after carrying a coffin. Anyone who comes into contact with a "sinner", or non-believer, must be baptized. In addition, every Sunday, all Mandaeans are encouraged to undergo baptism; see Ted Robberson, *Iraq's Baptist Mandaeans are survivors, but ranks are thinning*, The Dallas Morning News, 23 February 2004, <http://www.wwrn.org/article.php?idd=6595&sec=41&con=34>.

²⁹² Mandaic is a member of the East Aramaic sub-family of Northwest Semitic languages and is the liturgical language of the Mandaean religion; see Omniglot, *Mandaic alphabet*, <http://www.omniglot.com/writing/mandaic.htm>.

²⁹³ See the Mandaean Official Site, <http://www.mandaeans.org>.

²⁹⁴ The Columbia Encyclopedia, *Mandaeans*, Sixth Edition 2006, <http://www.encyclopedia.com/doc/1E1-Mandaean.html>.

prohibition to kill, lie, commit adultery or theft, consume alcohol or exercise magic.²⁹⁵ They are also forbidden to mourn the dead and must fast 36 days a year.²⁹⁶ Non-violence is central to the Sabaeen-Mandaean faith and the use of force or the carrying of weapons is not permitted.²⁹⁷ Proselytizing and conversion are not practised and membership in the religion can only be attained by birth, however, both parents must also be Sabaeen-Madaeans.²⁹⁸ Accordingly, Sabaeen-Madaeans are only allowed to marry other Sabaeen-Madaeans in order to preserve their religion, another factor that has contributed to the decreasing number of followers.

The traditional centres of the Sabaeen-Madaeans are in Southern Iraq, in the marsh districts and on the lower reaches of the Euphrates and Tigris rivers, including the towns of Amarah, Nassriyah and Basrah and at the junction of the two rivers at Qurnah, Qal'at Saleh, Halfayah and Suq Ash-Shuyukh. Communities of varying size are found in the centre and north of Iraq, including in Baghdad, Al-Kut, Diwaniyah, Fallujah, Kirkuk and Mosul.²⁹⁹ According to Sabaeen-Mandaean sources, the largest communities are located in Baghdad and Basrah.³⁰⁰

The Sabaeen-Mandaean community is organized as follows:

1. The General Council, which represents the Mandaean families (chairman: Hussein Radi);
2. The General Spiritual Council, which includes all clergymen and is concerned with religious affairs (chairman: Sheikh Sattar Jabar Helou);
3. The Council of General Affairs, which is concerned with non-religious affairs such as legal social, cultural affairs, public relations and research (chairman: Toma Zeki).³⁰¹

The Qur'an guarantees protection to a group mentioned as "sabians", but provides no details as to who they were. While it is believed that the Qur'an refers to the Sabaeen-Mandaean as "People of the Book" (*Ahl Al-Kitab*),³⁰² which would provide them with

²⁹⁵ Ethel Stefana Drower reported in 1962 that some Mandaean priests in spite of the prohibition of such practices derive part of their income from the writing of amulets and from sorcery to make a living; see *The Madaeans of Iraq and Iran: Their Cults, Customs, Magic Legends, and Folklore*, 1962, extracts under Farvardyn Project, <http://www.farvardyn.com/mandaeen.php>.

²⁹⁶ Mandaean Research Centre, Council of General Affairs, *Mandaean Sabians*, 1999, <http://www.madaeans.org>.

²⁹⁷ Mandaean Human Rights Group, see above footnote 288; speech by Tarmida Yuhana Nashmi, *Contemporary Issues for the Mandaean Faith*, July 2004, http://www.mandaeanunion.org/History/EN_History_010.htm; IWPR, *Ancient Sect Targeted*, Iraqi Crisis Report No. 45, 22 January 2004, http://www.iwpr.net/?p=icr&s=f&o=168543&apc_state=heniicr2004.

²⁹⁸ According to Sheikh Sattar Helou, Sabaeen-Madaeans have not proselytized since 70 years after the death of Jesus Christ, when 365 Sabaeen priests were killed in a single day in Babylon; see Mite, *Iraq: Old Sabaeen-Mandaean Community Is Proud of Its Ancient Faith*, see above footnote 288.

²⁹⁹ Ethel Stefana Drower, *The Madaeans of Iraq and Iran: Their Cults, Customs, Magic Legends, and Folklore*, 1962, extracts under Farvardyn Project, <http://www.farvardyn.com/mandaeen.php>.

³⁰⁰ Mandaean Human Rights Group, see above footnote 288.

³⁰¹ The Mandaean Official Site, <http://www.madaeans.org>; UNAMI HRO, communication October 2006.

³⁰² For example, the unofficial Website of Ayatollah Seyyid Ali Khamenei, Iran's Supreme Leader, states that the Sabaeans are among the *Ahl Al-Kitab*; see: Khamenei.de, *Uncleanness of Kafir, Cleanness of Ahl al-*

toleration and protection, including the right to worship and protection of their property, their status has at times been disputed by religious scholars.³⁰³ Since the fall of the former regime a number of religious edicts (*fatwas*) and letters have been issued by clerics in Iraq, denying the Sabaeen-Mandaeans the status of “People of the Book” and calling for their forced conversion or killing of the “infidels” (*kuffar*). Prior to his assassination in August 2003, Ayatollah Mohammed Baqir Al-Hakim, at the time the head of SCIRI, judged that Mandaeans are not “People of the Book”.³⁰⁴ The Mandaean Human Rights Group³⁰⁵ cites Al-Qa’eda in Iraq as naming “*the Shi’ites infidels as bad as the Sub’ba*” in a letter published on the internet. The Group also refers to the late Grand Ayatollah Abul-Qassim Al-Khoei, who taught in Najaf and is said to have recognized the Sabaeen-Mandaeans as “People of the Book” in 1979, while Iranian Ayatollah Rohollah Khomeini, the political leader of the 1979 Islamic Revolution of Iran, did not. The Mandaean Human Rights Group also reported that in Friday sermons held in places such as Sadr City, Falluja and Basrah extremist clerics declared that it was “*religiously permitted to take money, property, and even women from the infidels (...)*.”³⁰⁶

The Sabaeen-Mandaeans sought the support of religious and political leaders in Iraq such as Grand Ayatollah Ali Al-Sistani, Abdel Aziz Al-Hakim of SCIRI, former Prime Minister Ibrahim Al-Ja’afari and Muqtada Al-Sadr asking them to protect the rights of minorities. While their demands were met with sympathy, little action has been taken. The head of the Sabean-Mandaeans in Iraq, Sheikh Sattar Al-Helou, asked Grand Ayatollah Ali Al-Sistani, Iraq’s highest Shi’ite authority, to issue a *fatwa* calling for the protection of the Sabean-

Kitab, And the Rule Concerning Other Types of Kafirs (Questions 328 and 334), accessed on 9 November 2006, <http://www.khamenei.de/fatwas/practical02.htm>.

³⁰³ At the time of Prophet Mohammed, there was only one Sabian group referred to as those who “immerse in water”, which lived in Southern Mesopotamia and followed a monotheistic religion that resembles Judaism and Christianity. Early Islamic sources generally refer to the Sabaeen-Mandaeans as the “sabians” of the Qur’an. In the 9th century AD, the people from the Harran, known as polytheists, star and idol worshippers, started to call themselves Sabians as a protection against Islamic persecution, creating confusion as to who are the “sabians” referred to in the Qur’an. Despite the fact that the Harranian community disappeared from history in the 13th century, the common belief that the Sabians were pagans, star and idol worshippers did not change. Muslims until today continue to question the Sabaeen-Mandaeans’ status as “People of the Book” by repeating the speculations found in medieval Islamic sources, despite the fact that the Sabaeen-Mandaean religion prohibits idolatry and planet worship. The fact that the Sabaeen-Mandaeans have mostly lived isolated from their Muslim neighbours as well as the secrecy surrounding their religious belief and cults, have likely further contributed speculation and misperceptions; see Asuta, *The Journal for the Study and Research into the Mandaean Culture, Religion and Language, Sabians, Sabaeans, or Sabians*, 2000, <http://www.geocities.com/mandaeans/Sabians8.html>; Dr. Şinasi Gündüz, *Problems on the Muslim Understanding of the Mandaeans*, ARAM Thirteenth International Conference, Harvard University 13-15 June 1999, *ARAM*, (published by Society for Syro-Mesopotamian Studies) 11-12, 1999-2000, p. 269-279. <http://www.dinlertarihi.com/dosyalar/makaleler/sinasigunduz/problems%20on%20the%20muslim.htm>. See also: Mandaean Human Rights Group, see above footnote 288.

³⁰⁴ John Bolender, *Worse Off Now Than Under Saddam, The Plight Of Iraq’s Mandeans*, Counterpunch, 8/9 January 2005, <http://www.counterpunch.org/bolender01082005.html>.

³⁰⁵ The Mandaean Human Rights Group is a self-organized group dedicated to the protection of Mandaeans in Iraq and Iran. It works with volunteers in the US, Canada, Australia, UK, Europe and Iraq.

³⁰⁶ Mandaean Human Rights Group, see above footnote 288. The National League of Mandaean Sabians in Iraq confirmed this information in correspondence with UNHCR Iraq in January 2007.

Mandaeans as belonging to the “People of the Book”. Reportedly, he refused to do so.³⁰⁷ The Society for Threatened People³⁰⁸ reported that these talks had even been counter-productive as heightened attention caused further repercussions for the Sabaean-Mandaeans.³⁰⁹

Over the course of time, the Sabaean-Mandaeans have at times suffered persecution by other religious groups and have been driven from their places of settlement. Various Sabaean-Mandaean writings give examples of persecution by Muslims against the community in various times.³¹⁰ Portuguese Catholic missionaries were especially persistent in attempting to relocate the Mandaeans from their traditional areas of settlement to other parts of the country in order to facilitate religious indoctrination.³¹¹ After Saddam Hussein assumed power in 1979, the Sabaean-Mandaeans faced increasing hostility in Iraq. According to the Sabaean-Mandaean community, Iraq was the home to some 20,000 to 30,000 families in the late 1970s.³¹² Since then, the numbers have decreased significantly.³¹³ The former regime’s campaign against the inhabitants of the Marshlands in Southern Iraq and the drainage programme also affected the Sabaean-Mandaeans, killing and displacing thousands and leading to the destruction of Sabaean-Mandaean religious sites.³¹⁴ Other temples and properties were seized by the regime.³¹⁵

³⁰⁷ Information received from the National League of Mandaean Sabians in Iraq, December 2006. Also it is noteworthy that Grand Ayatollah Ali Al-Sistani’s official website explicitly mentions the Jews, the Christians and the Zoroastrians as belonging to the “People of the Book” while the “sabians”, as mentioned in the Qur’an, are omitted; see Sistani.org, *Q & A, Ahl-e Kitab*, <http://www.sistani.org/local.php?modules=nav&nid=7&cid=409> [accessed January 2007].

³⁰⁸ See, for more information on the Society for Threatened People, footnote 235.

³⁰⁹ Society for Threatened People, *Mandäer im Iraq: Seit Jahrhunderten verfolgt – heute akut in ihrer Existenz bedroht* [in German language], Update October 2006, p. 5, http://www.gfbv.de/reedit/openObjects/openObjects/show_file.php?type=inhaltsDok&property=download&id=648.

³¹⁰ Dr. Şinasi Gündüz, *Problems on the Muslim Understanding of the Mandaeans*, ARAM Thirteenth International Conference, Harvard University 13-15 June 1999 (published by Society for Syro-Mesopotamian Studies) 11-12, 1999-2000, p. 269-279. http://www.dinlertarihi.com/dosyalar/makaleler/sinasigunduz/problems_on_the_muslim.htm.

³¹¹ See, for example, Mandaean World, *Mandaean History – Portuguese*, <http://www.mandaeanworld.com/portuguese.html>.

³¹² Society for Threatened People, *Mandaeans in Iraq, After centuries of persecution – Today their very survival is threatened*, March 2006, p. 4, http://www.gfbv.de/reedit/openObjects/openObjects/show_file.php?type=inhaltsDok&property=download&id=694.

³¹³ UNAMI HRO, *October 2006 Human Rights Report*, p. 13, see above footnote 66.

³¹⁴ Society for Threatened People, *The Mandaeans, A small religious community searches for refuge*, 17 February 2006, <http://www.gfbv.de/inhaltsDok.php?id=636>.

³¹⁵ U.S. News, Kevin Whitelaw, *Baghdad’s Baptizers*, 6 September 2003, <http://www.usnews.com/usnews/culture/articles/030609/9mandeans.htm>; AP, *Tiny Iraqi minority looks with hope and fear to the future*, 22 July 2003, <http://aljazeeraah.info/Opinion editorials/2003 Opinion Editorials/July/22 o/Tiny Iraqi minority looks with hope and fear to the future.htm>.

ii) Displacement of Sabaeen-Mandaeans Since 2003

Since the fall of the former regime in 2003, the Sabaeen-Mandaean community continues to decline due to the generally dire security situation as well as targeted attacks on community members by armed groups. UNAMI HRO reported in October 2006 that the Sabaeen-Mandaean community decreased from 13,500 persons in 2001 to roughly 4,000 persons in 2006, living in “*isolation and fear*.”³¹⁶ The Society for Threatened People estimated in October 2006 that there are only 1,162 Sabaeen-Mandaean families (7,000 to 8,000 persons) left in the country, out of a total of 5,825 before the fall of the former regime in 2003.³¹⁷ The *International Religious Freedom Report 2006* puts the number at 10,000.³¹⁸ UNHCR continues to receive Sabaeen-Mandaean asylum-seekers in Syria and Jordan.³¹⁹

Largely without protection on the basis of tribe,³²⁰ militia or political party,³²¹ and perceived as relatively wealthy, Sabaeen-Mandaeans are particularly vulnerable to attacks on the basis of perceived threat to the Islamic nature of the state, imputed affiliation with international actors, break-down of law and order and general criminality.³²² Unlike other religious communities which are seeking refuge in areas where they constitute the majority, Sabaeen-Mandaeans are dispersed in all parts of Iraq (except for the three Northern Governorates of Erbil, Dahuk and Sulaymaniyah) and therefore do not have a majority area in which to seek safety. While many Iraqis have fled to the Region of Kurdistan to seek safety, UNHCR is not aware of Sabaeen-Mandaeans having relocated to this region. The Region of Kurdistan has not traditionally been inhabited by Sabaeen-Mandaeans, and hence members of this community seeking to relocate to the region may not have a sponsor needed to legally enter and reside there and lack community links in order to gain access to employment, housing and other services. In July 2006, Mokhtar Lamani, the then top official of the Arab League in Iraq, reported that Baghdad’s entire Sabaeen-Mandaean population had presented a petition to the KRG to relocate to the Kurdistan Region.³²³ At the time of writing, UNHCR was not able to obtain information as to the response of the KRG to this request. UNHCR has received reports that some Sabaeen-Mandaean families

³¹⁶ UNAMI HRO, *October 2006 Human Rights Report*, p. 13, see above footnote 66.

³¹⁷ Society for Threatened People, *Mandäer im Iraq*, p. 6, see above footnote 309.

³¹⁸ See also: USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28.

³¹⁹ By 31 January 2007, 2,878 Sabaeen-Mandaeans had been registered with UNHCR Jordan. Sabaeen-Mandaeans constitute 14% of the total of 19,664 Iraqis registered by UNHCR Jordan since 17 March 2003. UNHCR Syria registered a total of 45,150 Iraqis between 21 December 2003 and 6 February 2007, including 3,882 Sabaeen-Mandaeans (almost 6% of the total).

³²⁰ In the past, it was common for Sabaeen-Mandaeans to negotiate protection agreements with tribes. However, given that the perpetrators of persecutory acts are mostly powerful groups and militias, acting in the name of Islam, tribes no longer dare to get involved and Sabaeen-Mandaeans can no longer count on this type of arrangement, increasing their vulnerability; information received by UNHCR Iraq.

³²¹ The Sabaeen-Mandaeans have not been represented in the TNA and they currently do not hold a seat in the Council of Representatives or any Governorate or Municipal Council. The National League of Mandaean Sabians in Iraq informed UNHCR that two Sabaeen-Mandaean politicians were killed since 2003. Ra’id Salih, who had run in the elections for Al-Suwaira’s Municipal Council, was killed, and Riyadh Hadi Habeeb was killed as a member in the Basrah Municipal Council was also killed.

³²² IWPR, *Ancient Sect Targeted*, see above footnote 297.

³²³ AP, *Iraq’s minority Sabean-Mandaeans seek Kurdistan safe haven*, 5 July 2006, http://www.krg.org/articles/article_detail.asp?showsecondimage=&RubricNr=73&ArticleNr=12099.

have found refuge with the Sabaeen-Mandaean community in Nassriyah in the Governorate of Thi-Qar.

iii) Current Situation

Since 2003, there have been a number of targeted attacks on Sabaeen-Mandaean places of worship (*mandi*),³²⁴ religious figures, including their family members and other individuals. Most attacks have been reported in Baghdad, Falluja, Al-Suwaira (Wassit Governorate), Basrah, Qalat Saleh (Missan Governorate) and Diyala.

There have been successive attacks on the *mandi* in Basrah. The first attack was carried out on 28 June 2006 and followed by further attacks on 2 and 22 September 2006. In a letter dated 10 July 2006, Vice-President Tariq Al-Hashimi condemned what he called a “criminal act” and expressed his sympathy with the Sabaeen-Mandaean community.³²⁵ UNHCR also received reports that *mandi* in Baqouba and Qalat Saleh were occupied by armed groups.³²⁶ UNHCR has no evidence that these attacks were investigated by the police.

It has become evident that clerics of all levels are at risk of kidnapping, killing and assaults.³²⁷ Attacks on individuals include harassment and intimidation, killings (often with extreme violence),³²⁸ kidnappings,³²⁹ armed robbery, confiscation of property, forced conversion to Islam as well as rape and forced marriages of Sabaeen-Mandaean women with Muslim men, often with a sectarian motive.³³⁰ UNAMI HRO reported that in October 2006, four Sabaeen-Mandaeans were killed.³³¹ Sabean-Mandaeans also complain of being

³²⁴ A *mandi* (pl. *mandia*) is a small open-ended building with a pool connected to a nearby river for baptism. A *mandi* bears a cross and therefore resembles a Christian church. However, the Sabaeen-Mandaean cross is half-covered with a piece of cloth and has a different symbolic meaning than the Christian cross; see Mite, *Iraq: Old Sabaeen-Mandaean Community Is Proud of Its Ancient Faith*, see above footnote 288; Tod Robberson, *Iraq's Baptist Mandaean survivors, but ranks are thinning*, The Dallas Morning News, 23 February 2004, <http://www.wwrn.org/article.php?idd=6595&sec=41&con=34>.

³²⁵ Copy of original letter obtained by UNHCR Iraq.

³²⁶ Information received from Sabaeen-Mandaean sources.

³²⁷ See “Annex II: Attacks on Sabaeen-Mandaean Representatives” for a (non-comprehensive) overview. Family members of religious leaders are also at risk of threats, killing, kidnapping, forced marriage / conversion and rape; see Society for Threatened People which documented numerous assaults on family members of *Ganzebra* Sattar Jabbar Helou, including his cousins, nephews, nieces and siblings; Society for Threatened People, *Mandäer im Iraq*, p. 19-20, see above footnote 309.

³²⁸ The Society for Threatened People recorded 59 cases of killings by October 2006; see Society for Threatened People, *Mandäer im Iraq*, see above footnote 309; The Mandaean Human Rights Group listed 54 cases of killings between 2003 and November 2005; see Mandaean Human Rights Group, Appendix 1, see above footnote 288. Most of the reported killings listed took place in Baghdad, with others reported from Ramadi, Baqouba, Missan, Al-Suwaira, Basrah and Nassriyah.

³²⁹ See the list of incidents involving kidnapping and physical attacks provided by the Mandaean Human Rights Group, Appendix 1, see above footnote 288.

³³⁰ USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28; Kendal, see above footnote 268; Society for Threatened People, *Mandaeans in Iraq*, p. 5, see above footnote 312; see also p. 5-7 of the report for detailed incidents of attacks against Sabaeen-Mandaeans (note: the German version of the report has been updated by October 2006 and includes updated incidents as compared to the English version of March 2006, see above footnote 309).

³³¹ UNAMI HRO, *October 2006 Human Rights Report*, p. 14, see above footnote 66.

discriminated against by their Muslim neighbours. For example, in schools, Muslim children refuse to sit together with Sabaeen-Mandaean children.³³²

Considered “infidels” by segments of the Muslim society, at times enforced by religious *fatwas*, there have been numerous reports of the forced conversions of Sabaeen-Mandaeans. For example, on 15 February 2005, armed men demanded Wafsi Majid Kashkul at his Baghdad jewellery store to convert to Islam. When Kashkul refused, the men shot him and left without stealing anything from the shop. In another documented incident, three Sabaeen brothers, Anweer, Shaukai and Amer Juhily, were reportedly kidnapped from their Basrah home on 14 March 2005. When they refused to convert to Islam, they were shot and killed. The Mandaean Human Rights Group reported the forced conversion of 35 families in Fallujah.³³³

UNHCR received reports of Sabaeen-Mandaeans being killed or otherwise assaulted for “practicing magic”.

Along with the deterioration of the situation for Iraqi women in general due to the strict embracing of Islamic values and traditions as well as the high rate of criminality, Sabaeen-Mandaean women are forced to comply with strict Islamic dress codes,³³⁴ and fear of kidnapping and rape restrict their freedom of movement.³³⁵ There are numerous reports of Sabaeen-Mandaean women becoming the victims of rape, often with a sectarian motive such as “cleansing” the infidel. For example, Hadeel Samir Aodaa was abducted and repeatedly raped on 2 July 2005, suffering traumatic injury. She had already been threatened several times before the incident took place.³³⁶ The Society for Threatened People reported that there has been a significant increase in rape in the last few months.³³⁷ Women kidnapped and forced to marry a Muslim man (requiring them to also convert to Islam) are usually stigmatized and considered as no longer belonging to the Sabaeen-Mandaean community.

In Baghdad and Basrah, Sabaeen-Mandaeans reportedly received threat letters to leave the area, in particular since sectarian violence escalated after the February 2006 Samarra bombing. The British Broadcasting Company (BBC) reported that one of the leaflets

³³² *Ibid.*

³³³ Society for Threatened People, *Mandaeans in Iraq*, p. 5, see above footnote 312; USDOS, Bureau of Democracy, Human Rights and Labor, *2005 Country Report on Human Rights Practices – Iraq*, 8 March 2006, <http://www.state.gov/g/drl/rls/hrrpt/2005/61689.htm>. Other incidents of forced conversion have been listed by the Mandaean Human Rights Group, Appendix 1, see above footnote 288.

³³⁴ The Society for Threatened People reported that on 4 March 2005, Salwa Samir Aziz was killed in Baghdad after refusing to wear the Islamic headscarf; see Society for Threatened People, *Mandäer im Iraq*, p. 17, see above footnote 309.

³³⁵ UNAMI HRO, *August 2006 Human Rights Report*, p. 10, see above footnote 26. See also: Society for Threatened People, *The Mandaeans*, see above footnote 314; BBC News, *Iraq chaos threatens ancient faith*, see above footnote 268.

³³⁶ A medical certificate from the hospital in Baghdad and a police report were made available by the Australian Mandaean Association to the Society for Threatened People. See: Society for Threatened People, *Mandaeans in Iraq*, p. 4, see above footnote 312. Other incidents of rape and assault are described by: Mandaean Human Rights Group, Appendix 1, see above footnote 288.

³³⁷ Society for Threatened People, *Mandäer im Iraq*, p. 6, see above footnote 309.

distributed to homes in Baghdad gave the following warning to both Sabaeen-Mandaeans and Christians:

*“Either you embrace Islam and enjoy safety and coexist amongst us, or leave our land and stop toying with our principles. Otherwise, the sword will be the judge between belief and blasphemy.”*³³⁸

UNHCR received copies of threat letters against individual Sabaeen-Mandaeans as well as the community as such, calling them to leave “*idolatry and polytheism*” and threatening them to have their “*heads cut*” otherwise. In another letter received by UNHCR, Sabaeen-Mandaeans were called upon to return to their homelands in “*Persia*”, accusing them of practicing “*prostitution, homosexuality, magic*” and permitting “*drinking of wine*”.³³⁹ Other leaflets accuse Sabaeen-Mandaeans of being drunkards, gamblers, idolaters, prostitutes and practitioners of black magic.³⁴⁰ The Society for Threatened People reported on 20 June 2006 that Islamist groups have issued a “last warning” to the Sabaeen-Mandaean community in Iraq, saying that if they do not convert to Islam, they must face death. It further calls Mandaean women “*prostitutes*”, accuses them of practising “*black magic*” and calls upon the “*dirty Persians*” to return to “*Persia*”.³⁴¹ Furthermore, UNHCR was informed by Sabaeen-Mandaean sources that leaflets were also distributed in mosques asking people to identify and report on emptied Sabaeen-Mandaean properties in their neighbourhoods, which were then confiscated by religious militias.³⁴²

Public baptisms are an important part of the Sabaeen-Mandaean religion and there are reports of worshippers being harassed and abused during these ceremonies.³⁴³ Attacks on religious sites inhibit Mandaeans to come for worshipping, baptisms and rituals in their temples.³⁴⁴

The alleged perpetrators are radical Shi’ite militias, Sunni insurgency groups, and criminal gangs who use religion to justify their attacks.³⁴⁵ Religion seems to be a major, but not the only, reason for attacks against Sabaeen-Mandaeans. Sabaeen-Mandaeans traditionally dominate the sectors of gold and silversmiths and jewellers and are perceived to be relatively wealthy. They have no protection by association with militia groups or tribes, and

³³⁸ BBC News, *Iraq chaos threatens ancient faith*, see above footnote 268. See also “Christians232F”.

³³⁹ See also: Society for Threatened People, *Mandaeans in Iraq*, see above footnote 312. Two translated threat letters from insurgency groups are published in the Annex.

³⁴⁰ USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28; Kendal, see above footnote 268; Bolender, see above footnote 304.

³⁴¹ Society for Threatened People, Press Release, *Terrorists send “last warning” to Mandaeans in Iraq*, 20 June 2006, <http://www.gfbv.de/pressemit.php?id=576&stayInsideTree=1>.

³⁴² This is consistent with reports by UNAMI HRO, which have found that “(T)hreats include instructions not to rent or sell the property left behind, which in turns increases hardship for the displaced family. UNAMI HRO also received reports that many of the abandoned houses are later occupied by militias.”; see UNAMI HRO, *August 2006 Human Rights Report*, p. 9, see above footnote 26.

³⁴³ Bolender, see above footnote 304.

³⁴⁴ USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28; ABC Radio National, *The Religion Report: Mandaeans persecuted in Iraq*, 7 June 2006, <http://www.abc.net.au/rn/religionreport/stories/2006/1657535.htm>.

³⁴⁵ Kendal, see above footnote 268; BBC News, *Iraq chaos threatens ancient faith*, see above footnote 268.

are therefore at risk of kidnapping for ransom,³⁴⁶ extortion, killing, and their shops are subject to looting and destruction. For example, on 9 October 2006, Raad Mutar Falih, a jeweller, was killed in his house in Al-Suwaira.³⁴⁷ Many of them have closed their shops or work under the protection of bodyguards.³⁴⁸ Furthermore, Sabaeen-Mandaeans are generally well-educated³⁴⁹ and may, therefore, be harassed and attacked by fundamentalist Islamic groups which, since 2003, have led a campaign against academics, professionals, journalists, artists, doctors and medical personnel.³⁵⁰

A number of Sabaeen-Mandaeans worked for the MNF in Iraq in trusted positions given that they are usually well educated and not Muslims, and were, therefore, perceived to be more trustworthy in serving the foreign forces.³⁵¹ These individuals are at risk of being targeted on the basis of supporting the presence of the MNF in Iraq.³⁵²

c) Yazidis³⁵³

i) General

The Yazidi people can be classified as a distinct religious group. The Yazidi religion is monotheistic and syncretistic, encompassing elements from Zoroastrianism, Manichaeism, Islam, Christianity, Judaism and Gnostic beliefs and traditions.

It is disputed, even among the community itself as well as among Kurds, whether they are ethnically Kurds or form a distinct ethnic group.³⁵⁴ Most Yazidis speak *Kurmanji*, a Kurdish dialect.³⁵⁵

³⁴⁶ It has been reported that criminal groups make it a business to “sell” victims of abduction to armed groups (insurgents or militias), who then use the victim for their own interest, e.g. asking for ransom or political demands or killing.

³⁴⁷ UNAMI HRO, *October 2006 Human Rights Report*, p. 14, see above footnote 66. The Society for Threatened People documented 21 killings of goldsmiths since 2003; see Society for Threatened People, *Mandäer im Iraq*, p. 16-17, see above footnote 309.

³⁴⁸ IWPR, *Ancient Sect Targeted*, see above footnote 297.

³⁴⁹ See, for example, Society for Threatened People, *Mandaeans in Iraq*, p. 12, see above footnote 312.

³⁵⁰ See also “Certain Professions”.

³⁵¹ ABC Radio National, see above footnote 344.

³⁵² See also “Actual or Perceived Sympathizers of the US-Led Invasion and/or the Multi-National Force in Iraq”.

³⁵³ Other spellings are *Azidi*, *Izdi*, *Ezidi*, *Yezidi* or *Zedi*. Sometimes they are also called *Dasin*, though this is strictly speaking a tribal name. There are various theories trying to explain the origin of the term “Yazidi”. One says that it comes from the Persian word “*īzed*”, meaning “angel”. Another links it to the 6th Umayyad caliph, Yazid bin Muawiyya, whose armies killed Imam Hussein, son of Ali, in the 7th century and who is therefore highly disliked by Shi’ite Muslims. See: Encyclopaedia of the Orient, *Yazidism*, <http://lexicorient.com/e.o/uyazidism.htm> [accessed January 2007]; IWPR, “*Devil-worshippers*” *Fear Renewed Persecution*, Iraqi Crisis Report No. 59, 15 April 2004, http://iwpr.net/?p=icr&s=f&o=167983&apc_state=heniicr2004.

³⁵⁴ Not all Kurds agree that the Yazidis are members of their ethnic group, considering them as “unclean”; see Middle East Online, *Iraq’s “devil-worshippers” seek constitutional rights*, 23 May 2005, <http://www.middle-east-online.com/english/?id=13567>. For mainly political reasons, the Kurdish parties, in particular the KDP, have been stressing that the Yazidis are ethnic Kurds; see Eva Savelsberg and Siamend Hajo, *Gutachten zur Situation der Jeziden im Irak* [in German language], Europäisches Zentrum für

Estimates of the number of Yazidis range from 100,000 to as many as 800,000 people. Yazidis can mainly be found in Iraq, Syria and Turkey.³⁵⁶ Only about ten percent of the Yazidis live in the Kurdish-administered areas, mainly in the Governorate of Dahuk, whereas the majority lives in so-called “disputed areas” in the Governorate of Ninewa, in particular in the areas of *Jebel Sinjar* and Shekhan, which have been subjected to the former regimes’ *Arabization* campaigns.³⁵⁷ *Jebel Sinjar* was depopulated in 1965, 1973-1975 and 1986-1987, and the Yazidi residents of some 400 villages were forced to live in “collective towns”.³⁵⁸ Their villages were either destroyed or given to Arab settlers. The Shekhan area was *arabized* as of 1975.³⁵⁹ The Kurdish authorities have made it clear that they consider these areas as “Kurdish” and wish to incorporate them into the Region of Kurdistan.³⁶⁰ Small Yazidi communities can also be found in urban settings, e.g. in the cities of Dahuk, Mosul and Baghdad. Yazidis also used to live in other cities of central and southern Iraq, e.g. in Hilla, Basrah and Nassriyah.³⁶¹

The Yazidi religion is closed to outsiders as Yazidis do not intermarry, not even Kurds, nor do they accept converts. Accordingly, important parts of the Yazidi religious rituals have never been seen by outsiders and are, therefore, unknown. The Yazidis have never been

Kurdische Studien, October 2005, p. 9-10, http://www.yeziden-colloquium.de/inhalt/gesellschaft/recht/Savelsberg_Hajo_Gutachten.pdf.

³⁵⁵ Yazidis in *Jebel Sinjar* often speak Arabic; see Savelsberg and Hajo, *ibidem*, p. 11-12; Christine Allison, *Yazidis*, The Circle of Ancient Iranian Studies, <http://www.cais-soas.com/CAIS/Religions/iranian/yazidis.htm>, last modified 26 January 2007.

³⁵⁶ The Religious Freedom Report puts their number at 650,000; see: USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28. The Encyclopaedia Britannica estimates that there are less than 100,000 Yazidis in Iraq, Turkey, Syria, Armenia, the Caucasus and Iran; see: Encyclopaedia Britannica, *Yazidi*, <http://concise.britannica.com/ebc/article-9383110/Yazidi> [accessed January 2007]. The Encyclopaedia of the Orient provides a number of more than 700,000, including 500,000 in Iraq, 50,000 in Turkey and 30,000 in Syria; see: Encyclopaedia of the Orient, *Yazidism*, see above footnote 353. The Yazidi website Dengê Êzîdiyan claims that there are as many as 800,000 Yazidis, with around 550,000 in Northern Iraq; see Dengê Êzîdiyan [in German language], *Fragen zum Yezidentum, Die Religion der Yeziden*, http://www.yezidi.org/fragen_vezidentum.0.html [accessed January 2007]; there exists also a significant Yazidi Diaspora, in particular in Germany. According to the Yeziden Colloquium, more than 40,000 Yazidi live in Germany; see Yeziden Colloquium [in German language], *Wir über uns*, http://www.yeziden-colloquium.de/ueber_uns.htm [accessed January 2007].

³⁵⁷ See “De-Arabization”.

³⁵⁸ Settlements built by the former regime during the Anfal campaign to which Kurds and others were forcibly relocated after their villages were destroyed.

³⁵⁹ Irene Dulz, Siamend Hajo and Eva Savelsberg, *Verfolgt und umworben: Die Yeziden im »neuen Irak«* [in German language], published in: *Kurdische Studien* 4+5, 2004/2005, p. 1, http://www.yeziden-colloquium.de/inhalt/wissenschaft/Dulz_Savelsberg_Hajo_Yeziden.pdf.

³⁶⁰ For example, the Unification Agreement of 21 January 2006, states the aim of “restoring Kirkuk, Khanaqin, Sinjar, Makhmour, and other Arabized areas to the embrace of the Kurdistan Region”; KRG, *Kurdistan Regional Government Unification Agreement*, 21 January 2006, http://www.krg.org/articles/article_detail.asp?LangNr=12&RubricNr=107&ArticleNr=8891&LNNr=28&RNNr=70. The draft Constitution for the Region of Kurdistan enshrines in Article 2(I): “Iraqi Kurdistan comprises the Governorate of Duhok within its present boundary, and the governorates of Kirkuk, Sulaimani, and Arbil with the 1968 borders and the districts (kaza) of Akre, Shaikhan, Sinjar, Tel Afar, Tilkef, Qaragosh and the sub districts (nahiya) of Zamar, Ba’shiqa, Aski Kalak in the Governorate of Nineveh and the districts of Khanaqin and Mandali in the Governorate of Diyali and the district of Badra and the subdistrict of Jassan in the Governorate of Wasit.”

³⁶¹ Savelsberg and Hajo, p. 6, see above footnote 354.

regarded as “People of the Book”, also because most Yazidi religious texts have been passed on exclusively by oral tradition.³⁶² Rather there are sources that consider them a break-away from Islam, which would then render them “apostates”, punishable by death according to Islamic jurisprudence.³⁶³

The Yazidis worship *Malak Taus* (the “Peacock Angel”), the chief of angels, who is often equated by Muslims and Christians as the “fallen angel” or devil. For the Yazidis, however, devil and hell do not exist. Instead, the Yazidis believe that the souls of the dead repeatedly return to earth until they are purified. The central role of *Malak Taus* earned the Yazidis the undeserved reputation as “devil-worshippers” and has been the basis for a long history of persecution.³⁶⁴

The Yazidi religion, while incorporating elements of other religions, has its own rituals, scriptures and taboos. Prayers in Yazidism are performed twice a day and are dedicated to *Malak Ta’us*. Saturday is the day of rest, and Wednesday is the holy day. In December, a three day fast is performed.³⁶⁵ Their chief saint is Sheikh Adi Ibn Musafir, a 12th century Muslim mystic who died in the town of Lalish, 12 kilometers from Shekhan, where his tomb has become the Yazidis’ holiest shrine and annual pilgrimage is the most important ritual for the Yazidis. Unlike Muslims, Yazidis can eat pork and drink alcohol. Religious rules such as the prohibition to marry outside the community or outside one’s caste or to insult men of religion are generally followed, while others such as the prohibition to eat lettuce or wearing the colour blue are not strictly observed.³⁶⁶

Yazidi society follows a strict hierarchical caste system introduced by Sheikh Adi, who reformed the Yazidi religion. The Yazidis are born into any of the three castes: the *Murids* (the laity) and the *Sheikhs* and the *Pirs* (the clergy),³⁶⁷ and, as mentioned earlier, marriage across classes is forbidden.³⁶⁸ Every Yazidi is linked as a disciple to a definite *Sheikh* and *Pir* and is obliged to provide them with alms. The Yazidis’ temporal and spiritual head is a hereditary prince (*Mir*), whereas a *Baba Sheikh* heads the religious hierarchy. The highest Yazidi leader is Mir Tahsin Saied Beg, who is considered a representative of Sheikh Adi. He is chosen exclusively from the family of the Mir and is appointed for life. He represents the Yazidis in all secular matters and his decisions have full authority.³⁶⁹ The current Baba Sheikh is Khurto Hajji Ismail.

³⁶² USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28; Encyclopaedia Britannica, see above footnote 356; Encyclopaedia of the Orient, *Yazidism*, see above footnote 353; Dulz, Hajo and Savelsberg, p. 2, see above footnote 359.

³⁶³ See, for example, Savelsberg and Hajo, p. 6, see above footnote 354.

³⁶⁴ Encyclopaedia Britannica, see above footnote 356; The Independent, *Hell’s Angels*, 29 November 2003, <http://www.religionnewsblog.com/5213/hells-angels>.

³⁶⁵ Encyclopaedia of the Orient, *Yazidism*, see above footnote 353.

³⁶⁶ Allison, see above footnote 355.

³⁶⁷ The Sheikh and Pir are again divided into sub-groups. For more information, see: Allison, see above footnote 355.

³⁶⁸ Dengê Êzîdiyan, *Fragen zum Yezidentum, Was hat es mit der Klassengesellschaft im Yezidentum auf sich?* [in German language], <http://www.yezidi.org/144.0.html> [accessed January 2007].

³⁶⁹ *Ibidem*, *Der Religionsrat der Yeziden*, <http://www.yezidi.org/144.0.html> [accessed January 2007].

Yazidis are furthermore organized in tribes, with a chief (*Agha*) at the head of each. Yazidis are usually monogamous, but chiefs may have more than one wife.

ii) Situation of Yazidis in Central Iraq

The situation of Yazidis in the Ninewa Governorate and other areas under the administration of the Central Government has deteriorated since the fall of the former regime, due to high levels of insurgent activities and ethnic/religious tensions. Targeted attacks against Yazidis include threats, assassinations and public defamation campaigns. As they are considered “infidels” (or even apostates) and of Kurdish ethnicity,³⁷⁰ Yazidis have been targeted by Sunni extremists present in Baghdad and towns like Sinjar, Mosul and Tel Afar.³⁷¹ Most attacks against Yazidis are not reported in the international and national media or are portrayed as incidents involving Kurds.³⁷² UNAMI reported that in late December 2006, a Yazidi was murdered in Mosul; according to the police simply on the basis of his religious affiliation.³⁷³ Mir Tahsin Saied Beg survived a bombing in Al-Qosh on 17 December 2004. Reportedly, the Mir and other prominent figures avoid public appearances for security reasons.³⁷⁴

Insurgent groups have also targeted Yazidis for their (perceived) support for the US-led invasion and the presence of the MNF, considering them collaborators.³⁷⁵ For example, Marwan Khalil Murad, who worked as a project director for international aid organizations, was reportedly shot and wounded after he had hosted 20 Americans in his home in Sinjar.³⁷⁶ Others have been targeted for their political activities and support for the political process.³⁷⁷ For example, the Mayor of Sinjar, a Yazidi, has been subjected to attacks in 2004 and 2005. In July 2005, a bodyguard of Dr. Mamou Othman, then Minister of State for Civil Society in Iraq and the only Yazidi cabinet member, was targeted and killed.³⁷⁸ Other prominent persons of the community have also been threatened. For example, Yazidi doctor Abd Al-Aziz Suleiman Siwu, the head of the branch office for the Lalish cultural centre in Bashika and Bahzani received a threat letter in January 2004 signed by Ansar Al-Islam. It accused him of collaborating with the Americans, Zionists and the Patriotic Union

³⁷⁰ See also “Kurds, Arabs, Turkmen428F, Ethnic-Based Christian Groups (Assyrians, Chaldeans, Armenians)429F, Yazidis430F and Shabak431F in Ethnically Mixed Areas” and “Kurds and Other Segments of Iraqi Society”.

³⁷¹ See: AP, *Beleaguered Yazidi find peace high in Iraq’s northern mountains*, 14 October 2006, <http://www.todayonline.com/articles/148550.asp>. See also: Savelsberg and Hajo, p. 3 and 6, see above footnote 354.

³⁷² Savelsberg and Hajo, p. 2, see above footnote 354.

³⁷³ UNAMI HRO, *December 2006 Human Rights Report*, p. 14, see above footnote 10. Other incidents cited by Savelsberg and Hajo, see above footnote 354.

³⁷⁴ Savelsberg and Hajo, p. 4, see above footnote 354.

³⁷⁵ See Laurence F.Kaplan, *Devil’s Advocates*, The New Republic, 6 November 2006, <http://www.tnr.com/doc.mhtml?i=20061106&s=diarist110606>. See also “Actual or Perceived Sympathizers of the US-Led Invasion and/or the Multi-National Force in Iraq”.

³⁷⁶ AP, see above footnote 371.

³⁷⁷ See also “Government Officials and Other Persons Associated With the Current Iraqi Government, Administration and Institutions”.

³⁷⁸ Dulz, Hajo and Savelsberg, p. 4, see above footnote 359.

of Kurdistan (PUK), and ordered him to leave the city of Mosul as otherwise he would face death.³⁷⁹

Yazidis have also been targeted for “un-Islamic” behaviour and activities such as smoking in public during Ramadan or selling alcohol.³⁸⁰ Yazidi women, who traditionally go without veils and circulate in public much as men do, are now hardly leaving the home or only when wearing a veil.³⁸¹ It has been reported that in Friday prayers and on leaflets and posters, the population, including members of other religious groups, is being ordered to comply with Islamic dress codes and abide by religious rules during Ramadan. In the past, many Yazidis ran restaurants called *gazinios* particularly in urban areas such as Baghdad, Basrah, Hilla, Nassriyah and Fallujah. As of 2003, they were forced to close them down due to threats by Muslim extremists.³⁸² In May 2004, posters in several areas of Mosul announced that it was religiously permitted, *halal*, to kill Yazidis, Jews, Christians and Americans.³⁸³ Other Yazidis have been victims of criminal activity, although even in those cases their religion may be a factor given that their minority status makes them a soft target.

Yazidi religious feasts have not been held or only with restrictions since 2004 due to fear of attacks.³⁸⁴ In 2004 and 2005, Mir Tahsin Saied Beg decided to postpone the *Cejna Cemayya*, the yearly Feast of Assembly carried out in the Lalish Valley, for safety reasons. The participation in certain religious rites which take place during the feast nonetheless remains obligatory to date and the celebrations were resumed in 2006.³⁸⁵

As a consequence of the above treatment, many Yazidis have been displaced since 2003, most of them to the Region of Kurdistan. Medya, a weekly paper issued in Erbil, reported in late November 2006 that:

*“(A)n informed Ezidi source advised that only 10 to 15 Ezidi families have remained in Mosul and the rest have moved to other Kurdistan cities after receiving terrorist threats to leave. The danger of the Ezidi Kurds is double for being Kurds ethnically and non-Muslims in terms of religion, the source elaborated adding that he was aware of the immigration of more than 200 families out of Mosul.”*³⁸⁶

³⁷⁹ Translation to German by Dulz, Hajo and Savelsberg, p. 5, see above footnote 359.

³⁸⁰ Savelsberg and Hajo, p. 3, see above footnote 354.

³⁸¹ This applies in particular to those women living in cities where they would be in contact with members of the Muslim society. Women living in collective settlements, which were built by the former regime as part of the *Arabization* campaigns, face less pressure to comply with Islamic dress codes as they live among their own community.

³⁸² Dulz, Hajo and Savelsberg, p. 1, see above footnote 359.

³⁸³ Savelsberg and Hajo, p. 5, see above footnote 354. See also “Persons Accused of “Un-Islamic” Behaviour”.

³⁸⁴ Savelsberg and Hajo, p. 4, see above footnote 354.

³⁸⁵ Information received from Irene Dulz, through e-correspondence in February 2007. Irene Dulz studied Islamic Science at the University of Hamburg and her thesis dealt with the situation of the Yazidis in Iraq. She worked for the refugee council in North Rhine-Westphalia / Germany and is currently employed at the Goethe Institute in Amman, Jordan. Her special field is Iraq and she is regularly traveling to the Kurdish parts of Iraq. German courts have requested her opinion when dealing with asylum cases of Iraqi Yazidis.

³⁸⁶ Translation from Kurdish language by UNAMI.

AP reported in October 2006 that “(H)undreds of Yazidi families have fled Mosul in the past two years leaving little more than a half dozen now.”³⁸⁷

Additionally, Yazidi traditions such as forced marriage, “honour killings” or the prohibition to marry outside one’s caste and religion may result in serious human rights violations at the hands of the family or community.³⁸⁸ According to the German organization *Yezidisches Forum*, Yazidi women who have been kidnapped or sexually assaulted by Muslims may face severe sanctions by the Yazidi community, including exclusion from the Yazidi religion and community and possibly violence. At times, rumours can be sufficient basis for such sanctions.³⁸⁹ UNHCR also learned of a case in which a Yazidi couple from different castes was killed by the man’s family on 11 August 2006 in Shekhan District.

iii) Situation of Yazidis in the Region of Kurdistan

As mentioned earlier, only a small portion of Iraq’s Yazidis live in the area under the administration of the KRG, mainly in the Governorate of Dahuk. The Kurdish authorities generally respect the rights of religious minorities. The Kurdistan Democratic Party (KDP) in particular has made an effort to reach out to the Yazidis with the aim of gaining their political support. Accordingly, the Kurds have supported Yazidi religious rights in their draft constitution, mentioning them explicitly in the Preamble and in Articles 7 and 124(II), although the prominent role given to Islam as a source of legislation remains a worrying factor for other religious groups.³⁹⁰ The KDP also furthers Yazidi cultural rights, e.g. through the introduction of Yazidi religious classes in schools with a minimum of 20 Yazidi pupils and the provision of financial assistance to the Yazidi Lalish cultural centre in Dahuk and its numerous branch offices in Jebel Sinjar, Shekhan and Mosul. It also exerts its influence on Yazidis living outside the Kurdistan Region, which the KRG seeks to incorporate. For example, the KDP has become a major employer in Sinjar and Shekhan, areas that had seen little development over the years and where unemployment is high.³⁹¹ Some Yazidis expressed concern over forced assimilation into Kurdish culture and identity.³⁹² Some have accused the Kurdish parties of diverting US \$12 million

³⁸⁷ Paul Schemm, “Iraqi “devil worshipers” seek US support”, AP, 11 October 2006, <http://www.wvrn.org/article.php?id=23022&sec=41&cont=4>.

³⁸⁸ See also “Women”.

³⁸⁹ Yezidisches Forum e.V., *Yezidische Frauen im Irak* (position paper on the situation of Yazidi women in Iraq), submitted to the Administrative Court of Oldenburg [in German language], 4 February 2002, <http://www.yezidi.org/index.php?id=101>.

³⁹⁰ See, for example, The Globe, *Kurdistan constitution recognizes Islam as a source of legislation*, 28 August 2006, <http://www.ekurd.net/mismas/articles/misc2006/8/independentstate929.htm>; IRIN, *Iraq: Role of Islam in regional constitution sparks debate*, 18 June 2006, <http://www.irinnews.org/report.aspx?reportid=27025>.

³⁹¹ Savelsberg and Hajo, p. 7-11, see above footnote 354.

³⁹² AP, see above footnote 371; Ann Scott Tyson, *Vying for a Voice, Tribe in N. Iraq Feels Let Down*, The Washington Post, 27 December 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/12/26/AR2005122600717.html>.

reconstruction funds allocated for Yazidi areas in Jebel Sinjar to a Kurdish village and marginalizing them politically.³⁹³

Yazidis may be discriminated against by segments of the Muslim population based on the widespread perception that Yazidis are “unclean” or “non-believers”.³⁹⁴ Additionally, and as outlined above, Yazidis may face severe treatment at the hands of the family or community. On 22 April 2007, a group of 23 Yazidi workers heading home from a Mosul textile factory were shot dead. Witnesses claimed that Christians and Muslims who were travelling on the same bus were not harmed.³⁹⁵

d) Baha’i

The Baha’i faith³⁹⁶ was founded in the 19th century by Baha’u’llah, a Persian nobleman, who proclaimed himself the most recent prophetic messenger following Mohammed, Jesus, Buddha, Krishna, Abraham and others. Baha’is number around six million in more than 200 countries around the world, although the Baha’i do not make up a majority in any country. There are no figures as to their numbers in Iraq. The faith has a unique system of global administration, with freely elected governing councils in nearly 10,000 localities. The Universal House of Justice,³⁹⁷ first elected in 1963, is the highest governing body, directing the spiritual and administrative affairs of the Baha’i faith and has its seat in Haifa, Israel.³⁹⁸

The Baha’i belief has often been considered heretical by Islam. For example, the Baha’is belief that there is only one religion and all the messengers of God have progressively revealed its nature, contradicts the Muslim belief that Prophet Mohammed was God’s last messenger.³⁹⁹ A series of *fatwas* from Al-Azhar, Egypt’s highest religious authority with influence in the wider Islamic world, have condemned the Baha’i faith as a form of Islamic

³⁹³ Christian Peacemaker Teams, *Iraq: Dashed Yazidi dreams*, 30 September 2005, <http://www.cpt.org/archives/2005/sep05/0053.html>; *ibidem*, *Iraq’s Yazidis, A Religious and Ethnic Minority Group Faces Repression and Assimilation*, 25 September 2005, <http://www.aina.org/reports/yezidiscpt.pdf>.

³⁹⁴ Dulz, Hajo and Savelsberg, p. 9, see above footnote 359. See also: Jesse Nunes, Iraq’s sectarian strife engulfs minority Yazidis, *Christian Science Monitor*, 24 April 2007, <http://www.csmonitor.com/2007/0424/p99s01-duts.html>; the article refers to a report from the Turkish Daily News that 215 Yazidis have been killed since the 2003 US invasion of Iraq, and most of the killings “were perpetuated on religious grounds as fundamental and Islamist groups see Yazidis as infidels who either have to convert or be killed”.

³⁹⁵ Karin Brulliard, *An Iraqi Massacre Rooted in Interfaith Love*, *The Washington Post*, 23 April 2007, <http://www.washingtonpost.com/wp-dyn/content/article/2007/04/22/AR2007042200110.html>. It is reported that the massacre was triggered by a Muslim woman marrying a Yazidi man.

³⁹⁶ For more on the Baha’i faith, see, for example, The Baha’is, *What is the Bahá’í Faith?* http://bahai.org/faq/facts/bahai_faith. See also: BBC, *Religions & Ethics – Baha’i*, <http://www.bbc.co.uk/religion/religions/bahai/>.

³⁹⁷ For more information on the Universal House of Justice, see, for example, Baha’i Topics, *The Universal House of Justice*, <http://info.bahai.org/universal-house-of-justice.html>.

³⁹⁸ This has led to Baha’is in Iran being accused of Zionist activities, an accusation that might likely be raised against Baha’is in Iraq as well; see Juan Cole, *The Baha’is of Iran*, *History Today*, 1990, Vol. 40 Issue 3, p. 24, http://www.sullivan-county.com/id3/bahai_iran.htm.

³⁹⁹ On the relationship between Islam and the Baha’i faith, see Cole, *ibid.*

apostasy and a threat to public order.⁴⁰⁰ Bernard Lewis, one of the most widely read scholars of the Middle East, stated that the very existence of a post-Islamic monotheistic religion such as the Baha'i faith challenges the Islamic doctrine of the perfection and finality of Mohammed's revelation, the Qur'an.⁴⁰¹

Law No. 105 of 1970 prohibits the Baha'i faith in Iraq, although this runs counter to constitutional guarantees relating to the freedom of religion.⁴⁰² Based on this law and other regulations, the Government of Iraq continues with discriminatory practices against the Baha'i. In 1975, the Directorate of Civil Affairs issued Decision No. 358 providing that civil status records, which contain all information relevant to the civil status of Iraqi persons such as birth, marriage, divorce, etc., can no longer indicate "Baha'i" as religion. Instead, one of the three Abrahamic religions, i.e. Islam, Christianity or Judaism, had to be indicated.⁴⁰³ Those persons who could not prove that they belong to one of these recognized religions, e.g. through their parents' civil status records or a court order, or were not willing to do so, will have their civil records frozen, meaning that requests for birth, death or marriage certificates, civil status identification documents or passports will not be processed.⁴⁰⁴ Recent requests from the Baha'i to change this policy have reportedly been met with sympathy, but the Ministry of Interior's Nationality and Travel Directorate Offices continue to implement this regulation.⁴⁰⁵ This policy puts adherents of the Baha'i faith in the untenable position of either having to make a false statement about their religious beliefs or to be left without documentation necessary to access most rights of citizenship, including education, ownership of property, medical care or food rations.

e) **Kaka'i / Ahl i-Haq / Yarsan**⁴⁰⁶

The Kaka'i are a distinct religious group that mainly reside in the areas of Kirkuk (mainly Tareeq Baghdad, Garranata, Wahid Athar, Hay Al-Wasitty, Eskan and Shorja as well as in the District of Daqooq), Mosul (Kalaki Yasin Agha area) and Khanaqin (mainly Mirkhas and Kandizard areas) in the Governorate of Diyala,⁴⁰⁷ but also in villages in the Kurdistan Region close to the Iranian border. Kaka'i can also be found in major cities such as Baghdad, Sulaymaniyah and Erbil. There is little information about this group as it favours

⁴⁰⁰ The Washington Times, *Court denies Bahai couple document IDs*, 17 December 2006, <http://www.washtimes.com/world/20061217-122113-6320r.htm>. The Supreme Administrative Court Ruling can be found at: http://info.bahai.org/pdf/EGYPTSAC_16DEC06_ENGLISH.pdf

⁴⁰¹ Bernard Lewis, *The Jews of Islam*, 1984, Princeton: Princeton University Press, p. 21.

⁴⁰² See "Non-Muslim Religious Groups".

⁴⁰³ While this practice also affected other religious minority groups in the past, only the Baha'i continue to be affected by it.

⁴⁰⁴ Amendment to Article 17 (3) of the amended Civil Status Law No. 65 (1972).

⁴⁰⁵ Information received by UNHCR in January 2007.

⁴⁰⁶ According to some sources, Yarsanism, Alevism and Yazidism are three branches of an ancient religion called Yardanism or "Cult of Angels", an indigenous Kurdish faith; see Dr. Mehrdad R. Izady, *The Kurds, A Concise Handbook*, Department of Near Eastern Languages and Civilization, Harvard University, 1992, <http://yarsan.web.surfdown.se/English/Yarsanism.htm>; another, but derogatory name used for the Kaka'i is *Ali Illahi*, given the widespread belief that the Kaka'i deify Imam Ali bin Abi Talib, Prophet Mohammed's cousin and son-in law; see Encyclopaedia of the Orient, *Ahl-e Haqq*, <http://lexicorient.com/e.o/ahl-e-haqq.htm> [accessed January 2007].

⁴⁰⁷ USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28.

secretive religious practices. The religion is monotheistic and syncretistic, having incorporated elements from several religions, including Islam.⁴⁰⁸

The Kaka'i believe in reincarnation, with each soul having to pass through 1,001 incarnations in order to achieve the "ultimate heavenly rewards".⁴⁰⁹ According to the tradition, male members of the Ahl i-Haq never cut or trim their moustaches. This habit is prohibited by Islam, according to which the moustache must always be kept short.⁴¹⁰ Generally, the Kaka'i marry among their community. According to the Encyclopaedia of the Orient, there are an estimated 200,000 Kaka'i in Iraq.⁴¹¹

The group has its spiritual centre in the village of Hawar in the Governorate of Sulaymaniyah. Most are ethnic Kurds, but speak their own language called *Macho* (alternate names are Hawramani, Old Gurani).⁴¹²

The Jund Al-Islam, and later its successor Ansar Al-Islam, which are radical Kurdish home-grown Islamist groups and said to have links with the Al-Qa'eda network, exercised strict control over a number of villages near the town of Halabja in the Governorate of Sulaymaniyah as of September 2001.⁴¹³ The group ruled the areas based on an extreme interpretation of Shari'a law and launched a "holy war" against what it considered "blasphemers and secularists". While their primary focus was the PUK, the Kaka'i, living in three villages in the area and considered "heretics" by the Jund Al-Islam, were also targeted. Human Rights Watch (HRW) described that the villages were raided on 4 September 2001. The residents were rounded up and ordered to adhere to the Jund Al-Islam's interpretation of Islam. According to HRW,

*"(T)hose who refused were apparently told they would be made to pay a "religious tax" imposed on all non-Muslims, as well as risk having their property seized."*⁴¹⁴

Furthermore, several Kaka'i shrines were destroyed. Reportedly, the majority of 450 households fled the villages and have to date been unable to return due to the presence of landmines as well as the lack of services.⁴¹⁵ The Kaka'i have one representative in the

⁴⁰⁸ Sometimes, it is classified as being a branch of Shi'ite Islam. See: Encyclopaedia of the Orient, *Ahl-e Haqq*, see above footnote 406.

⁴⁰⁹ *Ibid.*

⁴¹⁰ For more information about the religion, see, for example, *ibid.* See also: Izady, *The Kurds, A Concise Handbook*, see above footnote 406.

⁴¹¹ Encyclopaedia of the Orient, *Ahl-e Haqq*, see above footnote 406.

⁴¹² ICG, *Radical Islam in Iraqi Kurdistan: the Mouse that Roared?*, 7 February 2003, p. 5, http://www.crisisgroup.org/library/documents/report_archive/A400885_07022003.pdf; Ethnologue, Languages of the World, *Gurani*, http://www.ethnologue.com/show_language.asp?code=hac.

⁴¹³ Global Security, *Ansar al Islam (Supporters of Islam)*, http://www.globalsecurity.org/military/world/para/ansar_al_islam.htm [last updated 6 July 2005].

⁴¹⁴ HRW, *Ansar al-Islam in Iraqi Kurdistan*, 5 February 2003, <http://www.hrw.org/backgrounders/mena/ansarbk020503.htm>.

⁴¹⁵ ICG, *Radical Islam in Iraqi Kurdistan*, p. 5, see above footnote 412; HRW, *ibidem*; Michel Rubin, *The Islamist Threat in Iraqi Kurdistan*, Middle East Intelligence Bulletin, Vol. 3, No. 12, December 2001, http://www.meib.org/articles/0112_ir1.htm. During the 2003 US-led invasion, Ansar Al-Islam's training camps in the Kurdish-controlled areas of Northern Iraq were attacked by Coalition and Kurdish forces in an attempt to eliminate the organization accused of providing a safe haven to Al-Qa'eda and Abu Musab Al-Zarqawi. These attacks disrupted the organization but it seems to have regrouped quickly, and continues to be

KRG. Mr. Falak Al-Deen Kakai, senior member of the KDP, is the current Minister of Culture.⁴¹⁶

Since the fall of the former regime, the Kaka'i living in the areas under central government administration have come under pressure by religious extremists who consider them "infidels". UNHCR has received information of threats, kidnappings and assassinations of Kaka'i, mainly in Kirkuk. UNHCR was informed that Muslim religious leaders in Kirkuk asked people not to purchase anything from "infidel" Kaka'i shop owners. In addition, Kaka'i might be targeted on the basis of their Kurdish ethnicity.⁴¹⁷ UNHCR received information that in Mosul, the Kaka'i no longer dare to reveal their identity as Kaka'i.

It is believed that most Kaka'i have been displaced since the fall of the former regime.⁴¹⁸ For example, in the end of November 2006, Hewler Post, a bi-weekly paper issued in Erbil, reported that 100 Kaka'i Kurds fled from the Urouba quarter in downtown Kirkuk after having received threats from "terrorists".⁴¹⁹ UNHCR has received information that some 250-300 Kaka'i families from Baghdad were displaced to Khanaqin.

f) Jews⁴²⁰

Iraqi Jews constituted one of the world's oldest and historically significant Jewish communities. In the first half of the 20th century, they were relatively prosperous and well integrated into Iraqi society, held positions in the Iraqi parliament and bureaucracy, were prominent in trade and contributed to local arts and literature. However, Nazi anti-Jewish propaganda as of the 1930s and the creation of the State of Israel in 1948 resulted in public attacks against Jews and Jewish institutions and harsh laws discriminating against the Jewish population, which was estimated at 150,000 in 1948. Initially, they were prohibited from leaving the country, but in the early 1950s, the then Iraqi Government issued Law No. 1 (1950) (*Denationalization Act*), which allowed them to emigrate under the condition that they relinquish their Iraqi citizenship. In March 1951, nearly 120,000 Jews were evacuated in the airlift operation called "*Ezra and Nehemiah*" from Baghdad to Jerusalem. Law No. 5 (1951), known as *Law for the Control and Administration of Property of Jews Who Have Forfeited Nationality*, seized all the assets of Jews who had been denationalized by Law No. 1 (1950). Law No. 12 (1951), which was attached to Law No. 5 (1951), froze

held responsible for attacks in Northern Iraq, mainly directed against senior PUK/KDP political and military officials. See UNHCR, *2005 Country of Origin Information Iraq*, p. 66-67, see above footnote 53.

⁴¹⁶ KRG, *Ministers of the new unified cabinet*, 7 May 2006, http://www.krg.org/articles/article_detail.asp?LangNr=12&RubricNr=93&ArticleNr=10938&LangNr=12&LNNr=28&RNNr=97&TopicText=Cabinet&SiteID=50.

⁴¹⁷ See also "Kurds, Arabs, Turkmen^{428F}, Ethnic-Based Christian Groups (Assyrians, Chaldeans, Armenians)^{429F}, Yazidis^{430F} and Shabak^{431F} in Ethnically Mixed Areas" and "Kurds and Other Segments of Iraqi Society".

⁴¹⁸ IRIN, *Iraq: Minorities living tormented days under sectarian violence*, 4 January 2007, <http://www.irinnews.org/report.aspx?reportid=62981>.

⁴¹⁹ Hewler Post, November 2006 (in Kurdish, unofficial translation from UNAMI).

⁴²⁰ Jews consider themselves as an ethno-religious group.

all transactions related to Jewish property in Iraq. An estimated US \$200 million in property was taken over by the Iraqi State.⁴²¹

The 10,000 Jews remaining after Operation “*Ezra and Nehemiah*”⁴²² stayed through the era of President Abdul Karim Qassim when conditions improved. But under the ruling of the Ba’ath Party as of 1968, anti-Jewish sentiments ran high and culminated in the 1969 hanging of 14 Iraqis, most of them Jews, who were falsely accused of spying for Israel. This event led to the flight of most of the remaining Jews from Iraq.⁴²³

With the fall of the former regime, the living conditions of the few Jews left in Iraq worsened drastically and most have left the country, leaving but a few members.⁴²⁴ Even more than other religious minorities, they are suspected of cooperating or at least sympathizing with the MNF⁴²⁵ and fear deliberate assaults by both Islamic extremists and supporters of the former regime. Furthermore, Jews might be suspected of links to Israel, with which Iraq continues to be in a state of war. Anti-Zionist feelings are prevalent, a notion demonstrated after a highly unpopular visit undertaken by Mithal Alousi, a Sunni secular politician, to Israel in September 2004. As a consequence, he lost his senior position in the Iraqi National Congress.⁴²⁶

Baghdad’s only remaining synagogue, which bears no identifying marks, has been boarded up since it was reportedly denounced by unknown quarters as “the place of the Zionists” in 2003. In October 2006, Rabbi Emad Levy, Baghdad’s last remaining rabbi, announced that he, too, was leaving Iraq. He compared his life to “*living in a prison*”, as most Jews do not dare to leave the house for fear of kidnapping or execution.⁴²⁷

The new Iraqi *Nationality Law* (Law No. 26 of 2006) provides in its Article 18 (I) for the restoration of nationality for those who had been denationalized “*on political, religious, racist or sectarian grounds*”. However, for political reasons, Article 18 (II) excludes Jews from this right, stating that

⁴²¹ On the history of Iraq’s Jews, see, for example, Mitchell Bard, *The Jews of Iraq*, 2006, <http://www.jewishvirtuallibrary.org/jsource/anti-semitism/iraqijews.html>; Philip Mendes, *The Forgotten Refugees: The Causes of the Post-1948 Jewish Exodus from Arab Countries*, 14 Jewish Studies Conference Melbourne, March 2002, http://www.ajds.org.au/mendes_refugees.htm.

⁴²² Others already left on their own between 1950-1951 before Operation “*Ezra and Nehemiah*”.

⁴²³ Sarah Sennott, “*It Is Now or Never*”, Newsweek, 9 April 2004, <http://www.msnbc.msn.com/id/4703546/site/newsweek/>.

⁴²⁴ The International Religious Freedom Report 2006 noted that according to the head of the Christian and Other Religions Endowment, the Jewish population had “*dwindled to less than fifteen persons in the Baghdad area*”; see: USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28. In an informal meeting between UNAMI HRO and a representative of the Jewish community in Iraq, it was confirmed that only a few members remain in the country; see UNAMI HRO, *April 2006 Human Rights Report*, p. 9, see above footnote 74.

⁴²⁵ See also “Actual or Perceived Sympathizers of the US-Led Invasion and/or the Multi-National Force in Iraq”.

⁴²⁶ Haaretz, *Iraqi National Congress fires Chalabi aide for visiting Israel*, 14 September 2006, <http://www.haaretz.com/hasen/pages/ShArt.jhtml?itemNo=477229&contrassID=1&subContrassID=1&sbSubContrassID=0&listSrc=Y>.

⁴²⁷ Amit R. Paley, *Next Year, Anywhere But in Grim Baghdad*, The Washington Post, 3 October 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/10/02/AR2006100201317.html>.

“those Iraqis who had lost their nationality pursuant to Law No. (1) Of 1950 and Law No. (12) Of 1952 cannot have their Iraqi nationality restored as foreseen in Article 18 (I).”

Iraqi legislation regarding the restitution of property confiscated by the former regime allows for claims regarding property taken by the Ba’ath regime as of 1968, thereby only applying to a small minority of the Jewish community in exile as nearly all Iraqi Jews left during the early 1950s.⁴²⁸

B. Ethnic Groups

1. Kurds, Arabs, Turkmen⁴²⁹, Ethnic-Based Christian Groups (Assyrians, Chaldeans, Armenians)⁴³⁰, Yazidis⁴³¹ and Shabak⁴³² in Ethnically Mixed Areas

a) Introduction

Ethnic tensions and violence are prevalent in traditionally mixed areas in the Governorates of Kirkuk, Ninewa, Salah Al-Din and Diyala, which have been subjected to the previous Governments’ Arabization policies.⁴³³ Since 2003, ethnic tensions have flared, mainly in Kirkuk and Mosul, and in particular before and in the aftermath of significant political events such as the elections for the TNA and the Governorate Councils in January 2005, the referendum on the Constitution in October 2005 and the elections for the Council of Representatives in December 2005. Inter-ethnic tensions among the Kurdish, Arab and

⁴²⁸ The Commission for the Resolution of Real Property Disputes (CRRPD) is not authorized to redress all wrongdoings related to property by the former governments of Iraq. Rather, the jurisdiction of the CRRPD runs from 17 July 1968 to 9 April 2003; see Article 4 of *Statute of the Commission for the Resolution of Real Property Disputes*, Order No. 2 of 2006.

⁴²⁹ The Turkmen originally came from Central Asia, in a migration that took place over several hundred years, beginning in the 7th century AD. The first Turkic people settled in Iraq in the early Islamic era, in the late 7th century, and their numbers increased throughout history. Today, they are considered the third largest ethnic group in Iraq and their number is estimated at 2.5 to 3 million by mainly Turkmen sources, which base their estimate on an extrapolation from figures from the 1957 Iraqi census. Most international sources indicate a population of around half a million. Part of the reason for the vast difference in estimates is the former government’s *Arabization* policy that forcibly expelled Turkmen from their traditional lands in Iraq and forced them to register officially as Arabs. The Turkmen of Iraq live mainly in the region stretching from the Northern town of Tel Afar in Ninewa Governorate to Badra and Al-Aziziyah in Wassit Governorate south-east of Baghdad. The largest numbers can be found in the Governorate of Kirkuk, with others in Ninewa, Salah Al-Din, Diyala, Wassit and Baghdad. Also the Northern city of Erbil has a significant Turkmen population. The Turkmen belong to either the Sunni or the Shi’a faith of Islam.

⁴³⁰ The Assyrians, Chaldeans and Armenians consider themselves as distinct ethnic groups. Assyrians are united by the Syriac language, their Christian faith and a common cultural heritage of the ancient Assyrian civilization. The Syriac language is closely related to the Aramaic spoken in ancient Mesopotamia; Chaldeans and Assyrians share the Syriac language and much of a common history, but were divided by the Chaldeans’ reunification with the Roman Catholic Church in 1552. Today, Assyrians and Chaldeans often consider themselves as belonging to the same ethno-national group, using the name *ChaldoAssyrians*, though this is not undisputed. See, for example, Bet-Nahrain, *Petition: The Assyrian (Al-Ashuryeen) is our name*, 2003, http://www.betnahrain.org/petition/assyrian_name.htm. See also “Christians232F”.

⁴³¹ See also “Yazidis^{352F}”.

⁴³² See also “Shabak”.

⁴³³ See “De-Arabization”.

Turkmen communities in Kirkuk have sharply increased in 2006 and early 2007, in particular after the killing of Abu Musab Al-Zarqawi, former leader of Al-Qa'eda in Iraq, with a number of his supporters having moved to Kirkuk apparently to further stir tensions among Iraq's communities.⁴³⁴ Sunni extremist groups such as Al-Qa'eda and Ansar Al-Sunna have been recruiting Sunni Arabs and even Sunni Turkmen, many of whom had been forced to leave Kirkuk by the Kurds.⁴³⁵ There is fear of further escalation in view of the forthcoming referenda on the status of "disputed areas", which, most analysts agree, the Kurds are expected to win.⁴³⁶

b) "Kurdification"

Turkmen, Arab, Christian and Shabak parties claim harassment and forced assimilation by Kurdish militias in Kirkuk and other mixed areas such as villages in the Ninewa Plain, with the aim of incorporating these areas into the Region of Kurdistan.⁴³⁷ Ethnic minorities have repeatedly accused the Kurdish parties and their military forces of acts of violence and discrimination,⁴³⁸ arbitrary arrests and detention on sectarian basis, political marginalization⁴³⁹ (including through electoral manipulations),⁴⁴⁰ monopolizing of

⁴³⁴ According to UNAMI HRO, "(I)nter-ethnic tensions between Arab, Turkoman and Kurdish communities are escalating in Kirkuk"; see UNAMI HRO, *December 2006 Human Rights Report*, p. 13, see above footnote 5. See also: Louise Roug, *Northern Iraq seen as next front in war*, Los Angeles Times, 2 February 2007, <http://www.ft.com/cms/s/f3e52750-b1d4-11db-a79f-0000779e2340.html>; IRIN, *Iraq: Ethnic tensions mount in Kirkuk*, 16 November 2006, <http://www.irinnews.org/Report.aspx?ReportId=61946>; Senanayake, *Iraq: Ethnic Tensions Increasing In Oil-Rich City*, see above footnote 45; Michael Howard, *As violence grows, oil-rich Kirkuk could hold key to Iraq's future*, The Guardian, 27 October 2006, <http://www.guardian.co.uk/Iraq/Story/0,,1932789,00.html>; RFE/RL, *Kirkuk Could be Engulfed by Sectarian Violence*, Experts Say, 17 August 2006, <http://www.rferl.org/releases/2006/08/431-180806.asp>; Ali Windawi and Julian E. Barnes, *Violence surges in contested city of Kirkuk*, Los Angeles Times, 20 July 2006, <http://www.peyamner.com/article.php?id=54461&lang=english>.

⁴³⁵ According to the Washington Institute, the majority of the twenty suicide bombings perpetrated in Kirkuk from July to October 2006 were presumably the work of Al-Qa'eda; see: Cagaptay and Fink, see above footnote 44.

⁴³⁶ See, for example, Roug, see above footnote 434, and *Iraq Study Group Report*, p. 19, see above footnote 35.

⁴³⁷ UNAMI HRO reported that "Kirkuk is heavily controlled by security forces and Kurdish militias. Kurdish militias (Peshmerga) exercise to a large degree effective control of the city; most senior official positions are occupied by Kurds or their allies from other ethnicities"; see UNAMI HRO, *December 2006 Human Rights Report*, p. 24, see above footnote 10.

⁴³⁸ UNAMI HRO expressed concern over the intimidation of minorities in Kirkuk through the use of Kurdish security forces and the power of detention to prevent minorities from playing a significant role in the city's affairs; see UNAMI HRO, *December 2006 Human Rights Report*, p. 23, see above footnote 10. The US State Department reported that "Kurdish authorities abused and discriminated against minorities in the North, including Turcomen, Arabs, Christians, and Shabak. Authorities denied services to some villages, arrested minorities without due process and took them to undisclosed locations for detention, and pressured minority schools to teach in the Kurdish language"; see USDOS, *2005 Country Reports on Human Rights Practices – Iraq*, see above footnote 333.

⁴³⁹ UNAMI HRO expressed concern over the situation of minorities in Kirkuk and "their ability to effectively participate in its political, economic and social development"; see UNAMI HRO, *December 2006 Human Rights Report*, p. 23, see above footnote 10.

⁴⁴⁰ AFP, *Kurds accused of rigging Kirkuk vote*, 8 February 2005, <http://english.aljazeera.net/news/archive/archive?ArchiveId=19677>; AFP, *Ethnic tensions deepen over vote in northern Iraqi city*, 6 February 2006, http://www.institutkurde.org/en/info/index.php?subaction=showfull&id=1107790140&archive=&start_from=

government offices,⁴⁴¹ and changing the demographics with the ultimate goal of incorporating Kirkuk and other mixed areas into the Region of Kurdistan.⁴⁴² The Centre for Strategic and International Studies (CSIS) noted that the Kurdish parties “present the threat of soft ethnic cleansing in the area of Kirkuk.”⁴⁴³

It has been reported that KDP offices have been opened in all villages in the Ninewa Plain, Kurdish armed forces (*Peshmerga*) patrol the streets of Kirkuk and street signs in Kirkuk have been changed from Arabic to Kurdish.⁴⁴⁴ The issue of return of persons displaced by the former Government, as foreseen in Article 58 of the TAL, has particularly sparked tensions and disputes over the ownership of homes and lands and is expected to further increase in view of the popular referendum. The Kurdish parties have been accused of being responsible for the return of hundreds of thousands of Kurds to Kirkuk and other disputed areas, including of persons that had never been expelled by the former regime.⁴⁴⁵

[&ucat=2&](#); Christian and Shabak communities claim that in the 15 December 2005 elections, approximately 500 non-resident Kurds entered the polling centre in Bartilla and over 200 had voted by the time MNF intervened and stopped the illegal voting; see AINA, *Kurds Block Assyrians, Shabaks From Police Force in Northern Iraq *PIC**, 24 June 2006, <http://www.betnahrain.org/bbs/index.pl/noframes/read/5520>.

⁴⁴¹ The Washington Institute reported that persons loyal to the Kurdish parties occupy key civil service positions in Kirkuk and are paid with funds from the budgets of the KRG. Furthermore, ethnic Kurds control Kirkuk’s intelligence and security forces. In 2005, the Kurdish chief of Kirkuk’s police said that 40 percent of Kirkuk’s police force was loyal to the two Kurdish political parties; see: Cagaptay and Fink, see above footnote 44. Furthermore, Christian and Shabak communities claimed in 2006 that the local police forces in the districts of Hamdaniya and Tilkaif in the Ninewa Plain were dominated by Kurds loyal to the KDP while they were underrepresented. Orders by the Ministry of Interior to recruit additional policemen, including from Ninewa’s minority groups were reportedly delayed by the Kurdish-dominated Governorate Council and the Police Chief. The order was finally carried out June 2006, however, Christian and Shabak recruits were assigned to Mosul City instead of their hometowns, which remained under the control of the Kurdish militias; see AINA, *Kurds Block Assyrians, Shabaks From Police Force in Northern Iraq *PIC**, 24 June 2006, <http://www.betnahrain.org/bbs/index.pl/noframes/read/5520>.

⁴⁴² See, for example, Iraqi Turkmen Human Rights Research Foundation (SOITM), *Violation of Human Rights of the Turkmen in Iraq*, Report to the Working Group on Minorities, 12th Session, 30 July 2006, http://www.turkmen.nl/1A_soitm/OSt.49-G3006.doc; *ibidem*, *Iraqi Turkoman: “US-made” Kerkuk City Council decides once again in favor of the Kurds*, 11 January 2005, <http://www.unpo.org/article.php?id=1718>.

⁴⁴³ Anthony H. Cordesman, *Iraq’s Evolving Insurgency and the Risk of Civil War*, CSIS, Arleigh A. Burke Chair in Strategy, Working Draft, revised 26 April 2006, p. xii, http://www.csis.org/media/csis/pubs/060424_iraqinsurgprpt.pdf.

⁴⁴⁴ Cagaptay and Fink, see above footnote 44. See also: UNAMI HRO, *August 2006 Human Rights Report*, p. 13, see above footnote 26; Al-Qaddo, see above footnote 209.

⁴⁴⁵ Numbers of Kurdish returnees vary, some sources speak of some 120,000 Kurdish families, see ITF, *Iraqi Turkmen: Results Notification of the Consultation Meeting*, 5 September 2006, <http://www.unpo.org/article.php?id=5330>; SOITM, *Iraqi Turkoman*, see above footnote 442. Rashad Mandan Omer, the former Iraqi minister for Science and Technology, in his report to UNAMI stated that “more than 250000 Kurds” came to Kirkuk after the fall of the former regime; see: Rashad Mandan Omer, *The Turkmen Issue of Kerkuk*, report submitted to UNAMI in 2006, published on the website of the SOITM at http://www.turkmen.nl/1A_soitm/ROM.doc. Ali Mehdi Sadek, a Turkoman member of the Kirkuk Governorate Council claims that the population increase in Kirkuk Governorate, from 850,000 in 2003 to 1,150,000 in 2006, could only partially be justified by the return of formerly expelled Kurds, saying that an additional 40,000 Kurdish families had come to Kirkuk; see: ICG, *Iraq and the Kurds: The Brewing Battle over Kirkuk*, Middle East Report No. 56, 18 July 2006, p. 12, http://www.crisisgroup.org/library/documents/middle_east_north_africa/iraq_iran_gulf/56_iraq_and_the_kurds_the_brewing_battle_over_kirkuk.pdf.

Turkmen, Arabs, Christians and Shabak have repeatedly expressed their fear for ongoing Kurdification of the mixed areas and have called for the recognition of their rights.⁴⁴⁶ Assyrian Christian parties have since 2004 lobbied for a new Governorate, “Assyria”, in the Ninewa Plains in line with Article 121 of the Constitution, which guarantees administrative, political, cultural and educational rights for ethnic minorities.⁴⁴⁷ Pascale Warda, Director of the Iraqi Women’s Centre for Development in Baghdad and former Minister of Displacement and Migration, has become the public face for this campaign. She and others believe that a self-administered Governorate would be the only way to stop the violence and flow of Christian refugees out of Iraq. Other minorities such as Yazidis and Shabaks would also be welcome according to the supporters of this idea, who say that the Governorate would be “geographically based and not ethnically based”.⁴⁴⁸ Whether or not “Assyria” should be part of an enlarged Kurdistan Region or remain under control of the central Government is disputed.⁴⁴⁹

c) Current Situation

Members of ethnic minorities run the risk of arbitrary arrest and incommunicado detention by Kurdish militias. The existence of extra-judicial detentions were first exposed by the Washington Post in June 2005, which had gathered statements by American and Iraqi officials, government documents and families of victims. It reported a “concerted and widespread initiative” by the Kurdish parties “to exercise authority in Kirkuk in an increasingly provocative manner”.⁴⁵⁰ The Washington Post article also cited a source which pointed to a practice by the Kurdish-dominated security forces and the Asayish, the Kurdish

⁴⁴⁶ For example, on 15 August 2005, a peaceful demonstration by Shabak villagers in Bartilla turned violent after KDP gunmen shot at the crowd, injuring several. Shabak demonstrators called for their community’s recognition in the new Constitution holding signs which read “(We) are the Shabak, NOT Kurds and NOT Arabs”; see AINA, *Kurdish Gunmen Open Fire on Demonstrators in North Iraq*, 16 August 2005, <http://www.aina.org/news/20050816114539.htm>; AP, *Kurdish sub-group demand separate recognition in new Iraq*, 15 August 2005, <http://www.kurdmedia.com/articles.asp?id=7512>. See also: Al-Qaddo, see above footnote 209. Reportedly, 12 Shabak who participated in a radio programme called “*Dostorona Mustaqbbalana*” were arrested, brought to Erbil for interrogation and detained for 12 hours; see Dr. Hunain Al-Qaddo, *Conflicts between Kurds and the Shabak, Christians of Iraq*, 26 August 2005, <http://www.christiansofiraq.com/Shabak8265.html>.

⁴⁴⁷ See, for example, Assyrian Universal Alliance, *Assyrian UN Delegation Calls Autonomous Region for Iraq’s Assyrians*, 1 November 2006, http://www.christiansofiraq.com/autonomousregionNov_16.html.

⁴⁴⁸ Heather Maher, *Iraq: Christian Minority Seeks Haven From Violence*, RFE/RL, 19 October 2006, <http://www.rferl.org/featuresarticle/2006/10/40228640-c96c-4881-bb37-375bd1346efc.html>; Fred Aprim, *The Future of the Assyrians of Iraq: A Safe Haven vs. Self-Administrative Region*, Zinda Magazine, 25 March 2006, <http://www.christiansofiraq.com/administrationMar266.html>.

⁴⁴⁹ The Guardian, “*In 20 years, there will be no more Christians in Iraq*”, 6 October 2006, <http://www.guardian.co.uk/Iraq/Story/0,,1888848,00.html>. For example, Kurdistan Nwe, a daily newspaper issued by the PUK in Sulaymaniyah reported on 17 January 2006: “(In front of the House of Parliament in Erbil, the Speaker of the Kurdistan Parliament received a peaceful demonstration of Shabak Kurds from the areas around Mosul who demanded restoring their areas to Kurdistan Region.” (unofficial translation from Arabic by UNHCR).

⁴⁵⁰ Steve Fainaru and Anthony Shadid, *Kurdish Officials Sanction Abductions in Kirkuk*, The Washington Post, 15 June 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/06/14/AR2005061401828.html>.

security, of transferring hundreds of detainees⁴⁵¹ from Kirkuk and Mosul to the KRG-administered areas “without authority of local courts or the knowledge of Ministries of Interior or Defense in Baghdad”. According to this source, the abductions had “greatly exacerbated tensions along purely ethnic lines.”

While Kurdish authorities deny the unlawfulness of the transfers,⁴⁵² and US sources also say that the practice was stopped after their intervention, UNAMI HRO repeatedly expressed concern over the ongoing practice. In early 2007, it said

“(T)hey [religious minorities] face increasing threats, intimidations and detentions, often in KRG facilities run by Kurdish intelligence and security forces. This has particular implications for the overall stability of the city, especially in the course of 2007.”

Furthermore:

*“In many cases the arrest and detention of people is carried out by Kurdish militias. Detainees are often transferred directly to the Kurdistan Region without notifying the governorate or the police. Officials in Kirkuk are aware of such practices, yet no significant effort has been made to stop them.”*⁴⁵³

Arbitrary arrests and incommunicado detentions also take place in other areas under the control of the Kurdish parties and militias.⁴⁵⁴ Non-Kurds, with the support of the Shi’ite Mehdi Army, which has gained support among Shi’ite Arabs and Shi’ite Turkmen, have responded with attacks against Kurds and their political representatives.⁴⁵⁵

⁴⁵¹ The revelations in the Washington Post article were confirmed by reporting from Reuters, citing Arab community leaders in Kirkuk. Ahmed Al-Obeidi, head of a small Arab political party, said that the arrests had begun after the US occupation, but accelerated after the 30 January election in which the KDP and the PUK won control of the Kirkuk Provincial Council. Al-Obeidi estimated the total number of detainees at 250, of whom 40 had so far been released. See: Patrick Martin, *State Department cable details ethnic cleansing by US-backed forces in Iraq*, 16 June 2005, <http://www.wsws.org/articles/2005/jun2005/kirk-j16.shtml>. The Washington Post cited other estimates of the number of extrajudicial transfers as 600 or more. US military officials said they had logged 180 cases. US military officials in Kirkuk acknowledged that many prisoners had been detained there and removed to Sulaymaniyah and Erbil. They claimed that this was necessary because of overcrowding in Kirkuk’s jails, although they admitted there had been no judicial authorization for the transfers. Al-Ahram Weekly published the stories of some of the detainees that were released and who speak of arbitrary arrests, incommunicado detentions and use of torture and unlawful confiscation of property; see: Al-Ahram Weekly Online, *An Iraqi powderkeg*, Issue No. 750, 7-13 July 2005, <http://weekly.ahram.org.eg/2005/750/re5.htm>.

⁴⁵² See Kurdistan Observer, *Respect for Human Rights in Iraqi Kurdistan*, 23 June 2005, <http://home.cogeco.ca/~kobserver/23-6-05-krq-respond-to-washington-post.htm>; AP, *Kurdish President Disputes Report of Arab, Turkomen Abuse*, 20 June 2005, <http://home.cogeco.ca/~kobserver/20-6-05-barzani-dispute-washington-post-claims.htm>.

⁴⁵³ UNAMI HRO, *December 2006 Human Rights Report*, p. 3-4 and 24, see above footnote 10.

⁴⁵⁴ The USDOS reported that “*Kurdish security forces committed abuses against non-Kurdish minorities in the North, including Christians, Shabak, Turkomen, and Arabs. Abuse ranged from threats and intimidation to detention in undisclosed locations without due process*”; see: USDOS, *2005 Country Reports on Human Rights Practices – Iraq*, see above footnote 333. See also: Cordesman, see above footnote 443; Al-Qaddo, see above footnote 209.

⁴⁵⁵ Cagaptay and Fink, see above footnote 44.

Ethnic violence has been responsible for the killing and displacement of thousands of Iraqis.⁴⁵⁶ For many, the attacks were seen as a warning to stop the implementation of Article 140 of the Constitution,⁴⁵⁷ as well as an attempt to further increase ethnic tensions in the city.⁴⁵⁸

While part of the violence in Kirkuk, Mosul, Tel Afar and other mixed areas is of generalized nature, there are also targeted attacks, including kidnappings and assassinations, against members and representatives of the various ethnic communities.⁴⁵⁹ Given that the various ethnic groups in Kirkuk and other mixed areas are vying for political power, such attacks are often of a political nature. Sunni extremists staging a war against Shi'ites and other "non-believers" are also responsible for attacks against members of religious groups.⁴⁶⁰

⁴⁵⁶ Between December 2005 and July 2006, the number of reported violent incidents in Kirkuk increased by 76 percent, ending the city's previous status as a relatively safe area; see: Cagaptay and Fink, see above footnote 44. According to Lt. Col. Khalif Mashhadanny, a senior member of the Kirkuk local police, most of the 1,000 killings in the city of Kirkuk over the past four months were due to tension between Kurds and Turkmen; see: IRIN, *Iraq: Ethnic tensions mount in Kirkuk*, 16 November 2006, <http://www.irinnews.org/Report.aspx?ReportId=61946>.

⁴⁵⁷ See "De-Arabization".

⁴⁵⁸ Senanayake, *Iraq: Ethnic Tensions Increasing In Oil-Rich City*, see above footnote 45; The Guardian, *As violence grows, oil-rich Kirkuk could hold key to Iraq's future*, 27 October 2006, <http://www.guardian.co.uk/Iraq/Story/0,,1932789,00.html>.

⁴⁵⁹ Mariam Karouny, *Kirkuk ethnic rage will test Bush hopes for Iraqis*, Reuters/Assyrian International News Agency, 30 June 2005, http://web.krg.org/articles/article_print.asp?ArticleNr=3980. See also: Reuters/Assyrian International News Agency, *Arab Leader Shot Dead in Iraq City of Kirkuk*, 28 May 2005, <http://www.aina.org/news/20050528115623.htm>.

⁴⁶⁰ See also "Religious Groups". For example, on 3 February 2007, a string of bombings in Kirkuk killed ten people and wounded more than 50. Two of the bombs targeted the headquarters of the KDP and the PUK; see Sumedha Senanayake, *Iraq: Committee Decision Increases Tensions In Kirkuk*, RFE/RL, 8 February 2007, <http://www.rferl.org/featuresarticle/2007/02/3a63f415-eb59-4a80-b97e-64c245661555.html>; BBC News, *Baghdad market bomb "kills 130"*, 3 February 2007, http://news.bbc.co.uk/2/hi/middle_east/6327057.stm; The Chairman of the ITF, Mr. Sadettin Ergec (Saad Al-Din Arkaj) survived several attacks on his life, most recently on 31 January 2007 near Kirkuk; Reuters Alertnet, *Factbox – Security developments in Iraq, Jan 31*, 31 January 2007, <http://www.reuters.com/article/latestCrisis/idUSL31378914>; Cihan News Agency, *Turkmen Leader Survives Second Assassination Attempt*, 16 July 2006, <http://www.zaman.com/?bl=hotnews&alt=&trh=20060716&hn=34822>. On 28 November 2006, a man wearing an explosive vest blew himself up next to the convoy of the Kurdish Governor of Kirkuk Governorate, Mr. Abdul-Rahman Mustafa, killing a passer-by and wounding 12 people. It was reportedly the third assassination attempt on his life; RFE/RL, *Iraqi Governor Escapes Assassination Attempt*, 28 November 2006, <http://www.rferl.org/featuresarticle/2006/11/A6C23C77-C52A-4F37-97E4-0E9A3421B5B8.html>; UNAMI HRO reported the blowing up of a Sunni mosque on 16 November 2006. It further received video evidence showing the abuse and killing of an Arab man, who was in the custody of local security officers, in the streets of Kirkuk. Also, on 19 November 2006, Kurdish singer Mr. Mesa'ud Goran was killed in Mosul presumably because he was believed to support the city's assimilation into the Region of Kurdistan; UNAMI HRO, *December 2006 Human Rights Report*, p. 13-14, see above footnote 10. On 17 October 2006, Mr. Fattah Rashid Harki, a senior PUK member, was shot dead in Mosul and in late October 2006, women rights activist Mrs. Faliha Ahmed was killed in Hawija, southwest of Kirkuk. Though the motive remains unclear, her death may be linked to her speaking out against the discrimination against Arabs in Kirkuk and the assimilation of Kirkuk into the Kurdistan Region; see UNAMI HRO, *October 2006 Human Rights Report*, p. 5-6 and 12, see above footnote 66. On 10 July 2006, five persons were killed and 12 wounded in a bombing against a PUK office in Kirkuk. Further attacks against PUK offices in Mosul and other cities took place on 11 August 2006, after a Shi'ite cleric was criticized in an official Kurdish newspaper for fuelling tensions among Iraq's Shi'ite

2. Roma (Kawliyah)⁴⁶¹

a) Introduction

The Roma, or Kawliyah, originate from India, but have been living in Iraq for hundreds of years. They are a distinct ethnic group with their own language, traditions and culture, although they have never been recognized as such in Iraq. Roma usually adopt the dominant religion of the host country while preserving aspects of their particular belief systems.⁴⁶² In Iraq, they usually adhere to Islam, either the Sunni or Shi'a branch. The Kawliyah used to live a nomadic life, were not registered and did not have any documentation. During the Iraq-Iran War (1980-1988), the regime of Saddam Hussein provided them with Iraqi nationality and Iraqi ID cards in order to recruit the males for the war. The former Government also provided them with housing in the newly created "First of June" village in the District of Abu Ghraib as well as in Al-Kamalia area in southeast Baghdad. Other villages could be found in the south, in particular in the Governorate of Qadissiyah. Under the Ba'ath regime, Kawliyah villages enjoyed police protection and the authorities turned a blind eye and even encouraged the Kawliyah to pursue occupations such as playing music, dancing, selling of alcohol and prostitution. Reportedly, the former regime built amusement parks and brothels along the Southern Iraqi border to attract people from the Gulf, but Iraqi military officers and Ba'ath party officials also became frequent customers. Nevertheless, Kawliyah were considered second-class citizens and remained deprived of a number of rights. For example, they were not allowed to own property and did not have access to higher positions in the Government or the military.⁴⁶³

There are no official statistics on the number of Roma in Iraq. It is estimated that some 10,000 individuals lived in the Baghdad area before the fall of the former regime.⁴⁶⁴ Today, Kawliyah tribal leaders say that there are more than 60,000 in the whole country, with some

Arabs and Kurds in Kirkuk; UNAMI HRO, *August 2006 Human Rights Report*, p. 6, see above footnote 26. ITF offices in Mosul were attacked by unidentified gunmen on 11 November 2005, resulting in the killing of two passers-by; see UNAMI HRO, *December 2006 Human Rights Report*, p. 2, see above footnote 10. Turkmen leader Mr. Qassab Uglu was killed in a drive-by shooting in Kirkuk on 14 September 2005; see Ahmed Janabi, *Everyone is a target in Iraq*, Al Jazeera, 18 December 2005, <http://english.aljazeera.net/news/archive/archive?ArchiveId=15127>. A senior Education Ministry official and member of the ITF was assassinated in August 2004 in Kirkuk; he had been strongly involved in a debate over which languages should be taught in schools in Kirkuk; see Middle East Online, *Iraqi Turkmen official killed in Kirkuk*, 31 August 2004, <http://www.kurdmedia.com/news.asp?id=5422>.

⁴⁶¹ Most sources used in the section refer to the Roma as "gypsies". However, this term is often considered derogatory and these guidelines therefore refer to this group as either Roma or *Kawliyah*, the latter is the name the community in Iraq itself uses.

⁴⁶² For further information on the history, religion and culture of the Roma, see, for example, <http://www.rroma.org/> and the Dom Research Center, Middle East and North Africa Gypsy Studies, <http://www.domresearchcenter.com/>.

⁴⁶³ IRIN, *Iraq: Gypsies call for greater rights*, 3 March 2005, <http://www.irinnews.org/report.aspx?reportid=24925>; Najem Wali, *Iraq Stories*, 2005, <http://www.wordswithoutborders.org/article.php?lab=IraqStories>; IWPR, *Gypsies Seek Government Protection*, Iraqi Crisis Report No. 70, 24 June 2004, http://iwpr.net/?p=icr&s=f&o=167679&apc_state=heniicr2004.

⁴⁶⁴ IOM Mission in Iraq, *Newsletter January – February 2006*, p. 10, http://www.iom-iraq.net/newsletters/IOM_Iraq_Newsletter_JanFeb06_English.pdf.

11,000 in the Governorate of Qadissiyah.⁴⁶⁵ The Dom Research Center provides a figure of 50,000.⁴⁶⁶

b) Current Situation

After the fall of the former regime, the Kawliyah lost the protection once afforded to them. Conservative local communities as well as members of the Mehdi Army, who had long resented their differing social norms, violently forced the Kawliyah from their settlements. For example, on 12 March 2004, dozens of armed Mehdi Army members attacked the village of Kawliyah in the Governorate of Qadissiyah with mortars, rocket-propelled grenades (RPGs) and even bulldozers. Fighting erupted between militia members and Kawliyah villagers and, according to a MNF legal advisor, more than 20 locals died.⁴⁶⁷ Furthermore, 18 villagers were detained and tortured by Mehdi Army members, but later freed by the CPA.⁴⁶⁸ Other reports say the village was looted and burned. There was no investigation by the police, who were possibly even involved in the attack.⁴⁶⁹

A village in the district of Abu Ghraib was attacked by local residents, who destroyed houses with bulldozers and killed those that refused to leave.⁴⁷⁰ It is said that Saddam Hussein settled the Kawliyah in this area in 1979 as an act of revenge against the religiously conservative Zawabei tribe, which traditionally settles in the district of Abu

⁴⁶⁵ IRIN, *Iraq: Minorities living tormented days under sectarian violence*, 4 January 2007, <http://www.irinnews.org/report.aspx?reportid=62981>; *ibidem*, *Iraq: Gypsies call for greater rights*, see above footnote 463.

⁴⁶⁶ Dom Research Center, *Population Chart of Iraq*, <http://www.domresearchcenter.com/population/popiraq.html> [accessed January 2007].

⁴⁶⁷ Melinda Liu, *Getting Away With Murder?*, Newsweek, 27 May 2004, <http://www.msnbc.msn.com/id/5079129/site/newsweek/>.

⁴⁶⁸ *Ibid.*

⁴⁶⁹ Jeffrey White and Ryan Philips, *Sadrist revolt provides lessons for counterinsurgency in Iraq*, *Jane's Intelligence Review*, August 2004, <http://washingtoninstitute.org/html/pdf/white0804.pdf>; Anthony Shadid, *In a Gypsy Village's Fate, An Image of Iraq's Future*, *The Washington Post*, 3 April 2004, <http://www.washingtonpost.com/ac2/wp-dyn/A46446-2004Apr2>. Other incidents were reported as follows: another village in the Governorate of Qadissiyah, near Diwaniyah, was attacked with mortars on New Year's Day 2005, reportedly killing a woman and wounding three others. The primary school and clinic built by the former regime had been rendered useless and many houses were destroyed in the attack; see Deepa Babington, *Poverty and fear dominate life for Iraq's Gypsies*, *Reuters*, 6 January 2006, <http://www.reliefweb.int/rw/rwb.nsf/480fa8736b88bbc3c12564f6004c8ad5/dca16d353d5bbb7492570ec001cef3d?OpenDocument>. The village of Al-Fawar in the Governorate of Qadissiyah was reportedly ransacked by followers of radical Shi'a cleric Muqtada Al-Sadr. According to the police, no one has been held responsible for this assault; see IWPR, *Gypsies Seek Government Protection*, see above footnote 463. Najem Wali, journalist and writer from Al-Amarah, described how the Roma's belongings and houses in Al-Amarah were looted in acts of vengeance by the city's inhabitants; see: Najem Wali, *Iraq Stories*, 2005, <http://www.wordswithoutborders.org/article.php?lab=IraqStories>. In addition, *Kawliyah* from Hilla in Babel Governorate disbanded their settlements after Imams loyal to Al-Sadr condemned them; see: Gaiutra Bahadur, *In now-religious Iraq, no tolerance for Gypsies*, *Philadelphia Inquirer*, 6 June 2005, <http://www.uruknet.info/?s1=1&p=12354&s2=07Read>.

⁴⁷⁰ IWPR, *Gypsies Seek Government Protection*, see above footnote 463.

Ghraib and was known for its strong connections with former president Abdel-Salam Arif.⁴⁷¹

Baghdad's red-light districts, including Kamalia, an area inhabited by Kawliyah, have been "cleaned up" by religious militias aiming at eliminating "prostitution, Gypsy dancers and video parlors, as well as the selling of alcohol".⁴⁷² The Kawliyah residents, some 200 families, were expelled and the name of the district, Kamalia, which was known for its brothels since the 1970s, has been changed to Hay Al-Zahra, after the Prophet Mohammed's daughter.⁴⁷³

It was reported that Babel's Governorate Council decided to expel those "Gypsies" from the Governorate who do not have an identity card issued in the Governorate.⁴⁷⁴

Since 2003, most Kawliyah have been displaced. Some remain in Iraq,⁴⁷⁵ often trying to hide their identity. An unknown number left the country altogether, many to Syria and the Gulf countries. In Iraq, they remain at the lower bottom of the social system, living in former military camps or tents, with limited or no access to health care, education, electricity and water and facing discrimination in employment. Many find no other option but to engage in activities such as prostitution.⁴⁷⁶

The Kawliyah community in Iraq has been subjected to persecution for a variety of reasons. It has always been isolated from majority populations around them and viewed with distrust, its members seen as outsiders and a threat. Their dark complexion and sharp facial features make it easy to distinguish them. They are collectively reputed as alcohol sellers and prostitutes, both considered "un-Islamic".⁴⁷⁷ Furthermore, there have been cases in which Kawliyah offered shelter to women at risk of "honour killings", thereby further contributing to their negative image in Iraqi society.⁴⁷⁸ Finally, they are considered to have received privileges and protection from the former regime and, through their work, to be associated with the Ba'athists.⁴⁷⁹ Partly linked to the Kawliyah openly praising former

⁴⁷¹ Imam El-Liethy, *Iraq's Gypsies Struggle for Life After Saddam's Fall*, 2003, <http://www.domresearchcenter.com/news/iraq/iraq1.html>.

⁴⁷² Constable, see above footnote 269. See also: Babington, see above footnote 469.

⁴⁷³ Bahadur, see above footnote 469.

⁴⁷⁴ Al-Sabaah, *Babel Council decides departing Gypsies families*, 12 December 2006, http://www.iraqupdates.com/p_articles.php?refid=DH-S-13-12-2006&article=1258.

⁴⁷⁵ By early 2006, IOM identified 428 Kawliyah families who had been displaced post-2003. Of those, 179 families originated from the Governorate of Qadissiyah (Al-Fawar village), 139 families from the Governorate of Baghdad (Huzairan, Kamalia, Tamoza and Al-Kansa areas/villages and from Baghdad city centre), 100 families from Ninewa Governorate (Sinjar District) and 10 families from Diyala Governorate (Kana'an District). Most sought refuge in other areas in the Governorates of Baghdad, Kirkuk and Qadissiyah; human rights violations and armed conflict and violence were provided as reasons for displacement. See: IOM Mission in Iraq, *Phase II Monitoring*, January 2006, http://www.iom-iraq.net/library.html#IDP_pashe2_reports. More updated figures reflecting the situation after the Samarra bombing in February 2006, which led to an escalation in sectarian violence, are not available.

⁴⁷⁶ IRIN, *Iraq: Gypsies call for greater rights*, see above footnote 463.

⁴⁷⁷ See also "Persons Accused of "Un-Islamic" Behaviour".

⁴⁷⁸ IWPR, *Gypsies Seek Government Protection*, see above footnote 463. See also "Women".

⁴⁷⁹ According to the Brookings Institution / University of Bern Project on Internal Displacement

President Saddam Hussein, there have been rumours about Kawliyah being recruited by insurgency groups and their involvement in kidnappings.⁴⁸⁰ Given the general population's contempt for the Kawliyah and the infiltration of Iraq's police by Shi'ite militias, they cannot expect any protection by the Iraqi authorities.⁴⁸¹

C. Actual or Perceived Supporters of the Former Regime and/or the Insurgency

1. Sunni Arabs

Before the US-led invasion in Iraq, successive Iraqi governments were largely dominated by Sunni Arabs, who held key positions in the army, and the security and intelligence agencies. Despite the fact that under Saddam Hussein, the authorities also arrested, tortured and executed Sunni Arabs considered opponents of the regime, Shi'ites today accuse Sunnis at large of having supported the former regime.⁴⁸² Given the loss of privileges after the fall of the former regime, Sunni Arabs are suspected of supporting or sympathizing with the Sunni-led insurgency, which has targeted Shi'ites in deadly attacks, and are denounced as "terrorists", "*takfiris*", "*salafis*" and "*Wahabis*".⁴⁸³

As highlighted elsewhere in this report, Shi'ite death squads and certain elements of the ISF have carried out violent reprisals against the Sunni Arab community, including abduction, torture and extra-judicial killings.⁴⁸⁴ Even though the Government of Prime Minister Al-Maliki has vowed to foster national reconciliation, including by granting an amnesty to

"(T)he Roma came under attack soon after the fall of the regime in both Sunni and Shi'a areas – in fact, violence against Roma settlements were among the first recorded post-invasion sectarian incidents, but only few Coalition officials paid attention because they are such a small community in Iraq. Many Iraqis consider that the Ba'athi regime favored the Roma, but people interviewed then said that plain prejudice is in fact a driving factor in the violence against them, notably the belief that the Roma community lives off prostitution and alcohol trading".

See: Al-Khalidi and Tanner, p. 24, see above footnote 161.

⁴⁸⁰ See also "Actual or Perceived Supporters of the Former Regime and/or the Insurgency".

⁴⁸¹ The Boston Globe reported that Iraqi soldiers and police in Kirkuk were accused of beating several "gypsy" women prostitutes and burning their tents in December 2005; see Thanassis Cambanis, *For returning unit in Iraq, a battle with doubts*, The Boston Globe, 8 January 2006, http://www.boston.com/news/world/middleeast/articles/2006/01/08/for_returning_unit_in_iraq_a_battle_with_doubts/?page=1.

⁴⁸² See also "Members and Associates of the Ba'ath Party and the Former Regime".

⁴⁸³ The terms *takfiri*, Salafi and Wahabi are used to denounce Sunni extremists. *Takfir* is the practice of denouncing an individual (or a group) as not being a true follower of Islam, but rather of being a "*kafir*", an infidel. The *takfiri* ideology urges Sunni Muslims to kill anyone they consider an infidel. This ideology is followed by the Al-Qa'eda in Iraq and Ansar Al-Sunna, among others, which have declared war on the Shi'a population they consider to be "*kuffar*". *Salafism* is a movement within Sunni Islam that seeks to revive a practice of Islam that more closely resembles the pure form of Islam prevailing during the time of Prophet Mohammed. *Wahabism* is a particular orientation within Salafism and is the dominant form of Islam in Saudi-Arabia and Qatar; see, for example, HRW, *Nowhere to Flee – The Perilous Situation of Palestinians in Iraq*, September 2006, p. 28, <http://hrw.org/reports/2006/iraq0706/index.htm>; USIP, *Who Are The Insurgents? Sunni Arab Rebels in Iraq*, Special Report, April 2005, p. 12, <http://www.usip.org/pubs/specialreports/sr134.pdf>.

⁴⁸⁴ See "Sunni Arabs". See also "Iraqi Security Forces and Shi'ite militias" and "Shi'ites and Sunnis Civilians".

Sunnis willing to denounce violence and releasing those detainees found innocent,⁴⁸⁵ the ISF continues to be accused of carrying out indiscriminate arrest campaigns against Sunni Arabs. There have been consistent reports about the systematic use of torture, and its prevalence has been “widely acknowledged as a major problem by Iraqi officials”.⁴⁸⁶ In fact, the situation is worse for detainees held by the Iraqi authorities, in unofficial detention centres of the Ministry of Interior. The vast majority of these are Sunni Arabs, mostly accused of “terrorism”.⁴⁸⁷

2. Members and Associates of the Ba’ath Party and the Former Regime

Under the former Government’s rule, the State, the armed forces and the security and intelligence apparatus were dominated by the Ba’ath Party, which served as the President’s political instrument to control the country. No special qualifications were required to become a member of the Party, and the regime consistently and systematically expanded membership. Members perceived by the Government to have been particularly loyal received preferential treatment in key aspects of life.

Thousands of former Ba’ath Party members in governmental establishments, universities and schools (including the RCC, National Assembly, members of the former judicial and prosecutorial system organs, the military, paramilitary, and security and intelligence services) lost their jobs as a result of the *de-Ba’athification* process. This happened, even though many of those who joined the Party had done so out of necessity and not ideological conviction. Thousands of Iraqis, however, were deeply involved in the Ba’ath Party’s crimes as they rose to positions of authority. While any Iraqi could join the Ba’ath Party, it was largely dominated by Arab Sunnis, in particular its higher ranks. Although the total number is unknown, it is estimated that between one and 2.5 million Iraqis were members of the Ba’ath Party.⁴⁸⁸

On 16 May 2003, the CPA’s Order No. 1 outlawed the Ba’ath Party.⁴⁸⁹ Members of the four senior Ba’ath Party ranks⁴⁹⁰ and anyone in the top three levels of management in the

⁴⁸⁵ See, for example, Jurist, Holly Manges Jones, *Iraq reconciliation plan offers amnesty, bans rights violations and torture*, 25 June 2006, <http://jurist.law.pitt.edu/paperchase/2006/06/iraq-reconciliation-plan-offers.php>; Lionel Beehner, *The Debate Over Granting Amnesty to Iraqi Insurgents*, CFR, 22 June 2006, http://www.cfr.org/publication/10965/debate_over_granting_amnesty_to_iraqi_insurgents.html.

⁴⁸⁶ UNAMI HRO, *August 2006 Human Rights Report*, p. 15-18, in particular para. 64, see above footnote 26.

⁴⁸⁷ UNAMI HRO, *December 2006 Human Rights Report*, p. 18, see above footnote 10. See also: Ellen Knickmeyer, *U.S. Envoy Calls Torture Severe And Extensive at 2 Iraqi Prisons*, *The Washington Post*, 14 December 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/12/13/AR2005121300429.html>.

⁴⁸⁸ Doug Struck, *“My Hands Are Not Stained With Blood”*, *The Washington Post*, 3 February 2005, <http://www.washingtonpost.com/wp-dyn/articles/A59279-2005Feb3.html>.

⁴⁸⁹ CPA Order No. 1, see above footnote 82. Article 7 (I) of the Constitution of Iraq bans the “*Saddamist Ba’ath in Iraq*”; however, the Ba’ath Party *de facto* was never dissolved and was later reorganized with a new structure. After the execution of former President Saddam Hussein on 30 December 2006, the Ba’ath Party announced that it had appointed Izzat Al-Douri, its Deputy Secretary-General, to succeed Saddam Hussein as the Party’s Secretary-General. See: Al Jazeera, *Iraq’s Baath party names new leader*, 1 January 2007, <http://english.aljazeera.net/NR/exeres/4878159A-9C63-4F91-AB54-5915374D5149.htm>; see also: Anthony H. Cordesman, *The Iraqi Insurgency and the Risk of Civil War: Who Are the Players?*, CSIS, Working Draft, revised 1 March 2006, p. 48, http://www.csis.org/media/csis/pubs/060301_iraginsurgplayers.pdf.

public sector who was a full member of the Ba'ath Party (irrespective of the rank),⁴⁹¹ were dismissed from their jobs, whether or not they had been accused of wrongdoing. It is estimated that this affected some 30,000 persons, including thousands of teachers and other lower-level bureaucrats who had to join the party to survive under the former regime's rule. According to former CPA Administrator Paul Bremer, the order was meant to screen out no more than one percent of the Ba'ath Party members, targeting only its most senior members. He accused Iraqi officials of having gone too far with cleaning the Iraqi Government of Ba'ath Party members.⁴⁹² By Order No. 4, all property and assets of the Iraqi Ba'ath Party were seized by the CPA.⁴⁹³ In November 2003, the CPA established the *Iraqi De-Ba'athification Council* to root out senior Ba'athists from Iraq's administration and to hear appeals from Ba'athists who were in the lowest ranks of the party's senior leadership.⁴⁹⁴ The Party's foremost leaders were not permitted to appeal their dismissals. Some 15,000 people were eventually permitted to return to work after they won their appeals, according to Nibras Kazimi, a former adviser to the re-named *De-Ba'athification Commission*.⁴⁹⁵

By Order No. 2 of the CPA, Iraq's Army, paramilitary forces and security/intelligence services were dissolved. In addition, any person of the rank of Colonel or above was considered a "senior Party Member" and barred from returning to work.⁴⁹⁶ While there was great consensus that Iraq's security and intelligence agencies and paramilitary forces had to be dismantled given their role in the suppression of the Iraqi people, the dissolution of the Iraqi Army was more controversial.⁴⁹⁷ With the deterioration of the security situation and the need for experienced persons both in the security forces and the administration, the

⁴⁹⁰ *Udw Qutriyya* (Regional Command Member), *Udw Far* (Branch Member), *Udw Shu'bah* (Section Member) and *Udw Firaq* (Group Member) were considered "senior Party Members" ranks. See: CPA Order No. 1, Section 1 (2), see above footnote 82.

⁴⁹¹ Including *Udw* (Member) and *Udw Amil* (Active Member). See: CPA Order No. 1, Section 1 (3), see above footnote 82.

⁴⁹² Matt Kelley, *Bremer admits errors in rebuilding Iraq*, USA Today, 6 February 2007, http://www.usatoday.com/news/washington/2007-02-05-iraq-contracts_x.htm.

⁴⁹³ CPA Order No. 4, *Management of Property and Assets of the Iraqi Baath Party*, 25 May 2003, available in UNHCR's Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=469cd8282>. This Order was subsequently rescinded; see: CPA Order No. 100, *Transition of Laws, Regulations, Orders, and Directives Issued by the CPA*, Section 4, 28 June 2004, available in UNHCR's Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=46a609512>.

⁴⁹⁴ See: CPA Order No. 5, *Establishment of the Iraqi De-Ba'athification Council*, 25 May 2003, available in UNHCR's Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=469cd94f2>. By CPA Memorandum No. 7, the CPA delegated the authority to carry out the De-Ba'athification of the Iraqi society to the Iraqi Governing Council (IGC) and rescinded Order No. 5; the Council was renamed *Supreme National Commission For De-Baathification*. See: CPA Memorandum No. 7, *Delegation of Authority Under the De-Ba'athification Order No. 1*, 4 November 2003, available in UNHCR's Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=469cd698b>. The Commission's existence and authority was reaffirmed in Article 135 of the Constitution.

⁴⁹⁵ CFR, *Iraq: Debaathification*, 7 April 2005, <http://www.cfr.org/publication.html?id=7853>; Struck, see above footnote 488.

⁴⁹⁶ CPA Order No. 2, *Dissolution of Entities*, see above footnote 82.

⁴⁹⁷ ICG, *After Baker-Hamilton*, p. 19, see above footnote 111. See also: The Library of Congress, p. 3, see above footnote 72.

CPA began to allow some vetted ex-Ba'athists to return to their jobs. Interim Prime Minister Iyad Allawi continued this policy after the hand-over of sovereignty.⁴⁹⁸

However, the Shi'ite-dominated Iraqi Transitional Government under Prime Minister Ibrahim Al-Ja'afari and the Iraqi Government of Prime Minister Nouri Al-Maliki⁴⁹⁹ announced major purges of former Ba'ath members.⁵⁰⁰ For example, nine senior judges were removed from the Iraqi High Tribunal in 2005 on the grounds that they were former members of the Ba'ath Party, although they had been vetted before their appointment. Other judges were threatened with dismissal but were ultimately allowed to remain so as not to further disrupt the Tribunal's work.⁵⁰¹ This was on the basis of the *De-Ba'athification* Order.

Since then, pressure increased on the Government to reverse the *de-Ba'athification* policy, which was widely blamed for creating a vast pool of unemployed and disenfranchised Sunnis, many of whom later joined insurgent groups. In order to gain Sunni support in the October 2005 constitutional referendum, a compromise was reached under which the new *Council of Representatives* would consider amendments to the Constitution.⁵⁰² A major issue for review is the reversal of the *de-Ba'athification* policy.⁵⁰³ According to many Sunnis, the Government's *de-Ba'athification* policy has become an instrument to not only identify members of the former regime, but to target Sunnis as such and prevent them from being employed in the public sector.⁵⁰⁴

On 7 November 2006, the Iraqi Government announced that it had prepared a draft law that would allow the majority of former Ba'ath Party members to return to their positions or to draw a pension for their past employment in an aim to reach out to the Sunni population and foster national reconciliation. According to Ali Faysal Al-Lami, Director of the de-Ba'athification Commission, this move would allow all but the 1,500 most senior former Ba'ath Party officials to either return to their jobs or get retirement benefits.⁵⁰⁵

⁴⁹⁸ Edward Wong, *Iraq Asks Return of Some Officers of Hussein Army*, The New York Times, 3 November 2005, <http://www.globalpolicy.org/security/issues/iraq/occupation/2005/1103officers.htm>; Al Jazeera and agencies, *Ex-Baathists to get back civil jobs*, 12 June 2004, <http://english.aljazeera.net/News/archive/archive?ArchiveId=4375>; Rory McCarthy, *U-turn on hiring of Ba'ath party members*, The Guardian, 23 April 2004, <http://www.guardian.co.uk/Iraq/Story/0,,1201330,00.html>; John King, *Policy easing to bring Baathists into new Iraq*, CNN, 22 April 2004, <http://www.cnn.com/2004/WORLD/meast/04/22/iraq.baathist/>.

⁴⁹⁹ Prime Minister Nouri Al-Maliki was a former deputy head of Iraq's De-Ba'athification Commission.

⁵⁰⁰ Ellen Knickmeyer, *Iraqi Alliance Seeks to Oust Top Officials of Hussein Era*, The Washington Post, 18 April 2005, <http://www.washingtonpost.com/wp-dyn/articles/A61487-2005Apr17.html>.

⁵⁰¹ RFE/RL, *Iraq: De-Ba'athification Commission Backs Away From Tribunal Purge*, 29 July 2005, <http://www.rferl.org/featuresarticle/2005/07/5c52d87e-b550-4eb7-94d2-a4ddb80e0853.html>.

⁵⁰² Article 142 of the Constitution.

⁵⁰³ See, for example, IRIN, *Iraq: Constitution revision key to reconciliation, analysts say*, 6 July 2006, <http://www.irinnews.org/report.aspx?reportid=27109>.

⁵⁰⁴ ICG, *The Next Iraq War? Sectarianism and Civil Conflict*, Middle East Report No. 52, 27 February 2006, p. 10, http://www.crisisgroup.org/library/documents/middle_east_north_africa/iraq_iran_gulf/52_the_next_iraqi_war_sectarianism_and_civil_conflict.pdf.

⁵⁰⁵ BBC News, *Iraq Baathists ban "to be eased"*, 7 November 2006, http://news.bbc.co.uk/2/hi/middle_east/6123182.stm; John Ward Anderson, *Proposal Would Rehire Members of Hussein's Party*, The Washington Post, 7 November 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/11/06/AR2006110601321.html>.

Persons affiliated or associated with the former Government in Iraq, through membership in the Ba'ath Party or as a result of their functions or profession, have been the subject of attacks since the early days of the regime change and continue to face serious risk of human rights violations. The degree to which these persons are at risk depends on several factors, such as the extent of association with the Ba'athist ideology and the human rights violations committed during that era, the rank or position previously held, and whether or not the person is known to have been involved in political activities. Senior level of affiliation or rank within the Ba'ath Party or the country's political or security system may be a determining factor regarding who is targeted. Low-ranking officials have, however, also been killed or otherwise attacked because their activities were well-known⁵⁰⁶ at neighbourhood level, e.g. they were involved in policing activities, the search for army deserters or the recruitment for paramilitary armed groups such as *Jaish Al-Quds* (The Jerusalem Army), the *Fedayeen Saddam* (Saddam's "Men of Sacrifice") and the *Ashbal Saddam* (Saddam's Lion Cubs). In addition, a number of low-level bureaucrats such as teachers and professors have been killed.⁵⁰⁷ Some bodies that were found were clearly identified (with notes on them) as Ba'ath Party members.⁵⁰⁸

Former members of the Ba'ath Party and the country's political and security institutions may face harassment, intimidation and physical violence, including assassination.⁵⁰⁹ Reportedly, "hit-lists" have been established by Shi'ite militias from Ba'ath Party membership lists and documents looted from buildings of the former security and intelligence agencies after the fall of the former regime. Former officials are accused of having engaged in broad-based discrimination and widespread terror, suppressing freedom of conscience, and condoning summary and arbitrary executions, torture, rape and sexual abuse during detention and enforced or involuntary disappearances.

Despite a number of *fatwas* issued by Shi'ite clerics, including Grand Ayatollah Ali Al-Sistani, not to carry out acts of revenge against Ba'ath party members or security officers of the former Government, a wave of killings took place after the fall of the former regime.⁵¹⁰

⁵⁰⁶ See also: See UNHCR, *2005 Eligibility Guidelines*, para. 48, see above footnote 8.

⁵⁰⁷ See also "Academics, Professors, Teachers and Students".

⁵⁰⁸ Romesh Ratnesar, *Vengeance Has its Day*, Time Magazine, 22 November 2003, <http://www.time.com/time/magazine/article/0,9171,548790,00.html>; Anna Badkhen, *Gunmen stalk Hussein party members*, San Francisco Chronicle, 21 September 2003, <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2003/09/21/MN81296.DTL>.

⁵⁰⁹ For a list of cases involving the (attempted) killing of former Ba'ath Party officials and other persons considered to be affiliated with the former regime of Saddam Hussein, see "Annex IV: Attacks on Government Officials and Other Persons Associated With the Current Iraqi Government, Administration and Institutions".

⁵¹⁰ AI, *Iraq – The need for security*, 4 July 2003, MDE 14/143/2003, p. 5-6, [http://web.amnesty.org/library/pdf/MDE141432003ENGLISH/\\$File/MDE1414303.pdf](http://web.amnesty.org/library/pdf/MDE141432003ENGLISH/$File/MDE1414303.pdf); Scott Wilson, *Iraqis Killing Former Baath Party Members*, The Washington Post, 20 May 2003, <http://www.washingtonpost.com/ac2/wp-dyn/A12583-2003May19>. See also: Dumeetha Luthra, *Basra revenge killings increase*, BBC News, 9 December 2003, http://news.bbc.co.uk/2/hi/middle_east/3303051.stm; Ratnesar, see above footnote 508; Joel Brinkley, *Revenge killings thin ex-Baathists' ranks*, The New York Times, 1 November 2003, <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2003/11/01/MNGPP2072B1.DTL>; Anna Badkhen, *Gunmen stalk Hussein party members*, San Francisco Chronicle, 21 September 2003, <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2003/09/21/MN81296.DTL>.

It has been documented that attacks against former Ba'athists have increased since the elections in 2005, when Shi'ite parties came to power. Reportedly, Shi'ite militants distributed printed death threats listing former Ba'athists, both Sunnis and Shi'ites.⁵¹¹ Special Police Commandoes under the control of the Ministry of Interior and affiliated Shi'ite militias have since been accused of systematic abduction, torture and extra-judicial killings of Sunni Arabs. While UNHCR reported in its 2005 *Eligibility Guidelines* that the “victim’s religious affiliation (whether Sunni or Shi’a) does not appear to play a role in why particular individuals are singled out”,⁵¹² it is now clear that the Sunni population at large is identified with the former regime and the ongoing insurgency.⁵¹³

Other groups perceived as having supported or received preferential treatment by the former regime have also been targeted by Shi'ite militias, e.g. the Roma (Kawliyah),⁵¹⁴ Palestinians or professors, teachers, artists, etc., whose careers were (seemingly) advanced by membership in the Ba'ath Party.⁵¹⁵ Other attacks also appear to be the result of personal revenge of former victims or their families against perpetrators of detention, torture or other violations of human rights.

The lack of accountability for crimes committed under the previous regime is considered a factor encouraging people to take the law into their own hands and take revenge. Except for the *Dujail* case⁵¹⁶ and the *Anfal* case⁵¹⁷ before the Iraqi High Tribunal, which was set up

⁵¹¹ Hannah Allam, *Revenge killings of members of Saddam’s former regime rise*, Knight Ridder Newspaper, 25 February 2005, http://www.mcclatchydc.com/staff/hannah_allam/story/11164.html.

⁵¹² UNHCR, *2005 Eligibility Guidelines*, para. 51, see above footnote 8.

⁵¹³ See “Sunni Arabs”.

⁵¹⁴ See “Roma (Kawliyah)460F”.

⁵¹⁵ See “Certain Professions”.

⁵¹⁶ The following eight defendants were tried in the Dujail case (ranging in levels of seniority): former President Saddam Hussein; his half-brother and former chief of the intelligence service, Barzan Al-Tikriti; former Deputy Prime Minister, and later Vice-President and head of the Ba'ath Popular Army, Taha Yassin Ramadan; President of the Revolutionary Court, Awwad Hamed Al-Bandar; Abdullah Kadhem Ruaid and Mizhar Abdullah Ruaid, senior Ba'ath Party officials in Dujail; Ali Daeem Ali and Mohammed Azawi Ali, both Ba'ath party officials in Dujail. The defendants were charged with crimes against humanity for their involvement in the killing of Shi'a Muslims in the town of Dujail in 1982, including the murder of a total of 157 people, the illegal arrest of 399 people, torturing women and children and the destruction of farmland. On 5 November 2006, the Iraqi High Tribunal found Saddam Hussein and Barzan Al-Tikriti guilty of wilful killing, torture, deportation/forcible transfer, imprisonment, and other inhumane acts. The two were sentenced to death and multiple terms of imprisonment. Awwad Hamed Al-Bandar was found guilty of wilful killing and sentenced to death. Saddam Hussein, Barzan Al-Tikriti and Awwad Hamed Al-Bandar were executed in December 2006 and January 2007, respectively. Taha Yassin Ramadan was found guilty of wilful killing, deportation, torture, imprisonment, and other inhumane acts. He was sentenced to life imprisonment and multiple jail terms, but on 12 February 2007, the Iraqi High Tribunal sentenced him to death after the appeal court had recommended the death penalty. As each death sentence of the Trial Chamber of the Iraqi High Tribunal is automatically reviewed by an appeals panel, the Appeal Chamber confirmed the death penalty and Taha Yassin Ramadan was executed on 20 March 2007. Abdullah Kadhem Ruaid and Ali Daeem Ali were both found guilty of wilful killing, torture and imprisonment. They were sentenced to 15 years imprisonment plus multiple other jail terms. Mizhar Abdullah Ruaid was convicted of the same charges and penalties. Charges against Mohammed Azawi Ali were dismissed for lack of evidence. See, for example, BBC News, *Saddam trial: Verdicts in detail*, 5 November 2006, http://news.bbc.co.uk/2/hi/middle_east/6118302.stm; *ibidem*, *Top Saddam aide sentenced to hang*, 12 February 2007, http://news.bbc.co.uk/2/hi/middle_east/6354205.stm; International Center for Transitional Justice, *Iraq Tribunal Issues Verdict in First Hussein Trial*, 5 November 2006, <http://www.ictj.org/en/news/press/release/1041.html>.

to try the most senior members of the former regime, little has been done to date to bring to justice those who were involved in human rights violations and to document past crimes.⁵¹⁸

According to the *Freedom Monitoring Commission*, an Iraqi human rights group, the killing of former Ba'athists continues unabated, in particular in the Southern cities of Nassriyah, Diwaniyah, Amarah, Basrah, Samawa, Kut, Hilla, Kerbala, Najaf and Hindiya. The group said in November 2006 that “(t)he number of Baathists killed since the start of 2006 has reached 1,556 people and none of the cases has been investigated.”⁵¹⁹

D. Actual or Perceived Sympathizers of the US-Led Invasion and/or the Multi-National Force in Iraq

1. Employees of the Former CPA, MNF or Iraqis Employed by Foreign Embassies or Foreign Companies

Many Iraqis who previously worked or presently work for, or have any type of association with the MNF, foreign (mainly Western) embassies or foreign companies are generally perceived by the insurgency as condoning and supporting the “occupation” of Iraq and have been targeted since the fall of the former regime. Other factors such as an individual’s religion, ethnicity or gender may constitute additional criteria for targeting specific persons.

Iraqis are hired for all types of employment, including as contractors, engineers, translators, drivers, construction workers, bodyguards, cleaning personnel, cooks, etc. According to statistics from the US Department of Labor, 199 translators, among them Iraqis, working for Titan, a US military contractor employing thousands of translators across Iraq, have

⁵¹⁷ Six co-defendants of Saddam Hussein are on trial for mass killings in the so-called *Anfal Campaign* of 1987-1988. According to the Prosecution, 182,000 Kurds, mainly civilians, died in the operation. Charges include genocide, crimes against humanity and war crimes. In January 2007, all charges against former President Saddam Hussein were dropped after he was executed on 30 December 2006 over the killing of Shi’as in Dujail. The other six defendants are Ali Hassan Al-Majid Al-Tikriti, the alleged architect of the *Anfal* campaign and cousin of former President Saddam Hussein. He was the Secretary-General of the Ba’ath Party’s Northern Bureau from 1987 to 1989, with authority over all state agencies in the Kurdish region during this period; Tahir Tawfiq Al-Aani, former Governor of Ninewa, Ba’ath Party official and assistant to Ali Hassan Al-Majid; Sabr Abdul-Aziz Al-Douri, former General Director of Iraq’s Military Intelligence Service; Farhan Mutlak Al-Jaburi, former Director of the Military Intelligence Service of the Northern Region; Sultan Hashem Ahmed Al-Ta’i, former Commander of Corps I of the Iraqi Army, in charge of the Northern Sector during the *Anfal* campaign. He later became Minister of Defence; Hussein Rashid Al-Tikriti, former Deputy for Operational Affairs to the Chief of Staff of the Iraqi Army during the *Anfal* campaign. See: BBC News, *Timeline: Anfal trial*, http://news.bbc.co.uk/2/hi/middle_east/5272224.stm [last updated 8 January 2007]; International Center for Transitional Justice, *Iraq: Tribunal Must Improve Efforts in Anfal Trial*, 17 August 2006, <http://www.ictj.org/en/news/press/release/995.html>.

⁵¹⁸ Corinne Troxler and Michael Kirschner, *Irak: Gefährdung von ehemaligen Mitgliedern der Baath-Partei*, Swiss Refugee Council [in German language], 27 January 2006, p. 7-8, http://www.osar.ch/2006/02/13/irak060127_irq_baathsecurity.

⁵¹⁹ Azzaman, Abdulhussein Ghazal, *1,500 Baathists killed in south*, November 2006, http://www.iraqupdates.com/p_articles.php?refid=DH-S-09-11-2006&article=11687.

been killed in Iraq and another 491 injured as of August 2006. While some died in combat, others have solely been targeted for “collaborating” with the MNF.⁵²⁰

Acts committed against (former) employees or perceived supporters of the MNF embassies or foreign companies may vary from verbal harassment and threats to individuals and their families, to kidnapping, physical attacks and murder. Neither the Iraqi authorities nor the MNF or foreign states are capable of granting proper security to their respective local nationals and employees,⁵²¹ in particular not once the working relationship has ended.

2. Employees of the UN, ICRC or Humanitarian Organizations Including NGOs and Human Rights Defenders

The UN and most foreign and international NGOs depend largely on local Iraqi staff to implement their activities in the country. Most international staff was pulled out of Iraq following a series of attacks on humanitarian personnel, including the bombing of the UN Mission in Baghdad on 19 August 2003, an attack on ICRC on 27 October 2003, and several kidnappings and killings of humanitarian workers. According to the NGO Coordination Committee in Iraq (NCCI), at least 82 aid workers have been killed since 2003.⁵²² In addition, at least 86 aid workers have been kidnapped, 24 arrested by official forces and 245 injured. While these figures include both Iraqis and foreigners, the brunt of violence is borne by Iraqis.⁵²³

While Iraqi aid workers are at risk of the same generalized violence as other Iraqi civilians, their work exposes them to greater risks, for example, when they work in “hot-spot” areas or move around the country. In addition, Iraqis who previously or presently work for (or have any type of association with) the UN, ICRC or humanitarian organizations, are perceived by the insurgency as condoning and supporting the “occupation” of Iraq or furthering “Western” ideas such as democracy or human rights. For example, a printed

⁵²⁰ Pratap Chatterjee, *A Translator's Tale*, CorpWatch, 9 August 2006, <http://www.corpwatch.org/article.php?id=13992>. See also Larry Margasak, *Former Iraqi Translator Tells of Threats*, AP, 15 January 2007, <http://www.salon.com/wire/ap/archive.html?wire=D8MM0T300.html>; Sabrina Tavernise and Robert F. Worth, *Few Iraqis Are Gaining U.S. Sanctuary*, The New York Times, 2 January 2007, <http://www.nytimes.com/2007/01/02/world/middleeast/02refugees.html?ex=1325394000&en=ecd41eeff27f7aed&ei=5088&partner=rssnyt&emc=rss>; Patrick Fort, *Meet Iraqi translator who survived many attacks*, Middle East Online, 19 December 2006, http://www.iraqupdates.com/p_articles.php?refid=WH-S-25-12-2006&article=12759.

⁵²¹ See, for example, Reuters, *Feature – In Iraq, contractor deaths near 650, legal fog thickens*, 10 October 2006, <http://today.reuters.com/News/CrisesArticle.aspx?storyId=N10275842>; BBC News, *Iraq violence: Facts and figures*, http://news.bbc.co.uk/2/hi/middle_east/5052138.stm [last updated 29 November 2006]. See also: Reuters, *In outsourced U.S. wars, contractor deaths top 1,000*, 3 July 2007, <http://www.reuters.com/article/politicsNews/idUSN0318650320070703>; BBC News, *Denmark ends secret Iraq airlift*, 20 July 2007, <http://news.bbc.co.uk/2/hi/europe/6908792.stm>. See also above footnote 10, and: UNHCR, *2005 Eligibility Guidelines*, p. 13, see above footnote 8.

⁵²² As of 15 February 2007; the actual figure may be even higher as not all incidents are reported; see NCCI, <http://www.ncciraq.org/>. See also: IRIN, *Iraq: Aid workers remain under threat, say NGO officials*, 23 March 2006, <http://www.irinnews.org/report.aspx?reportid=26223>.

⁵²³ Information received from NCCI in January 2007.

threat circulated in Kirkuk accused “*several foreign-based aid organizations of working for the benefit of a foreign country and against the interests of Iraq.*”⁵²⁴

Several Iraqi human rights defenders have been targeted since 2003. For example, human rights activist Hussein Al-Ibrahemi survived an assassination attempt on 25 July 2006 when unknown gunmen shot him in Kerbala. In May 2006, Al-Ibrahemi had received threatening letters accusing him of being a “*spy*” for the US and for facilitating operations for the “*occupation forces*”.⁵²⁵ Dr. Ahmed Al-Mosawi, the head of the *Iraqi Human Rights Society*, was kidnapped on 6 March 2006 from the headquarters of his organization. In April 2006, Zuhair Yaseen, a member of the *Prisoners of War Organization*, was assassinated in front of his home in Baqouba and another member was injured. Also in April 2006, Mehdi Mchaitheer Al-Azawi, Director of the *Association of Disabled Females*, was killed by gunmen in front of his home.⁵²⁶

The former regime had strictly limited the activities of NGOs in Iraq and, according to NCCI, portrayed humanitarian workers as “*foreign spies*”. In addition, the UN is often seen negatively, mainly for its role in imposing sanctions on the country since 1990 and for its close relationship with MNF forces. These perceptions continue to prevail in certain segments of Iraqi society and may add to the risks of humanitarian workers.

Other factors such as an individual’s religion, ethnicity or gender may, in the eyes of perpetrators, constitute additional criteria for targeting specific persons. The ongoing sectarianism makes it almost impossible for aid workers to convey their neutrality and impartiality and may put them at risk of being targeted for providing aid to the “*wrong*” sect or ethnic group.⁵²⁷

In addition, Iraqis working for international organizations may be perceived as receiving a high salary and are therefore at particular risk for kidnapping for ransom.

The Iraqi Red Crescent Society (IRCS), which has a staff of 1,000 and 200,000 volunteers and is the only Iraqi aid group working across the country’s 18 Governorates, has been the target of frequent attacks. On 17 December 2006, armed men wearing uniforms similar to those of the Ministry of Interior’s Police Commandoes staged a mass kidnapping at the IRCS’ office in central Baghdad, seizing 30 male staff and visitors. Some were later released, although several still remain unaccounted for. The IRCS temporarily suspended its activities in Baghdad. Possible motives could be sectarianism or to demonstrate the government’s inability to provide security for its citizens, thereby undermining the Government’s legitimacy.⁵²⁸

⁵²⁴ UNAMI HRO, *August 2006 Human Rights Report*, p. 10, see above footnote 26.

⁵²⁵ *Ibid.*

⁵²⁶ UNAMI HRO, *April 2006 Human Rights Report*, p. 3, see above footnote 74.

⁵²⁷ IRIN, *Aid workers threatened by sectarian violence*, 16 August 2006, <http://www.irinnews.org/report.aspx?reportid=60378>; UNAMI HRO, *August 2006 Human Rights Report*, p. 10, see above footnote 26.

⁵²⁸ ICRC, *Joint statement: Iraqi Red Crescent abduction*, 21 December 2006, <http://www.icrc.org/Web/Eng/siteeng0.nsf/html/iraq-news-211206!OpenDocument>. See also: IRIN, *Iraq: Suspension of Red Crescent work could affect the lives of thousands*, 19 December 2006, <http://www.irinnews.org/report.aspx?reportid=62857>; *ibidem*, *Iraq: Aid Agencies Call for Respect from Armed Groups*, 18 December 2006,

Acts committed against employees or perceived supporters of these organizations may vary from verbal harassment and threats to individuals and their families, to kidnapping, physical attacks and even murder. Neither the local authorities nor the organizations themselves are capable of granting proper security to their respective local nationals and employees.

3. Kurds and Other Segments of Iraqi Society

Kurds are Iraq's second largest ethnic group with an estimated 15 to 20% of the country's population.⁵²⁹ In particular in mixed areas such as Baghdad, Mosul, Kirkuk and Diyala, they have come under fierce attack from Sunni insurgent groups, both because of their (imputed) political opinion as well as their ethnicity.⁵³⁰ The Kurdish ruling parties and population at large have been staunch supporters of the US-led invasion and toppling of the Government of Saddam Hussein, which had been responsible for extensive and systematic human rights violations against the Kurdish people. The Kurdish armed forces (*Peshmerga*) were a key ally to the coalition forces that overthrew the former Government in 2003. The MNF presence in and around the three Northern Governorates of Sulaymaniyah, Erbil and Dahuk has been well-tolerated and even welcomed by the Kurdish authorities, as it has brought more respect and recognition to the Kurdish administration on a national and international level.

Since the regime change, the Kurds have been fully involved in the political process. They have worked towards highly controversial goals such as federalism, which Sunni Arabs generally see as a potential trigger for Iraq's break-up.⁵³¹ The Kurdish parties' ambitions to incorporate Kirkuk and other "disputed areas" into the Region of Kurdistan are met with resistance by Arab and Turkmen groups. Representatives of the KDP and PUK as well as other Kurds prominently calling for the inclusion of Kirkuk and other "disputed areas" have therefore been targeted. Kurds have also been targeted by Arab Sunni insurgent groups so as to stir ethnic violence between Arabs, Turkmen and Kurds.⁵³²

In addition, the Kurds have maintained relations with Israel since the 1960s and received support in their activities against the former Ba'athist regime until 1975. However, Iraq and Israel are still officially at war. Since the toppling of the former regime, allegations that Israeli agents have been operating in Iraq's Kurdish areas have been circulating.⁵³³ A BBC

<http://www.irinnews.org/Report.aspx?ReportId=62737>. See also: Sudarsan Raghavan and Nancy Trejos, *Kidnappers Strike Red Crescent's Iraq Office*, The Washington Post, 18 December 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/12/17/AR2006121700194.html>.

⁵²⁹ CIA, see above footnote 147.

⁵³⁰ See also "Kurds, Arabs, Turkmen^{428F}, Ethnic-Based Christian Groups (Assyrians, Chaldeans, Armenians)^{429F}, Yazidis^{430F} and Shabak^{431F} in Ethnically Mixed Areas".

⁵³¹ See also "Government Officials and Other Persons Associated With the Current Iraqi Government, Administration and Institutions".

⁵³² See also "Kurds, Arabs, Turkmen^{428F}, Ethnic-Based Christian Groups (Assyrians, Chaldeans, Armenians)^{429F}, Yazidis^{430F} and Shabak^{431F} in Ethnically Mixed Areas".

⁵³³ See, for example, Conal Urquhart and Michael Howard, *Former covert Israeli forces "training Kurds in Iraq"*, The Guardian, 2 December 2005, <http://www.guardian.co.uk/israel/Story/0,2763,1655993,00.html>; Seymour M. Hersh, *Plan B, As June 30th approaches, Israel looks to the Kurds*, The New Yorker, 21 June

News report of September 2006 provided evidence that Kurdish *Peshmerga* received military training from Israelis, which re-enforced the view that the Kurds are “traitors” and collaborate with the “enemies”.⁵³⁴ For example, Al-Qa’eda in Iraq views the Kurds as a “Trojan Horse” for economic infiltration into Iraq by Jews.⁵³⁵

For these reasons, a number of targeted attacks on Kurdish political and military representatives, KDP and the PUK offices and Kurdish civilians have taken place since 2003 and are reportedly on the rise.⁵³⁶ For example, on 15 January 2007, a suicide car bomber killed at least five people and wounded 28 more in an attack on a KDP office in Mosul.⁵³⁷

Kurds in minority areas such as Baghdad, Fallujah and Ramadi have been displaced by force.⁵³⁸ Many Kurds from Mosul City, the western side of which once had a majority of Kurds (and Christians), have been displaced, mostly to the three Northern Governorates.⁵³⁹

Other groups in Iraq are widely considered to have supported the US-led invasion and international military presence in Iraq. Among them, in particular and as demonstrated above, are the Shi’ites, Yazidis, Christians, Roma and Jews.⁵⁴⁰

2004, http://www.newyorker.com/fact/content/articles/040628fa_fact; Al Jazeera, *Iran warns Iraq of Israeli agents in Kurdish north*, 10 March 2004, http://www.aljazeera.com/me.asp?service_ID=5070.

⁵³⁴ BBC News, *Kurdish soldiers trained by Israelis*, 20 September 2006, <http://news.bbc.co.uk/2/hi/programmes/newsnight/5363116.stm>.

⁵³⁵ MIPT Terrorism Knowledge Base, *Al-Qaeda Organization in the Land of the Two Rivers*, <http://www.tkb.org/Group.jsp?groupID=4416> [last updated 16 January 2007]. See also “Jews^{419F}”.

⁵³⁶ See, for example, Yahya Barzanji and Lee Keath, *Northern Iraq grows increasingly violent*, AP, 9 October 2006, http://www.iraqupdates.com/p_articles.php/article/10944; Dr. Rebwar Fatah, *When cultural difference turns to bloodshed*, KurdishMedia.com, <http://www.kurdmedia.com/articles.asp?id=12732>.

⁵³⁷ Reuters Alertnet, *Factbox – Security developments in Iraq, Jan 15*, 15 January 2007, <http://www.alertnet.org/thenews/newsdesk/L15252128.htm>. Major incidents include the suicide bombing at a police recruitment centre in Erbil on 4 May 2005, in which around 60 people were killed and up to 150 wounded; see BBC News, *Suicide bomber hits Iraqi Kurds*, 4 May 2005, http://news.bbc.co.uk/2/hi/middle_east/4511799.stm; three days earlier, 25 people were killed when a suicide bomber attacked the funeral of a KDP official, who had been killed a few days earlier in Telafar. Also in Erbil, at least 101 people were killed in twin suicide bombings striking the KDP and the PUK offices on 1 February 2004. The KDP lost at least three senior government members in the attack, including the Minister for the Council of Ministerial Affairs, Shawkat Shaykh Yazdin, Agriculture Minister Sa’d Abdullah and Sami Abd Al-Rahman, the KRG’s Deputy Prime Minister in Erbil; three senior PUK members also died in the attack; see: Valentinas Mitte, *Iraq: Suicide Attacks In Irbil Could Lead To Stronger Kurdish Unity*, RFE/RL, 2 February 2004, <http://www.rferl.org/featuresarticle/2004/02/2ccc05d3-0dc3-4e12-aa0e-0c9484b6a8d2.html>.

⁵³⁸ IRIN, *Iraq: Kurds continue to flee cities of Sunni triangle*, 5 October 2004, <http://www.irinnews.org/Report.aspx?ReportId=24128>; Michael Howard, *Kurds flee Fallujah in fear*, The Washington Times, 5 July 2004, <http://washingtontimes.com/world/20040506-110737-5615r.htm>.

⁵³⁹ Al-Khalidi and Tanner, p. 17, see above footnote 161. See also: Shamal Akrayi, *Kurds and Christians flee Mosul’s insecurity*, The Kurdish Globe, 17 October 2006, <http://www.kurdishaspect.com/doc1017100.html>; Bay Area, *Iraqi Kurdistan: Families Flee Rising Violence*, 11 October 2006, <http://www.unpo.org/article.php?id=5599>. See “Internal Flight or Relocation Alternative”.

⁵⁴⁰ See also the relevant chapters under “Religious Groups” and “Ethnic Groups”.

E. Government Officials and Other Persons Associated With the Current Iraqi Government, Administration and Institutions

A range of persons involved in the political process or (perceived as) supporting the democratization of the country have been targeted in an effort to disrupt both. This includes politicians, members/employees of the Iraqi Government at both the central and the local level and of state-owned companies, and known members of political parties. Many factions deem Iraqi officials “traitors” and “collaborators” who serve a Government formed by an occupying power. Others have been targeted on the basis of their sectarian identity.⁵⁴¹ Insurgent groups have repeatedly threatened Sunnis who take part in the political process.⁵⁴² In September 2006, the outlawed Ba’ath Party distributed a “hit list” of prominent Iraqi political, military and judicial leaders, which it intended to target for assassination. The list included mainly prominent Shi’ite politicians such as SCIRI leader Abdul Aziz Al-Hakim and Muqtada Al-Sadr, but also former Prime Minister Iyad Allawi, Kurdish President Jalal Talabani, and Sunni Vice-President and Secretary General of the IIP, Tariq Al-Hashimi. The order also called for the assassination of the listed individuals’ “*first, second and third degree relatives.*”⁵⁴³

While high-ranking politicians are generally well-guarded, their families are more vulnerable. For example, three siblings of Tariq Al-Hashimi were killed in separate incidents in April and October 2006.⁵⁴⁴

F. Actual or Perceived Opponents of the Ruling Parties in the Region of Kurdistan as well as in Areas Under the de facto Control of the KRG

1. Arabs

Arabs in the areas of Mosul and Kirkuk under *de facto* control of the KRG and the Region of Kurdistan have become victims of threats, harassment and arbitrary detention, often in facilities of the Kurdish security and intelligence services in the region, because of their perceived association with the insurgency and/or the former regime.⁵⁴⁵ Arab IDPs in the

⁵⁴¹ See also “Shi’ites and Sunnis Civilians”.

⁵⁴² See, for example, John Ward Anderson, *Iraqi Tribes Strike Back at Insurgents*, The Washington Post, 7 March 2006, http://www.washingtonpost.com/wp-dyn/content/article/2006/03/06/AR2006030601596_pf.html.

⁵⁴³ Lydia Khalil, *Baath Party Distributes Hit List for Targeted Assassinations*, Terrorism Focus, Volume III, Issue 42, The Jamestown Foundation, 31 October 2006, p. 2, http://jamestown.org/terrorism/news/uploads/ff_003_042.pdf.

⁵⁴⁴ Sinan Salaheddin, *Gunmen Assassinate Brother of Iraq VP*, The Washington Post, 9 October 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/10/09/AR2006100900289.html>; BBC News, *Top Iraq official’s sister killed*, 27 April 2006, http://news.bbc.co.uk/2/hi/middle_east/4949376.stm.

⁵⁴⁵ UNAMI HRO, *December 2006 Human Rights Report*, p. 3-4, see above footnote 10. See also “Actual or Perceived Supporters of the Former Regime and/or the Insurgency”.

three Northern Governorates reportedly suffer discrimination and are given little assistance by the Kurdish authorities due to security fears.⁵⁴⁶

2. (Perceived) Members of Islamist Armed Groups

Radical Islamic elements, in particular offshoots from *Ansar Al-Islam*,⁵⁴⁷ originally a home-grown Kurdish Islamist Movement, which during the 2003 US-led invasion was attacked by Coalition and Kurdish forces for reportedly providing a safe haven to Al-Qa'eda and Abu Musab Al-Zarqawi,⁵⁴⁸ have regrouped and are held responsible for attacks in the Kurdistan Region, mainly directed against senior PUK/KDP political and military officials.⁵⁴⁹ Actual or suspected members or supporters of these groups may be at risk of ill-treatment and human rights violations at the hands of the Kurdish security forces. Individuals suspected of “terrorist” links are often held incommunicado, as well as in solitary confinement, typically during the initial weeks following arrest, by the Kurdish parties’ security and intelligence services. Many are arrested under violent circumstances. They are held without charge or trial for indefinite periods of time, in some cases several years. Kurdish officials have said that they have no legal basis to prosecute them, but consider them a security risk.⁵⁵⁰ UNAMI HRO reported that there have been attempts by senior KRG officials to request that those held in unofficial detention centres be taken before a court.⁵⁵¹ According to HRW, about 2,500 people are being held by the security services of the KDP and the PUK. The organization estimates that two-thirds of them are accused of participating in the insurgency.⁵⁵² The use of torture and ill-treatment cannot be excluded.⁵⁵³ On 21 September 2006, 11 alleged terrorists were hanged in Erbil after they had been convicted in March 2006 of leading a cell linked to the Islamist group Ansar Al-Sunna.⁵⁵⁴

⁵⁴⁶ UNAMI HRO, *December 2006 Human Rights Report*, p. 17-18 and 20, see above footnote 10. See also “Internal Flight or Relocation Alternative”.

⁵⁴⁷ For information on Ansar Al-Islam and Ansar Al-Sunna, see UNHCR, *2005 Country of Origin Information Iraq*, p. 66-67, see above footnote 53.

⁵⁴⁸ BBC News, *US targets Islamist group in Iraq*, 22 March 2003, http://news.bbc.co.uk/1/hi/world/middle_east/2875269.stm.

⁵⁴⁹ Azzaman, *Kurds crack down on “Islamists”*, 29 December 2006, http://www.iraqupdates.com/p_articles.php?refid=WH-S-01-01-2007&article=12998; Kohlmann, see above footnote 84. See also “Kurds and Other Segments of Iraqi Society”.

⁵⁵⁰ The New York Times, *No terrorism law in Kurdistan Region-Iraq*, 28 December 2006, http://www.iraqupdates.com/p_articles.php/article/12987. See also: UNAMI HRO, *December 2006 Human Rights Report*, p. 20, see above footnote 10; UNAMI HRO, *October 2006 Human Rights Report*, p. 19, see above footnote 66. See also: RFE/RL, *Iraq: Corruption Restricts Development In Iraqi Kurdistan*, 29 April 2005, <http://www.rferl.org/featuresarticle/2005/4/DA9D366C-C2C2-486F-A4D7-2E8BC0BB507E.html>; Dr. Rebwar Fatah and Sheri Laizer, *Fact Finding Mission to Iraqi Kurdistan, September – October 2004*, 2004, p. 10-13, 50; IPS, *Liberated Kurds Find Little Freedom*, 5 June 2004, <http://www.antiwar.com/glantz/?articleid=2747>; IRIN, *Iraq: Focus on libel laws in north*, 3 March 2004, <http://www.irinnews.org/report.aspx?reportid=23631>.

⁵⁵¹ UNAMI HRO, *December 2006 Human Rights Report*, p. 20, see above footnote 10.

⁵⁵² The New York Times, *No terrorism law in Kurdistan Region-Iraq*, see above footnote 550.

⁵⁵³ See, for example, AI, *Iraq: Incommunicado detention/fear of torture, Rebwar Arif*, Urgent Action, 9 May 2005, <http://web.amnesty.org/library/Index/ENGMDE140102005?open&of=ENG-IRQ>; Dr. Rebwar Fatah and Sheri Laizer, *Fact Finding Mission to Iraqi Kurdistan, September – October 2004*, 2004, p. 32-36.

⁵⁵⁴ AI, *Iraq: Amnesty International alarmed at rise in executions*, 25 September 2006, <http://web.amnesty.org/library/Index/ENGMDE140332006?open&of=ENG-IRQ>; KurdishMedia.com, *Iraq’s*

3. Persons Opposing the Ruling Parties

Individuals expressing their opposition to the ruling parties, e.g. through participating in demonstrations or publishing critical newspaper articles, risk arbitrary arrest and detention. The KDP and PUK have repeatedly been accused of nepotism, corruption and lack of internal democracy.⁵⁵⁵

For example, throughout August 2006, street protests calling for improved public services took place in Chamchamal, Sulaymaniyah, Kalar and Darbandikhan, several of which turned violent. Reportedly, some 400 people were arrested and 60 people injured. According to media rights groups, among those arrested were a number of journalists, blamed by the security forces for helping orchestrate the protests.⁵⁵⁶ On 16 March 2006, demonstrators torched a monument for the victims of a 1988 gas attack in Halabja. Two thousand locals staged street protests to prevent officials from entering Halabja to take part in ceremonies marking the anniversary of the attack. Locals said they mounted the demonstration to protest the lack of services and compensation for the victims of Halabja. Dozens of people were arrested or wounded and a 17-year-old boy was shot when security forces quelled the protests. Reportedly, at least seven journalists were beaten during the demonstration and others had their equipment confiscated.⁵⁵⁷

The Kurdistan Islamic Union's decision to run independently from the Kurdish Alliance list in the National Assembly elections of 15 December 2005 led to public riots and harassment of party members in the three Northern Governorates, including the Governorate of Sulaymaniyah.⁵⁵⁸

Kurdistan authorities execute 11 notorious terrorists, 21 September 2006, <http://www.kurdmedia.com/articles.asp?id=13285>; AFP, *10 "terrorists" executed in Iraq*, 21 September 2006, <http://www.rinf.com/columnists/news/10-terrorists-executed-in-iraq>.

⁵⁵⁵ See, for example, KurdishMedia.com, *PUK inner-crises deepen: Reformist vs. corruption!*, 8 January 2007, http://www.iraqupdates.com/p_articles.php/article/13225; KurdishMedia.com, *A group of PUK cadres drive forward reform*, 28 December 2006, <http://www.kurdmedia.com/articles.asp?id=13812>; Christian Parenti, *The Question of Kurdistan*, The Nation, 26 October 2005, <http://www.thenation.com/doc/20051114/parenti>. Kyle Madigan, *Iraq: Corruption Restricts Development In Iraqi Kurdistan*, RFE/RL, 29 April 2005, <http://www.rferl.org/featuresarticle/2005/4/DA9D366C-C2C2-486F-A4D7-2EEBC0BB507E.html>.

⁵⁵⁶ Coalition to Stop Deportations to Iraq, *Kurdistan unsafe but Home Office still intent on sending people back there*, 25 August 2006, <http://www.wadinet.de/news/iraq/newsarticle.php?id=2453>; Reporters sans Frontières (RSF), *Two journalists go on trial while wave of arrests continues in north*, 17 August 2006, http://www.rsf.org/article.php?id_article=18582. See also: RFE/RL, *Kurds Call for Government Accountability*, 11 August 2006, <http://www.rferl.org/reports/iraq-report/2006/08/29-110806.asp>.

⁵⁵⁷ IWPR, *Kurdish Press Freedom Abuses*, Iraqi Crisis Report No. 192, 1 September 2006, http://iwpr.net/?p=icr&s=f&o=323571&apc_state=heniicr2006; The Christian Science Monitor, *Kurds' quest for justice overshadowed by economic discontent*, 7 April 2006, <http://www.csmonitor.com/2006/0407/p25s01-woiq.html>; RFE/RL, *Iraq: Kurdish Media Complain Of Harassment*, 31 March 2006, <http://www.rferl.org/featuresarticle/2006/03/5dcece20-7c49-4f2e-a636-55a53c62e674.html>; IWPR, *Halabja Protesters May Face Death Penalty*, Iraqi Crisis Report No. 169, 23 March 2006, http://iwpr.net/?p=icr&s=f&o=260482&apc_state=heniicr2006. See also "Journalists and Media Workers".

⁵⁵⁸ RFE/RL, *Iraq: Kurdish Factions Struggle To Achieve Unity*, 14 December 2005, <http://www.rferl.org/featuresarticle/2005/12/94bb303e-382c-41b4-8f64-1d866488186d.html>; BBC News, *Tarnished democracy in Kurdistan*, 13 December 2005, http://news.bbc.co.uk/2/hi/middle_east/4522296.stm;

G. Certain Professions

According to UNAMI HRO, there is

*“a worrying increase in targeted attacks and assassinations of professionals such as teachers, religious figures, barbers, police officers, artists, lawyers, ex-military officers, and politicians across Iraq including the northern cities of Mosul and Kirkuk. These attacks are typically perpetrated by extremists practising conformist ideology and by militant/terror groups intent on spreading fear and intimidation.”*⁵⁵⁹

Another reason for professionals being targeted may be their perceived support for the Iraqi Government, the US invasion or “Western” ideas in general. Others have been caught up in the sectarian violence engulfing the country, belonging to the “wrong” sect. Previous membership in the Ba’ath Party may be another possible motive. Accordingly, some of these professional groups have already been noted in other chapters.

1. Academics, Professors, Teachers and Students

Iraq’s academics, professors, teachers and students have been facing a campaign of intimidation, kidnappings and killings. In February 2007, the Iraqi Ministry of Higher Education and Scientific Research announced that 185 professors had been killed since 2003, and 52 others had been kidnapped. While some were killed by their abductors, others were released after paying large sums of ransom. The Ministry warned that the ongoing violence against the educational system might bring it to a collapse.⁵⁶⁰ A European anti-war group, *Brusselstribunal.org*, maintains a list of 288 Iraqi academics killed as of 24 December 2006. According to the group, more than 70 other names are on a list of academics who have been threatened or kidnapped.⁵⁶¹ It has launched an appeal to the UN Special Rapporteur on Summary Executions to investigate what it calls the “*systematic liquidation of the country’s academics.*”⁵⁶²

UNAMI HRO stated that Baghdad accounted for 44% of all assassinations of Iraqi academics. Anbar, Mosul and Basrah each accounted for 10% and Diyala for 5% of the total number of assassinated academics.⁵⁶³ Many academics fled to the Kurdistan Region or left the country altogether.⁵⁶⁴ In August 2006, the Ministry of Higher Education said over

RFE/RL, *Iraq: Kurdistan Islamic Union Responds To Attacks*, 9 December 2005, <http://www.rferl.org/featuresarticle/2005/12/9dfdf2b2-3d52-4b9b-a56a-38d835cbbb33.html>.

⁵⁵⁹ UNAMI HRO, *December 2006 Human Rights Report*, p. 14, see above footnote 10.

⁵⁶⁰ Hayfaa Radhi, *185 professors killed since U.S. invasion*, Azzaman, 1 February 2007, <http://www.azzaman.com/english/index.asp?fname=news%5C2007-02-01%5Ckurd.htm>.

⁵⁶¹ BrusselsTribunal.org, *List of killed, threatened or kidnapped Iraqi Academics*, updated as of 24 December 2006, <http://www.brusselstribunal.org/academicsList.htm>.

⁵⁶² *Ibidem*, *Urgent Appeal to Save Iraq’s Academics*, <http://www.brusselstribunal.org/Academicspetition.htm>. For a (non-comprehensive) list of attacks on professors, teachers and students, please see “Annex V: Attacks on Professors, Teachers and Students”.

⁵⁶³ UNAMI HRO, *October 2006 Human Rights Report*, p. 17, see above footnote 66.

⁵⁶⁴ Mohammed Salih, *Students, Professors Flee to the Kurdish North*, IPS, 27 January 2007, <http://www.antiwar.com/ips/salih.php?articleid=10412>. See also “Internal Flight or Relocation Alternative”.

3,250 professors had fled Iraq since the escalation of sectarian violence following the bombing of a major Shi'ite shrine in Samarra.⁵⁶⁵

On 18 January 2007, Koïchiro Matsuura, the Director-General of UNESCO, called for the protection of academics and intellectuals from violence.⁵⁶⁶

Academics are targeted for mixed reasons. According to UNAMI HRO,

*“Academics have apparently been singled out for their relatively respected public status, vulnerability and views on controversial issues in a climate of deepening Islamic extremism.”*⁵⁶⁷

Armed groups also appear to be driving a campaign of emptying the country of its intellectual elite with the goal of destroying prospects for establishing a functioning democratic society and bring the country and its institutions to a collapse.⁵⁶⁸ Some intellectuals may become victims of sectarian violence⁵⁶⁹ or religiously-motivated attacks when considered too liberal, “Westernized” or critical.⁵⁷⁰ Others have been singled out for their previous membership in the Ba’ath Party.⁵⁷¹ In addition, their perceived wealth may also be a motive.⁵⁷² It has also been reported that due to the general lawlessness, students angered over poor grades have killed some professors.⁵⁷³

In addition, schools and other educational institutes have become regular targets of attacks. For example, at least 70 people, including students and teachers, were killed and more than 170 others injured when a suicide car bomb exploded at the entrance of Al-Mustansiriya University in east Baghdad in January 2007.⁵⁷⁴

⁵⁶⁵ Aparisim Ghosh, *Baghdad Bulletin: Death Stalks the Campus*, Time Magazine, 2 November 2006, <http://www.time.com/time/world/article/0,8599,1553793,00.html>.

⁵⁶⁶ UNESCO, *UNESCO Director-General condemns killing of Iraqi students and deplores the violence against academics and intellectuals*, Press Release N°2007-04, 18 January 2007, http://portal.unesco.org/en/ev.php-URL_ID=36484&URL_DO=DO_PRINTPAGE&URL_SECTION=201.html.

⁵⁶⁷ UNAMI HRO, *December 2006 Human Rights Report*, p. 16, see above footnote 10.

⁵⁶⁸ See also “Government Officials and Other Persons Associated With the Current Iraqi Government, Administration and Institutions”.

⁵⁶⁹ UNAMI HRO reported that “HRO has received numerous reports that sectarian divisions have engulfed universities”. Reportedly, thousands of students have requested to be transferred to other universities since the escalation in sectarian violence after the Samarra bombing; see UNAMI HRO, *April 2006 Human Rights Report*, p. 9-10, see above footnote 74.

⁵⁷⁰ See also “Persons Accused of “Un-Islamic” Behaviour”.

⁵⁷¹ See also “Members and Associates of the Ba’ath Party and the Former Regime”.

⁵⁷² Sumedha Senanayake, *Iraq: Brain Drain Poses Threat To Future*, RFE/RL, 16 November 2006, <http://www.rferl.org/featuresarticle/2006/11/D0C40243-4975-49F8-9FE4-536F108B95A9.html>.

⁵⁷³ Sinan Salaheddin, *Sunni activist professor killed in Iraq*, AP, 30 October 2006, <http://www.thestate.com/mld/mercurynews/news/world/15883645.htm>; IRIN, *Iraq: Threatened teachers fleeing the country*, 24 August 2006, <http://www.irinnews.org/report.asp?ReportID=55261>.

⁵⁷⁴ BBC News, *Bombers rock Baghdad university*, 17 January 2007, http://news.bbc.co.uk/2/hi/middle_east/6266707.stm. On addition, on 11 December 2006, a car bomb exploded in a car park of Al-Ma’amoon College in Al-Iskan District in Baghdad, killing one person and injuring four. On the same day, one student was killed and another six injured in a roadside bomb explosion in front of the Al-Mustansiriya University; UNAMI HRO, *December 2006 Human Rights Report*, p. 16, see above footnote 10. One of the most spectacular incidents was the mass kidnapping of an estimated 150 employees from the Ministry of Higher Education and Scientific Research by perpetrators in police uniform in central Baghdad on 14 November 2006. The mass kidnapping led to the temporary shutdown of most universities; The Guardian,

As a consequence of frequent attacks directed against educational facilities and teaching professionals, many schools and universities hold irregular classes or have suspended classes altogether.⁵⁷⁵ Many schools in volatile areas remain closed.⁵⁷⁶

2. Journalists and Media Workers

a) Situation in Central and Southern Iraq

Increasing numbers of journalists and media workers have been killed, threatened or otherwise intimidated with impunity because of their work. Several news outlets have been attacked. Iraq has become the deadliest conflict in the world for journalists. UNESCO's Director-General, Koïchiro Matsuura, issued a press release on 22 January 2007 condemning the killing of reporters and media staff, saying

*"I am horrified by the number of Iraqi journalists who are paying with their lives for their professional commitment to the fundamental human right of freedom of expression."*⁵⁷⁷

While Reporters Sans Frontiers (RSF), the Committee to Protect Journalists (CPJ) and the International Federation of Journalists (IFJ) have different statistics⁵⁷⁸ on the numbers of journalists and media support staff killed in Iraq since 2003, the most conservative figure puts the number at 93 as of mid-February 2007.⁵⁷⁹ In addition, CPJ reported that 37 media support workers such as drivers, interpreters, fixers and guards were killed. Thus far, 2006 has been the most lethal year. The majority of the victims were Iraqis. While some have been killed in crossfire or other acts of war, the majority lost their lives in deliberate attacks.⁵⁸⁰ According to Aidan White, General Secretary of IFJ, "*(m)ore than ten per cent of Iraq's active journalists' community has been killed.*"⁵⁸¹

Up to 150 kidnapped from Baghdad institute, 14 November 2006, <http://www.guardian.co.uk/Iraq/Story/0,,1947359,00.html>; BBC News, *Scores seized from Baghdad office*, 14 November 2006, http://news.bbc.co.uk/2/hi/middle_east/6146152.stm; IRIN, *Iraq: Minister closes universities following mass kidnapping*, 14 November 2006, <http://www.irinnews.org/report.aspx?reportid=61940>.

⁵⁷⁵ For example, on 20 November 2006, the University of Diyala warned that it would halt classes if the Government did not provide better protection for its employees; see UNAMI HRO, *December 2006 Human Rights Report*, p. 16, see above footnote 10.

⁵⁷⁶ *Ibid.*

⁵⁷⁷ UNESCO, *Director-General condemns wave of killings and abuses against Iraqi journalists*, Press Release N°2007-06, 22 January 2007, http://portal.unesco.org/en/ev.php-URL_ID=36512&URL_DO=DO_PRINTPAGE&URL_SECTION=201.html.

⁵⁷⁸ The CPJ requires more evidence to verify reported killings, and therefore its statistics are generally lower.

⁵⁷⁹ According to RSF, 148 media employees were killed between March 2003 and 15 February 2007; see RSF, *More violence against journalists amid continuing impunity*, 15 February 2007, http://www.rsf.org/article.php3?id_article=21016; the IFJ puts the number of journalists and media staff killed at 171 by 31 December 2006; see IFJ, *Journalism Put To The Sword in 2006*, <http://www.ifj.org/pdfs/JournalistsKilled2007finalweb.pdf>.

⁵⁸⁰ CPJ, *Iraq: Journalists in Danger, a statistical profile of journalists killed on duty since March 2003*, http://www.cpj.org/Briefings/Iraq/Iraq_danger.html [accessed February 2007]; *ibidem*, *Iraq: Journalists in Danger, media workers killed since 2003*, http://www.cpj.org/Briefings/Iraq/iraq_media_killed.html; see also RSF, *Iraq – Annual Report 2007*, 1 February 2007, http://www.rsf.org/country-43.php3?id_mot=616&Valider=OK.

⁵⁸¹ IFJ, *Iraqi Journalists Call on United Nations to Act over Media "Nightmare"*, 19 December 2006, <http://www.ifj.org/default.asp?index=4490&Language=EN>.

There are a number of possible motives behind attacks on journalists and media workers. The ongoing sectarianism has increasingly politicized the media sector in Iraq and most media outlets are affiliated with a sectarian or political bloc. Journalists fall victim to revenge killings, in particular when they become involved in controversial political issues or describe corruption or human rights violations committed by certain persons or groups. Sectarian violence also took its toll on journalists, with gunmen targeting journalists whom they accuse of siding with either Sunnis or Shi'ites.⁵⁸² For example, on 18 September 2006, Ahmed Riyadh Al-Karbouli, a correspondent for Baghdad TV, which is owned by the Iraqi Islamic Party, was shot by gunmen in Ramadi. Al-Karbouli worked at Baghdad TV for two years covering security and the situation of the residents of Ramadi. According to CPJ sources, "*his reports offended some insurgents in Ramadi who felt he was criticizing them.*" One month before the killing, gunmen had stormed into his house and threatened him in front of his family.⁵⁸³

The most deadly attack on members of the Iraqi media took place on 12 October 2006, when gunmen wearing police uniforms stormed the offices of Al-Shabbiya, a new satellite television station in Baghdad. Eleven employees, including its founder and director, Abdul Rahim Nasralla Al-Shameri, were killed. The identity and motive of the killers were not known, but Shi'ite militias or police units are suspected to have carried out the attack for sectarian reasons.⁵⁸⁴ The channel had only transmitted some test broadcasts of patriotic music and videos as it was to officially start two days later. Reportedly, it was aimed at a mainly Sunni audience.⁵⁸⁵ In another example, journalist Fadia Mohamed Ali and her driver were killed on her way to work. According to UNAMI HRO, there are strong indications that she was targeted by elements of the Iraqi Police as she had repeatedly written about police corruption and misconduct during raids.⁵⁸⁶

Journalists have also been targeted for "collaborating" with the MNF or the "West", in particular when they work for foreign (especially English-speaking) media outlets.⁵⁸⁷ For example, it was reported that journalists in Mosul received threatening letters accusing

⁵⁸² RSF, *Iraq – Annual Report 2007*, see above footnote 580; see also IRIN, *Iraq: Fighting swords with pens*, 27 November 2006, <http://www.irinnews.org/report.aspx?reportid=61967>; Kirk Semple and Qais Mizher, *Gunmen Kill 11 Employees of a Satellite Television Station in Baghdad*, *The New York Times*, 13 October 2006, <http://www.nytimes.com/2006/10/13/world/middleeast/13iraq.html>; BBC News, *Gunmen kill eight in Iraq TV raid*, 12 October 2006, http://news.bbc.co.uk/2/hi/middle_east/6043158.stm; Firas Al-Atraqchi, *Iraqi journalists stare death in the face*, *Al Jazeera*, 9 October 2006, <http://english.aljazeera.net/NR/exeres/9175100C-8FD3-4D90-9068-EF2361935EF3.htm>. See also "Shi'ites and Sunnis Civilians".

⁵⁸³ CPJ, *IRAQ: TV correspondent murdered in Ramadi*, 18 September 2006, <http://www.cpj.org/news/2006/mideast/iraq18sept06na.html>.

⁵⁸⁴ Semple and Mizher, see above footnote 582; BBC News, *Gunmen kill eight in Iraq TV raid*, 12 October 2006, http://news.bbc.co.uk/2/hi/middle_east/6043158.stm.

⁵⁸⁵ *Ibid.*

⁵⁸⁶ UNAMI HRO, *December 2006 Human Rights Report*, p. 14, see above footnote 10.

⁵⁸⁷ RSF, *Iraq – Annual Report 2007*, see above footnote 580; IRIN, *Iraq: Fighting swords with pens*, see above footnote 582. See also "Actual or Perceived Sympathizers of the US-Led Invasion and/or the Multi-National Force in Iraq".

them of deliberately under-reporting MNF/ISF casualties.⁵⁸⁸ Employees of *Iraqi Media Net*, a state-run newspaper, TV and radio network set up following the 2003 US-led invasion of Iraq, have been a frequent target of attacks.⁵⁸⁹ Al-Iraqiya, the network's TV station, has had more employees killed than any other media outlet since 2003.⁵⁹⁰ For example, Amjad Hameed, the head of the network's television channel, Al-Iraqiya, was killed on 12 March 2006. The *Mujahideen Consultative Council*, in a statement on its website, claimed responsibility for the killing of Hameed and his driver. The statement read:

*"Your brothers in the military wing of the Mujahideen Council murdered Amjad Hameed Hassan, the director of Al-Iraqiya ... We consider this TV station to be the mouthpiece of the government ... always ready to broadcast lies about jihad and the mujahideen to please the crusaders."*⁵⁹¹

RSF said on 15 February 2007:

*"There are reports of threats, physical attacks, kidnappings and murders day after day. Gunmen continue to target journalists on the street in broad daylight with complete impunity. This endemic violence is jeopardising the quality and diversity of news and information in Iraq."*⁵⁹²

Acts committed against journalists and other media professionals vary from verbal harassment and threats to individuals and their families, to kidnapping, physical attacks and murder. According to UNAMI HRO, "*journalists and media workers are among the most frequently targeted group*". In November and December 2006 alone, 12 journalists were killed.⁵⁹³ While many killings took place in Baghdad, Mosul has increasingly become a very dangerous place for journalists. During 2006, 12 journalists were murdered there.⁵⁹⁴ Reuters reported in January 2007 that many journalists, including its own staff, had left Mosul.⁵⁹⁵ To better ensure their safety, many journalists move houses frequently or live

⁵⁸⁸ Reuters Alertnet, *Feature – Beyond Baghdad, Mosul plagued by violence too*, 23 January 2007, http://www.boston.com/news/world/middleeast/articles/2007/01/23/beyond_baghdad_mosul_plagued_by_violence_too/.

⁵⁸⁹ Sinan Salaheddin, *Gunmen kill Iraqi journalist working for state-run newspaper*, AP Worldstream, 23 November 2006, http://www.iraquupdates.com/p_articles.php?refid=DH-S-23-11-2006&article=12031. See also "Government Officials and Other Persons Associated With the Current Iraqi Government, Administration and Institutions".

⁵⁹⁰ RSF, *11th Al-Iraqiya employee gunned down in Baghdad*, 31 May 2006, http://www.rsf.org/article.php3?id_article=17867.

⁵⁹¹ *Ibidem*, *Two arrests made in the murder of Al-Iraqiya's director*, 13 March 2006, http://www.rsf.org/article.php3?id_article=16718. Other examples include the killing of Naqsheen Hamad, a sports presenter at Al-Iraqiya, on 29 October 2006 in Baghdad. Another Al-Iraqiya sports anchorman, Ali Jaafar, was shot dead in May 2006; see Reuters Alertnet, *Iraqi state TV sports presenter and driver killed*, 29 October 2006, <http://www.alertnet.org/thenews/newsdesk/PAR941347.htm>. On 7 May 2006, a car-bomb exploded in the garage of the building housing the offices of the state-run newspaper Al-Sabah, killing a printing worker and injuring about 20 journalists; RSF, *Car-bomb attacks on Al-Sabah newspaper and hotel used by foreign journalists*, 29 August 2006, http://www.rsf.org/article.php3?id_article=18684.

⁵⁹² RSF, *More violence against journalists amid continuing impunity*, 15 February 2007, http://www.rsf.org/article.php3?id_article=21016.

⁵⁹³ UNAMI HRO, *December 2006 Human Rights Report*, p. 14, see above footnote 10.

⁵⁹⁴ *Ibidem*, p. 25.

⁵⁹⁵ Reuters Alertnet, 23 January 2007, see above footnote 588.

inside the media compound, refrain from telling their families about their work and insist that they are not credited by name in news reports.⁵⁹⁶

Fear of attacks undermines freedom of speech in Iraq as journalists carefully weigh what they write and often apply self-censorship.⁵⁹⁷ In addition, journalists and publications also face legal prosecution by the authorities for “defaming” government officials. According to information from the New York Times, around a dozen Iraqi journalists have been charged with offending government officials.⁵⁹⁸

A number of media outlets have been closed for “inciting violence”, including Al-Arabiya, a Dubai-based satellite news channel, which was banned for one month in early September.⁵⁹⁹ Aljazeera was initially closed for one month in August 2004, but was finally banned from Iraq in September 2004.⁶⁰⁰ The Baghdad studios of privately-owned satellite TV Al-Charkiya, which was accused of “*inciting sectarian violence*” for showing footage of Iraqis mourning the death of former President Saddam Hussein, were closed on 1 January 2007.⁶⁰¹ Based on the 2004 *Law of Safeguarding National Security*,⁶⁰² the Iraqi authorities ordered the closure, on 5 November 2006, of Sunni TV stations Al-Zawra and Salah-Eddin for showing footage of demonstrators brandishing pictures of the former president and protesting his death sentence. Both stations were accused of inciting sectarian violence and have not been allowed to resume broadcasting. UNAMI HRO reported that a former reporter for Al-Zawra TV station, who lived in Baghdad’s Al-Zaafaraniya District, received a threatening letter on 25 November 2006. Reportedly, on 1 December 2006, gunmen came looking for her, but she had already moved out to another area.⁶⁰³ The Iraqi

⁵⁹⁶ *Ibid.* See also: Paul von Zielbauer, *Iraqi Journalists Add Laws to List of Dangers*, The New York Times, 29 November 2006, <http://www.iht.com/articles/2006/09/29/africa/web.0926journno.php>; IRIN, *Iraq: Fighting swords with pens*, see above footnote 582; Al-Atraqchi, see above footnote 582.

⁵⁹⁷ See, for example, Reuters, *Third Reuters Iraq Journalist Freed by US troops*, 17 February 2007, <http://www.abs-cbnnews.com/storypage.aspx?StoryId=27915>; UNAMI HRO, *October 2006 Human Rights Report*, p. 11, see above footnote 66; IFJ, *IFJ Calls for Release of Journalist Held in Iraq for More Than Six Months*, 6 November 2006, <http://www.ifj.org/default.asp?index=4353&Language=EN>; Von Zielbauer, *ibid.*

⁵⁹⁸ Von Zielbauer, *Iraqi Journalists Add Laws to List of Dangers*, see above footnote 596. See also UNAMI HRO, *October 2006 Human Rights Report*, p. 11, see above footnote 66. DPA reported in November 2006 that Mosul’s local council issued an order to close down a publication called “Civil Society” because it published a cartoon depicting Iraqi Prime Minister Al-Maliki sitting on the lap of US Secretary of State Condoleezza Rice and being breastfed by her. However, Mosul’s court refused to carry out the order, stating that this would stifle freedom of expression; see: IRIN, *MIDDLE EAST: Weekly update of human rights violations in the region (10 Nov – 16 Nov 2006)*, *Iraq: Three more Iraqi journalists gunned down*, <http://www.irinnews.org/report.aspx?reportid=61945>. The Governor of Basrah warned journalists from giving a “false message to the media regarding the security situation in Basra”, threatening that they would be sued in court if they did so; see UNAMI HRO, *October 2006 Human Rights Report*, p. 10-11, see above footnote 66; UNAMI HRO, *August 2006 Human Rights Report*, p. 8, see above footnote 26.

⁵⁹⁹ BBC News, *Al-Arabiya ordered out of Baghdad*, 8 September 2006, http://news.bbc.co.uk/2/hi/middle_east/5325290.stm.

⁶⁰⁰ *Ibidem*, *Iraq extends ban on al-Jazeera TV*, 4 September 2004, http://news.bbc.co.uk/2/hi/middle_east/3628398.stm.

⁶⁰¹ RSF, *TV studio shut down for “incitement to violence” after showing footage of Saddam mourners*, 2 January 2007, http://www.rsf.org/article.php3?id_article=20296.

⁶⁰² See “National Security”.

⁶⁰³ UNAMI HRO, *December 2006 Human Rights Report*, p. 11, see above footnote 10.

authorities also briefly banned the media from parliament and the international press centre in the Green Zone of Baghdad in November 2006.⁶⁰⁴

Other journalists suffered harassment by the ISF/MNF for alleged links with the insurgency,⁶⁰⁵ including unlawful searches, confiscation of computers and other personal belongings, arbitrary arrest and prolonged detention without being charged.⁶⁰⁶ There have also been reports of journalists being beaten and mistreated by Iraqi Police.⁶⁰⁷

b) Situation in the Region of Kurdistan

In the Region of Kurdistan, journalists and media organizations have repeatedly claimed that press freedom is restricted and that criticism of the ruling parties can lead to physical harassment, seizure of cameras and notebooks, arrest and legal prosecution on charges of defamation. In late December 2006, journalist Luqman Ghafur was arrested in Sulaymaniyah after police officers filed a complaint against him for calling them “gangs” in an article.⁶⁰⁸ In Erbil, police arrested journalists Shaho Khalid and Dilaman Salah for reporting a strike at a students’ house in Setaqan Quarter. They reported that the police had assaulted them.⁶⁰⁹

⁶⁰⁴ RSF, *Media allowed to cover parliamentary sessions again, but placed under surveillance, APTN cameraman shot dead in Mosul*, 12 December 2006, http://www.rsf.org/article.php3?id_article=20133.

⁶⁰⁵ See also “Actual or Perceived Supporters of the Former Regime and/or the Insurgency”.

⁶⁰⁶ See, for example, Reuters, *Third Reuters Iraq Journalist Freed by US troops*, see above footnote 597; UNAMI HRO, *October 2006 Human Rights Report*, p. 11, see above footnote 66; IFJ, *IFJ Calls for Release of Journalist Held in Iraq for More Than Six Months*, 6 November 2006, <http://www.ifj.org/default.asp?index=4353&Language=EN>; Von Zielbauer, *Iraqi Journalists Add Laws to List of Dangers*, see above footnote 596.

⁶⁰⁷ UNAMI HRO, *August 2006 Human Rights Report*, p. 8, see above footnote 26.

⁶⁰⁸ UNAMI HRO, *December 2006 Human Rights Report*, p. 11, see above footnote 10.

⁶⁰⁹ *Ibid.* In addition, Hawez Hawezi, a journalist working for “Hawlati”, an independent media outlet, was arrested on 17 March 2006 on charges that his writings had criticized the KDP and the PUK after he described corruption and cronyism within both administrations and calling on officials to step down. He was released on bail two days later, but according to Reuters was rearrested in late April after publicly complaining of his treatment while in detention; Kathleen Ridolfo, *Iraq: New Kurdish Administration Comes Under Scrutiny*, RFE/RL, 12 May 2006, <http://www.rferl.org/featuresarticle/2006/5/4B58E7A7-5456-4D67-A1F1-B5DF2E2AD5B4.html>. On 13 April 2006, Mastura Mahmood, a journalist for the women’s weekly paper *Rewan*, was charged with defamation for an article that quoted an anti-government demonstrator in Halabja who compared the behaviour of the security forces with the former Ba’athists; CPJ, *IRAQ: Journalist facing trial on defamation charges*, 5 May 2006, http://www.cpj.org/cases06/mideast_cases_06/iraq05may06ca.html; Asos Hardi, the former editor-in-chief of Hawlati and the weekly’s current editor in chief, Twana Osman, were sentenced in May 2006 to six-month suspended jail terms after the newspaper reported that then-PUK Prime Minister Omar Fatah had ordered the dismissal of two telephone company employees after they cut his phone service for failing to pay his bill. See: Von Zielbauer, *Iraqi Journalists Add Laws to List of Dangers*, see above footnote 596; Ridolfo, *ibid.* In one of the most prominent cases, Kamal Sayid Qadir, was sentenced to 30 years after writing critical articles against Kurdistan Regional President, Masoud Barzani. Under pressure from international and local journalism organizations, his sentence was later reduced to 18 months and then further commuted; Ridolfo, *ibid.*; Nora Bustany, *In Releasing Writer, Kurds Ponder Press Freedom*, The Washington Post, 7 April 2006, http://www.washingtonpost.com/wp-dyn/content/article/2006/04/06/AR2006040602067.html?nav=rss_opinion/columns.

3. Artists

Iraqi artists, actors and singers have been targeted by Sunni and Shi'ite extremists, who accuse them of engaging in "un-Islamic" activities.⁶¹⁰ According to their views, music, theatre and television encourage immoral behaviour.⁶¹¹ The Iraqi Artists Association told IRIN in November 2006 that almost all singers have fled the country and that at least 75 of them had been killed since the fall of the former regime in 2003.⁶¹² UNAMI, in its last human rights report, mentioned the kidnapping and killing of Mutashar Al-Sudani, a well known actor, on 18 December 2006. Furthermore, Abdulwahab Aldayni, a famous performer and author, was attacked by an armed group on 29 November 2006, causing permanent facial injuries. According to UNAMI HRO, several actors are considering moving abroad out of fear for their lives.⁶¹³

Many others artists reportedly stopped performing their professions after receiving threats or for fear of being targeted. For example, Yussef Ghadin, actor and singer, quit his job after two of his colleagues were killed by a local militia who considered his work a "devil's job".⁶¹⁴ Painters avoid depicting living objects or objects that might be considered erotic.⁶¹⁵ Accordingly, some artists have turned to religious music and paintings.⁶¹⁶

Other artists have been targeted for openly criticizing the political situation in Iraq.⁶¹⁷ Also too close affiliation with "Western" art, e.g. the performance of English songs, might put a person at risk as he/she could be considered of being supportive of the West, and in particular the US.⁶¹⁸ Artists known to have been serving the former Government of Saddam Hussein may also come under attack.⁶¹⁹

⁶¹⁰ See also "Persons Accused of "Un-Islamic" Behaviour".

⁶¹¹ Edward Wong, *Iraqis make music from mayhem*, Scotland on Sunday, 1 October 2006, <http://scotlandonsunday.scotsman.com/index.cfm?id=1452272006>; IRIN, *Iraq: Artists become targets in rising atmosphere of intolerance*, 24 April 2006, <http://www.irinnews.org/report.aspx?reportid=26311>.

⁶¹² IRIN, *Iraq: Singing "the devil's music" will get you killed*, 23 November 2006, <http://www.irinnews.org/report.aspx?reportid=61962>.

⁶¹³ UNAMI HRO, *December 2006 Human Rights Report*, p. 15, see above footnote 10.

⁶¹⁴ IRIN, *Iraq: Artists become targets in rising atmosphere of intolerance*, 24 April 2006, <http://www.irinnews.org/report.aspx?reportid=26311>.

⁶¹⁵ Mona Mahmoud, *Postwar artists, art world will illustrate new time and place*, USA Today, 21 July 2005, http://www.usatoday.com/news/world/iraq/2005-07-21-artists-iraq_x.htm.

⁶¹⁶ *Ibid.* See also: IRIN, *Iraq: Singing "the devil's music" will get you killed*, see above footnote 612..

⁶¹⁷ The Guardian, *Art under fire*, 22 November 2004, <http://arts.guardian.co.uk/features/story/0,11710,1356522,00.html>. For example, Waleed Hassan, one of Iraq's best known satirists and broadcasters, was gunned down in Baghdad on 20 November 2006. Hassan was known for his "Caricature" sketch show, in which he poked fun at the political, security and social conditions in the country; Reuters, *Iraqi TV satirist killed in Baghdad*, 20 November 2006, <http://www.alertnet.org/thenews/newsdesk/L20597665.htm>.

⁶¹⁸ IRIN, *Iraq: Singing "the devil's music" will get you killed*, see above footnote 612. See also "Actual or Perceived Sympathizers of the US-Led Invasion and/or the Multi-National Force in Iraq".

⁶¹⁹ See also "Members and Associates of the Ba'ath Party and the Former Regime".

4. Doctors and Medical Personnel

Doctors and other health workers in Iraq continue to be threatened, killed or kidnapped.⁶²⁰ Large numbers of them have fled to the three Northern Governorates or have left the country, often due to threats against their lives. Estimates of doctors and other medical personnel that have been killed or who have fled the country are generally not available. The International Committee of the Red Cross said in January 2007 that more than half of the 34,000 registered doctors in Iraq had left the country and hundreds had been killed.⁶²¹ The Iraqi Medical Association (IMA) estimates that roughly half of Iraq's 34,000 physicians, who had been registered prior to 2003, have fled the country since and puts the figure of those killed at about 2,000.⁶²² IMA in Mosul reported that at least 11 doctors had been killed in Mosul alone and another 66 had left the city since 2003.⁶²³ UNAMI HRO, referring to figures received from the Ministry of Health, reported that between April 2003 and 31 May 2006, 102 doctors were killed; 164 nurses were killed and 77 wounded; and, 142 non-medical staff (drivers, guards, administration personnel) were killed and 117 wounded. In May 2006 alone, eight doctors were killed and 42 wounded; eight nurses were killed and seven wounded and six non-medical staff were killed and four wounded. It further said that some reports suggest that approximately 250 doctors have been kidnapped in the past two years.⁶²⁴ The Institute for War and Peace Reporting (IWPR) said that in Baghdad those doctors still practicing medicine have moved their clinics into residential areas or inside medical compounds for safety.⁶²⁵ Others use prolonged unpaid leave as a way to avoid security risks.⁶²⁶

As with other professionals, a number of motives drive such attacks. With the Ministry of Health and hospitals under control of religious militias, health personnel may be targeted for belonging to either sect.⁶²⁷ They might be threatened by the police, militias or insurgent

⁶²⁰ For a (non-comprehensive) list of attacks on doctors and other medical personnel, see "Annex VI: Attacks on Doctors and Other Medical Personnel".

⁶²¹ IRIN, *Iraq: Baghdad hospitals in crisis as they lack security and drugs, say specialists*, 28 January 2007, <http://www.irinnews.org/report.aspx?reportid=65825>.

⁶²² *Ibidem*, *Iraq: Country's healthcare system rapidly deteriorating*, 7 November 2006, <http://www.irinnews.org/report.aspx?reportid=61923>.

⁶²³ UNAMI HRO, *June 2006 Human Rights Report*, p. 6, see above footnote 27.

⁶²⁴ *Ibid.* The Iraqi Doctors Association believes that at least 65 physicians were killed in 2005 alone; see Scott Johnson, *Doctors in the Cross Hairs*, Newsweek, 9 January 2006, <http://www.msnbc.msn.com/id/10655555/site/newsweek>. Unofficial data suggests that at least 200 health professionals have left Basrah since January 2006; see: David Wilson, *Where Have All the Doctors Gone? The Collapse of Iraq's Health Care Services*, Counterpunch, 14-15 October 2006, <http://www.counterpunch.org/wilson10162006.html>. According to the Ministry of Health's Strategy Department, more than 160 nurses have been murdered and more than 400 wounded since 2003; see: IRIN, *Iraq: Neglected nurses fight their own war*, 19 November 2006, <http://www.irinnews.org/report.aspx?reportid=61948>.

⁶²⁵ IWPR, *Violence Drives Doctors From Iraq*, Iraqi Crisis Report, ICR No. 170, 29 March 2006, http://iwpr.net/?p=icr&s=f&o=260625&apc_state=henh.

⁶²⁶ IRIN, *Iraq: Baghdad hospitals in crisis as they lack security and drugs, say specialists*, 28 January 2007, <http://www.irinnews.org/report.aspx?reportid=65825>.

⁶²⁷ Louise Roug, *Decrepit healthcare adds to toll in Iraq*, Los Angeles Times, 11 November 2006, http://www.latimes.com/news/nationworld/world/la-fg-health11nov11_0_3477207.story?coll=la-home-headlines; Lara Logan, *Death Squads In Iraqi Hospitals*, CBS, 4 October 2006, <http://www.cbsnews.com/stories/2006/10/04/eveningnews/main2064668.shtml>. Amit R. Paley, *Iraqi Hospitals Are War's New "Killing*

groups for not giving priority to the treatment of their injured members.⁶²⁸ Others have been threatened and killed for engaging in “un-Islamic” activities, e.g. a male doctor treating female patients.⁶²⁹ In addition, they might be identified as representing Iraq’s intelligentsia, which is needed to establish a democratic and functioning state. Targeting Iraq’s health system also serves the purpose of terrorizing the population at large so that it would lose confidence in the abilities of the current Iraqi Government, especially to protect its citizens.⁶³⁰ In addition, criminal motives might be a reason as doctors are regarded as wealthy.⁶³¹

Attacks against medical personnel are further exacerbating the current health crisis in the country. Hospitals have had to close and newly built clinics have not been opened due to the lack of health personnel. IRIN reported that the emergency unit in Basrah’s Teaching Hospital was closed for five months after a number of doctors were killed by unidentified attackers. Many doctors and nurses refuse to go to work, fearing for their lives.⁶³²

5. Judges and Lawyers

According to UNAMI HRO, the independence of the Iraqi judiciary is compromised by “consistent attacks on and killings of judges and lawyers” and attacks on courthouses. Such violence aggravates the already serious shortage of legal professionals in the country and negatively impacts on the rule of law. In addition, the families and relatives of legal professionals have been targeted.⁶³³

Judges and lawyers engaged in the *Dujail* and *Anfal* trials against senior officials of the former regime have been repeatedly targeted.⁶³⁴ To date, four lawyers involved in the defence of former regime officials have been killed. Most are working from outside Iraq.⁶³⁵ Most judges and other legal staff working at the Iraqi High Tribunal have not been identified in public because of concerns for their safety.⁶³⁶

Fields”, The Washington Post, 30 August 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/29/AR2006082901680.html>.

⁶²⁸ Aaron Glantz, *Doctors Under Fire in Iraq*, AntiWar.com, 20 September 2006, <http://www.antiwar.com/glantz/?articleid=9719>; UNAMI HRO, *October 2006 Human Rights Report*, p. 7, see above footnote 66.

⁶²⁹ See also “Persons Accused of “Un-Islamic” Behaviour”.

⁶³⁰ Doug Struck, *Professionals Fleeing Iraq As Violence, Threats Persist*, The Washington Post, 23 January 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/01/22/AR2006012201112.html>. See also “Government Officials and Other Persons Associated With the Current Iraqi Government, Administration and Institutions”.

⁶³¹ IRIN, *Iraq: Facing threats, local doctors flee Mosul*, 1 May 2006, <http://www.irinnews.org/report.aspx?reportid=26331>.

⁶³² *Ibidem*, *Iraq: Insecurity, under-funding threaten children’s health in Basra*, 9 July 2006, <http://www.irinnews.org/report.aspx?reportid=27117>.

⁶³³ UNAMI HRO, *December 2006 Human Rights Report*, p. 3, 15 and 18, see above footnote 10.

⁶³⁴ UNAMI HRO, *June 2006 Human Rights Report*, p. 5, see above footnote 27.

⁶³⁵ Kamal Taha, *Saddam lawyers determined to defend him despite threats*, Middle East Online, 2 November 2006, http://www.iraqupdates.com/p_articles.php?refid=DH-S-02-11-2006&article=11507. See also “Members and Associates of the Ba’ath Party and the Former Regime”.

⁶³⁶ AP, *Judge, lawyer on Iraq war crimes tribunal killed*, 2 March 2005, <http://www.msnbc.msn.com/id/7064658/>.

Legal personnel working on “cases involving organized crime, corruption, terrorism and militia-sponsored armed activities” are particularly at risk.⁶³⁷ Reportedly, members of the Iraqi judiciary are trying to avoid “sensitive” cases, including through resignation or transfer to other posts. While most cases are reported from Baghdad, violence has also affected court functions in the Governorates of Diyala, Babel, Kerbala and Wassit.⁶³⁸

Other legal personnel have been persecuted for their (perceived) support of the Iraqi Government and its institutions.⁶³⁹ For example, senior judge Qais Hashim Shameri and his driver were killed by gunmen in January 2005. Jaish Ansar Al-Sunna claimed responsibility in a Web posting, calling the judge “one of the heads of infidelity and apostasy of the new Iraqi government.”⁶⁴⁰

Out of fear of being targeted by religious extremists, lawyers reportedly do not want to get engaged in cases involving sensitive family matters such as “honour killings”, inheritance issues or child custody.⁶⁴¹ The Iraqi Lawyers Association (ILA) said in August 2006, that “38 lawyers have been murdered and hundreds attacked for defending cases which their enemies say are “against Islam”.” For example, Ali Al-Nassiri, a Baghdad lawyer specialized in divorce cases, was killed by a bomb that exploded in front of his house in June 2006. Reportedly, he was known for fighting for the rights of mothers to obtain custody of their children, which brought him in conflict with the fathers, who are traditionally given custody in cases of divorce.⁶⁴²

Currently, sufficient protection mechanisms for legal personnel are nonexistent and a high number of judges, lawyers and other legal professionals have been threatened, kidnapped and killed.⁶⁴³ It was reported in August 2006 that at least 120 lawyers had left Iraq since January 2006.⁶⁴⁴

6. Athletes and Sport Officials

Athletes and sports officials have increasingly become targets of threats, kidnappings and assassinations.⁶⁴⁵ The reasons behind the attacks appear mixed. Some have been targeted as part of an ongoing campaign against well-known figures so as to instil fear among the

⁶³⁷ UNAMI HRO, *June 2006 Human Rights Report*, p. 5, see above footnote 27.

⁶³⁸ US Department of Defense, p. 8, see above footnote 73; UNAMI HRO, *April 2006 Human Rights Report*, p. 10, see above footnote 74.

⁶³⁹ See also “Government Officials and Other Persons Associated With the Current Iraqi Government, Administration and Institutions”.

⁶⁴⁰ AP, *Video shows American hostage; judge killed in clashes*, 26 January 2005, http://www.usatoday.com/news/world/iraq/2005-01-25-voter-safety_x.htm.

⁶⁴¹ UNAMI HRO, *August 2006 Human Rights Report*, p. 7, see above footnote 26.

⁶⁴² IRIN, *Iraq: Lawyers killed for defending cases “against Islam”*, 16 August 2006, <http://www.irinnews.org/report.aspx?reportid=60380>. See also “Women”.

⁶⁴³ See for a (non-comprehensive) list of attacks on judicial personnel: “Annex VII: Attacks on Judicial Personnel”.

⁶⁴⁴ UNAMI HRO, *August 2006 Human Rights Report*, p. 7, see above footnote 26.

⁶⁴⁵ See for a (non-comprehensive) list of attacks on athletes and sports officials: “Annex VIII: Attacks on Athletes and Sports Officials”.

population at large and bring the country and its institutions to collapse.⁶⁴⁶ Others have fallen victim to retaliatory violence between Shi'ites and Sunnis.⁶⁴⁷ According to the spokesman of the Iraqi Sports Union, Sami Al-Nahren, a Sunni athlete who wins an athletic match "automatically becomes a target for Shi'ite militias or gangs", and *vice versa*.⁶⁴⁸ In addition, the perception that sports is a "Western" idea and disrespects Islamic values has led to a number of attacks.⁶⁴⁹ Other athletes and sports officials have been targeted for kidnapping for ransom, possibly because they are perceived as wealthy. According to the British newspaper *The Times*, anyone who is tied to sports in Iraq is perceived to be connected to "money and Western sympathies". The newspaper further reported that for security reasons, the Iraqi Olympic Committee operates in part from offices in Jordan and football players are desperately trying to get contracts with clubs abroad. The International Olympic Committee expressed concern over the situation of Iraqi athletes and provides funding for a number of Iraqi athletes to train abroad, though for security reasons the Committee would not provide their names.⁶⁵⁰ IRIN reported in June 2006, that, according to the Iraqi Sports Union (ISU) in Baghdad, nearly 70 athletes had been killed since the fall of the former regime in 2003.⁶⁵¹

H. Others

1. Women

a) Situation in Central and Southern Iraq

Since the fall of the previous regime, the security, human rights and economic situation of women has dramatically declined and continues to deteriorate.⁶⁵² Widespread fear of abduction for sectarian or criminal reasons, rape, forced prostitution, (sex) trafficking⁶⁵³ and murder limit their freedom of movement, their access to education, employment and health, and their ability to participate in public life more generally. Observers say that the

⁶⁴⁶ See also "Government Officials and Other Persons Associated With the Current Iraqi Government, Administration and Institutions".

⁶⁴⁷ See also "Shi'ites and Sunnis Civilians".

⁶⁴⁸ IRIN, *Iraq: Athletes targeted for sectarian, religious reasons*, 8 June 2006, <http://www.irinnews.org/report.aspx?reportid=26984>.

⁶⁴⁹ See also "Persons Accused of "Un-Islamic" Behaviour".

⁶⁵⁰ Owen Slot, *Iraqi sport in state of terror after gunmen draw blood*, *The Times*, 10 October 2006, http://www.timesonline.co.uk/tol/sport/more_sport/article667015.ece.

⁶⁵¹ IRIN, *Iraq: Athletes targeted for sectarian, religious reasons*, see above footnote 648.

⁶⁵² UNAMI HRO, *December 2006 Human Rights Report*, p. 3, see above footnote 10. For further information on the security, human rights and economic situation of women in Iraq, see UNHCR, *2005 Country of Origin Information Iraq*, p. 31, see above footnote 53.

⁶⁵³ According to the Iraqi NGO Women's Freedom, and based on anecdotal evidence, nearly 3,500 Iraqi women have gone missing since 2003. It is believed that many were traded for sex work; see: IRIN, *Sex traffickers target women in war-torn Iraq*, 26 October 2006, <http://www.irinnews.org/report.aspx?reportid=61903>; Brian Bennett, *Stolen Away: Girls of Iraq Gone Missing*, *Time Magazine*, 25 April 2006, <http://www.time.com/time/magazine/article/0,9171,1186558,00.html>. The USDOS reported "(T)he ongoing insurgency and terrorism severely handicapped the government's abilities to combat trafficking. The Iraqi Interim and Transitional Governments did not take action to prosecute or prevent trafficking or to protect victims"; see: USDOS, Office to Monitor and Combat Trafficking in Persons, *Trafficking in Persons Report*, 5 June 2006, p. 270, <http://www.state.gov/documents/organization/66086.pdf>.

kidnapping and killing of women is on the rise.⁶⁵⁴ For example, the bodies of four abducted women were found in a garbage dump on 18 September 2006 in Mosul. Apparently, the victims had been raped, killed and their faces mutilated.⁶⁵⁵

Party militias, insurgents, Islamic extremists as well as family members may be perpetrators of violent acts against women. Within the context of a male-dominated Iraqi society, women continue to represent a “softer” target than do men. Instances of attacks against women are thus high. Due to ongoing insecurity, many are unable to leave their homes without a male family member to accompany them and even then often with their own or their families’ reluctance. Women have reportedly also been targeted as a means to punish or pressure other members of the family, both by armed groups/militias as well as the ISF. For example, the wife of a police officer in Mosul was shot dead after the attackers failed to find her husband on 28 September 2006.⁶⁵⁶ In another case, a police officer reportedly tried to force a woman into a sexual relationship in exchange for the release of her husband and son.⁶⁵⁷

UNAMI HRO also reported an increase in “honour killings”⁶⁵⁸ due to the general state of lawlessness and impunity in Iraq.⁶⁵⁹ “Honour killing” is a term used to describe a murder committed by a family member to protect the family’s honour. Many women and girls are at risk of death if they are accused of behaviour believed to have brought shame on the family, such as loss of virginity (even by rape), infidelity, a demand for divorce or a refusal of marriage. Women can be killed based solely on suspicions or rumours without the opportunity to defend themselves.

In a society where a family’s reputation is measured by the chastity of its female members, stories of abduction and rape create a great sense of fear in the minds of Iraqi women. Not only is there a threat of being sexually assaulted, women also fear the aftermath of such assaults. In fact, women who survive sexual assaults are likely to be subjected to additional acts of violence from their own family members, particularly from their male relatives who perceive them as having brought shame on the family. Accordingly, women who are victims of sexual violence are reluctant to contact the police because they fear being killed by relatives who may act to restore the “family honour.” At times, the mere possibility that a woman has been sexually assaulted after she was abducted or detained may be sufficient to bring shame to the family. With rumours of the (sexual) abuse of abducted women running high, female detainees may be subject to violence at the hands of their families

⁶⁵⁴ Dahr Jamail and Ali al-Fadhily, *Iraq: Abduction of Women on the Rise*, IPS, 11 December 2006, <http://ipsnews.net/news.asp?idnews=35801>; UNAMI HRO, *December 2006 Human Rights Report*, p. 12, see above footnote 10; IRIN, *Iraq: Local NGO warns of rising cases of sexual abuse*, 14 June 2006, <http://www.irinnews.org/report.aspx?reportid=27013>.

⁶⁵⁵ UNAMI HRO, *October 2006 Human Rights Report*, p. 12, see above footnote 66.

⁶⁵⁶ *Ibid.*

⁶⁵⁷ Dahr Jamail and Ali al-Fadhily, *Iraq: Abduction of Women on the Rise*, IPS, 11 December 2006, <http://ipsnews.net/news.asp?idnews=35801>. See also: UNAMI HRO, *April 2006 Human Rights Report*, p. 9, see above footnote 74.

⁶⁵⁸ For more information on “honour killings”, see: UNHCR, *2005 Country of Origin Information Iraq*, p. 33 and 36-38, see above footnote 53.

⁶⁵⁹ UNAMI HRO, *October 2006 Human Rights Report*, p. 3, see above footnote 66; *ibidem*, *August 2006 Human Rights Report*, p. 10, see above footnote 26.

after their release.⁶⁶⁰ UNAMI HRO reported that female corpses are usually not claimed from the morgue for fear of damaging the family “honour”. During November and December 2006, more than 140 female bodies remained unclaimed and were buried in Najaf by the morgue.⁶⁶¹

The Iraqi *Penal Code*⁶⁶² contains provisions that allow lenient punishments for “honour killings” on the grounds of provocation or if the accused had “honourable motives”. The punishment is between 6 to 12 months imprisonment.⁶⁶³ Article 409 further provides that if a person surprises his wife or a female relative committing adultery and kills/injures one or both immediately, the punishment will not exceed three years.⁶⁶⁴ The law does not provide any guidance as to what “honourable motives” are and therefore leaves the door open for wide interpretation and abuse. Women who fear “honour killings” will not be protected within their communities by their tribes in view of the increasing weakness of tribal structures and mediation systems as a result of the overall situation of violence in Central and Southern Iraq.

With the rise in religious extremism, both Muslim women and women of other religious groups have increasingly been pressured to conform to strict Islamic dress and morality codes. For example, they are forced to cover their hair and leave the house only when accompanied by a male relative. If they do not do so, they risk being subjected to harassment and death threats. Islamist groups, which largely control public institutions such as universities or hospitals, strictly apply these rules to women. For example, female students in Mosul received leaflets warning them to wear “proper Muslim attire” at universities.⁶⁶⁵

b) Situation of Women in the Region of Kurdistan

In the Kurdistan Region, despite the fact that a law defines “honour killings” as murder, crimes of this type still take place. Women who are, for example, victims of sexual aggression, are frequently ostracized and even killed by their family members in an attempt

⁶⁶⁰ IRIN, *Iraq: Appalling conditions of women prisoners disputed*, 13 December 2006, <http://www.irinnews.org/report.aspx?reportid=62518>. See also: UNHCR, *2005 Country of Origin Information Iraq*, p. 35-36, see above footnote 53.

⁶⁶¹ UNAMI HRO, *December 2006 Human Rights Report*, p. 12, see above footnote 10.

⁶⁶² See also “Criminal Sanctions”.

⁶⁶³ Article 128(1) of the *Law No. (111) of 1969, Penal Code* reads:

“Legal excuse either discharges a person from a penalty or reduces that penalty. Excuse only exists under conditions that are specified by law. Notwithstanding these conditions, the commission of an offence with honorable motives or in response to the unjustified and serious provocation of a victim of an offence is considered a mitigating excuse.”

Article 130 of the Penal Code reads:

“If there exists a mitigating excuse for a felony for which the penalty is death, the penalty shall be reduced to life imprisonment or imprisonment for a term of years or detention for a period of not less than 1 year. If the penalty is life imprisonment or imprisonment for a term of years; the penalty shall be reduced to a period of detention of not less than 6 months unless otherwise stipulated by law.”

⁶⁶⁴ Article 409 of the *Law No. (111) of 1969, Penal Code* reads:

“Any person who surprises his wife in the act of adultery or finds his girlfriend in bed with her lover and kills them immediately or one of them or assaults one of them so that he or she dies or is left permanently disabled is punishable by a period of detention not exceeding 3 years. It is not permissible to exercise the right of legal defense against any person who uses this excuse nor do the rules of aggravating circumstance apply against him.”

⁶⁶⁵ See also “Persons Accused of “Un-Islamic” Behaviour”.

to preserve the family's "honour". Given the fact that "honour killings" are prohibited by law, they may be concealed as accidents, suicides or suicide attempts, and, reportedly, most cases are investigated as such. According to the KRG Human Rights Ministry, 239 women burned themselves between January and August 2006 alone. The authorities in the Governorate of Sulaymaniyah recorded 37 traumatic burn cases in November 2006 involving women, but it is feared that the actual number might be much higher as many cases are not reported.⁶⁶⁶ Ashraf Qazi, the Special Representative of the Secretary General for Iraq, in a letter dated 24 August 2006 to the Iraqi President Jalal Talabani and the President of the KRG, Massoud Barzani, expressed his concern about the practices related to "honour crimes".⁶⁶⁷

A survey undertaken by the German NGO WADI⁶⁶⁸ in the Garmyan district of the Governorate of Sulaymaniyah revealed that between 60 and 70 percent of the 1,500 women interviewed in 40 villages had suffered from female genital mutilation (FGM). Some local women's organizations have been campaigning against the practice for many years. Since 2001, they have received important support from clerics issuing *fatwas* against the practice and local TV stations covering the issue. As part of its campaign against FGM, WADI organized a conference in Erbil on 26 September 2006 that was supported by local authorities, who had previously denied that FGM was practiced in the region. A first step in prosecuting the practice is that midwives found to engage in FGM lose their licence. However, midwives are not the only ones involved in FGM. WADI reports that FGM is practiced by Muslims, Christians and Kaka'i.⁶⁶⁹ According to Amnesty International (AI), there are indications that the practice is decreasing.⁶⁷⁰

Further, women and girls in Iraq may be exposed to other harmful traditional practices such as forced and/or early marriage (including exchanging of women between families for marriage purposes and marriages between young women and much older men). The right of men and women to enter into marriage only if they freely and fully consent is not enshrined in the Constitution. It does provide, however, that the State must protect childhood and prohibits all forms of violence and abuse in the family.⁶⁷¹ In addition, Iraq is party to the

⁶⁶⁶ UNAMI HRO, *December 2006 Human Rights Report*, p. 11, see above footnote 10.

⁶⁶⁷ *Ibidem*, *October 2006 Human Rights Report*, p. 11-12, see above footnote 66.

⁶⁶⁸ WADI is a German-Iraqi NGO, founded in Germany in 1991, which began its activities in Northern Iraq in 1993. WADI's projects in Iraq mainly focus on empowering women and assisting women in distress, but also includes support to marginalized groups, such as prisoners and IDPs; see WADI, *A brief overview of Wadi's activities 1993-2006*, <http://www.wadinet.de/projekte/frauen/khazad/women-brief.htm>.

⁶⁶⁹ Sandra Strobel and Thomas v. der Osten-Sacken, "Female Genital Mutilation in Iraqi Kurdistan", Presentation to the conference: 1ère Journée Humanitaire sur la Santé des Femmes dans le Monde organized by Gynécologie sans Frontières, WADI, 8 May 2006, http://www.wadinet.de/news/dokus/fgm-conference_1ere_journee_humanitaire-en.htm. See also: WADI, *A brief overview of Wadi's activities 1993-2006*, <http://www.wadinet.de/projekte/frauen/khazad/women-brief.htm>; RFE/RL, *Iraq: Study Says Female Genital Mutilation Widespread In North*, 21 January 2005, <http://www.rferl.org/featuresarticle/2005/01/5c740d58-641a-4f32-b375-5c731a811634.html>; Nicholas Birch, *Genital Mutilation is Traditional in Iraq's Kurdistan*, Women's E-News, 1 August 2004, <http://www.wadinet.de/projekte/frauen/fgm/attach4.htm>; IWPR, *Female circumcision wrecking lives*, Iraqi Crisis Report No. 120, 13 April 2005, <http://www.kwahk.org/articles.asp?id=68>.

⁶⁷⁰ AI, *Iraq – Decades of Suffering*, February 2005, p. 20, [http://web.amnesty.org/library/pdf/MDE140012005ENGLISH/\\$File/MDE1400105.pdf](http://web.amnesty.org/library/pdf/MDE140012005ENGLISH/$File/MDE1400105.pdf).

⁶⁷¹ Article 29(1)(B) and Article 29(4).

International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Elimination of Discrimination Against Women (CEDAW), both of which guarantee the right to marry at one's free will. Under Iraq's *Personal Status Law*,⁶⁷² forced marriage is prohibited and punishable by up to three years' imprisonment.⁶⁷³ The legal age for marriage is 18,⁶⁷⁴ however a 1979-amendment to the *Personal Status Law* lowered the minimum age for marriage to 15 years with the consent of the parents, an adult brother or an adult married sister. Despite these legal provisions, many women and young girls are forced to marry and risk enduring violence if they reject their families' choice, including "honour killings". Marriages of girls below the age of 15 are done according to religious customs and are not legally recognized. In rural areas of Northern Iraq, a practice called *Jin bi Jin*, meaning "a woman for a woman", can be a form of forced marriage as it involves the exchange of women between two families where no bride price is paid. Similar practices can also be found in other areas of Iraq. Another custom, known as "exchange-for-blood marriage", involves giving a girl or woman in marriage to another family as compensation for a killing.⁶⁷⁵

c) Single Women and Women Head of Household

This group is made up of women on their own, or with their children, because their family members or spouses were killed,⁶⁷⁶ kidnapped or otherwise targeted, and because they risk or have already faced harassment or attacks themselves.⁶⁷⁷ Depending on the perpetrators, additional factors such as a woman's ethnicity, religion or professional background may put her at even greater risk. Women in this group are typically targets of kidnapping, rape or other forms of sexual harassment and abuse, including forced prostitution and human trafficking. Women who do not benefit from any type of family network or tribal links to protect them are even more at risk and are likely to be prime targets for traffickers. Those who have no means of livelihood are further likely to fall prey to trafficking and prostitution in order to survive.⁶⁷⁸

⁶⁷² See "Personal Status".

⁶⁷³ Article 9 of the *Personal Status Law*, see above footnote 52.

⁶⁷⁴ Article 7 of the *Personal Status Law*, see above footnote 52.

⁶⁷⁵ See AI, *Iraq – Decades of Suffering*, February 2005, p. 22/23, [http://web.amnesty.org/library/pdf/MDE140012005ENGLISH/\\$File/MDE1400105.pdf](http://web.amnesty.org/library/pdf/MDE140012005ENGLISH/$File/MDE1400105.pdf); BBC News, *Tribal justice takes hold in Iraq*, 2 February 2004, http://news.bbc.co.uk/2/hi/middle_east/3449869.stm.

⁶⁷⁶ According to Iraqi Government officials and NGOs, more than 90 women become widows each day due to continuing violence in the country; see IRIN, *Iraq: Widow numbers rise in wake of violence*, 26 April 2006, <http://www.irinnews.org/report.aspx?reportid=26320>; according to the Iraqi organization Women Against War, there are an estimated 400,000 widows in Baghdad alone; see: Joshua Partlow, *Widows Often Find Help Elusive in Iraq*, The Washington Post, 23 July 2006, http://www.washingtonpost.com/wp-dyn/content/article/2006/07/22/AR2006072200920_pf.html. See also Dahr Jaimal and Ali Al-Fadhily, *Iraq: Widows Become the Silent Tragedy*, IPS, 7 December 2006, <http://ipsnews.net/news.asp?idnews=35751>; AP, *Violence in Iraq increasingly targeting women*, 22 November 2006, <http://www.metimes.com/storyview.php?StoryID=20061122-105650-7783r>.

⁶⁷⁷ According to UNAMI HRO, women are also targeted as "a means to punish other members of the family"; see UNAMI HRO, *October 2006 Human Rights Report*, p. 12, see above footnote 66.

⁶⁷⁸ See UNHCR, *2005 Eligibility Guidelines*, p. 21, see above footnote 8.

2. Sexual Orientation

a) General

Iraq's largely marginalized and vulnerable LGBT community is often targeted for attacks. Although attacks on the basis of a person's sexual orientation and general intolerance of homosexual practices occurred before 2003, the current environment of impunity and lawlessness along with the stronger embracing and extralegal enforcement of strict Islamic values have led to a spate of killings in recent years.

b) Current Situation

While Iraqi law does not institutionally discriminate against LGBT citizens, homosexuality and alternate gender identity remain strictly taboo and subject to intense individual, familial and social sanctions.

In a conservative society where religious sanctions are increasingly enforced by extrajudicial means, Shari'a proscriptions of homosexual conduct place LGBT Iraqis in significant physical danger. In October 2005, Grand Ayatollah Ali Al-Sistani allegedly issued a *fatwa* which reportedly called for the killing of homosexuals "*in the most severe way.*"⁶⁷⁹ The *fatwa*, published on a website in the Iranian city of Qom in the name of Al-Sistani, appeared in the Arabic-language section but not the English.⁶⁸⁰ While Al-Sistani has denied issuing any such *fatwa*, his representative, Seyed Kashmiri, appeared to acknowledge the ruling when he explained to BBC News that "*homosexuals and lesbians are not killed for practising their inclinations for the first time,*" and that not all rulings are to be implemented.⁶⁸¹

From October 2005 until the removal of the statement from the Al-Sistani website on 10 May 2006, at least twelve LGBT Iraqis were reportedly killed in targeted attacks based on their sexual orientation.⁶⁸² The statement was revoked following the public killing of 14-year-old Ahmed Khalil in Al-Doura by men wearing police uniforms, on the basis of his imputed homosexuality and amid "*mounting evidence that fundamentalists have infiltrated government security forces to commit homophobic murders.*"⁶⁸³ Killings have increased in brutality as well as frequency; in a highly public attack, Haydar Faiek, a transsexual Iraqi, was burned alive in September 2005 in Karada's main street.⁶⁸⁴ Ali Hili, the founder of the *Iraqi LGBT Society* said that he had received hundreds of reports of attacks, and had

⁶⁷⁹ Daniel Howden, *Sistani renounces fatwa on gays*, The Independent, 16 May 2006, http://news.independent.co.uk/world/middle_east/article485024.ece.

⁶⁸⁰ Michael McDonough, *Gay Iraqis fear for their lives*, BBC News, 17 April 2006, http://news.bbc.co.uk/2/hi/middle_east/4915172.stm.

⁶⁸¹ *Ibid.*

⁶⁸² Based on compiled news reports and information received in host countries, together with a list of gay Iraqis killed since 2003 provided to UNAMI HRO by *IraqiLGBT*, a UK- and Baghdad-based gay rights group.

⁶⁸³ Howden, *Sistani renounces fatwa on gays*, see above footnote 679.

⁶⁸⁴ Daniel McGrory, *Gays flee as religious militias sentence them all to death*, The Times, 17 May 2006, <http://www.timesonline.co.uk/article/0,,7374-2183948,00.html>.

evidence that over forty people had been killed based on their sexual orientation or identity.⁶⁸⁵ UNAMI HRO reported that in the first week of December 2006 alone, at least five homosexual males were allegedly kidnapped from Sha'ab District in Baghdad. Reportedly, their personal documents and information contained in their computers were confiscated. The mutilated body of one of the kidnapped individuals was found a few days later in the same area.⁶⁸⁶ The activist group to which the kidnap victims belonged also reported that two lesbian members providing a safe house for gay Iraqis and children seeking to escape the sex trade were killed by extremist militia in June 2006.⁶⁸⁷ Iraqi gays speaking to UNHCR in host countries indicated that anti-gay incidents are drastically underreported since families may be implicated in anti-gay violence or are unwilling to admit that slain members were homosexual.

Militias have reportedly been threatening families of men believed to be gay, stating that they will begin killing family members unless the men are handed over or killed by the family.⁶⁸⁸ Residents of Baghdad's Al-Amiriyah and Al-Jamia'a neighbourhoods report the public killing of gays and the targeting of their relatives.⁶⁸⁹ Family members have also reported community vindication for killing their gay sons. A Baghdad father stated that he was released without trial to social approval once he explained that he had hanged his son upon discovering he was gay.⁶⁹⁰

“Muslims believe that homosexual behaviour is an offence against Islam and anyone who behaves in this way should be sentenced to death without compassion”, Sheikh Ali Amar, a Baghdad cleric, told IRIN in February 2006.⁶⁹¹ Shari'a courts are reportedly operating in predominantly Shi'a towns, including Al-Amarah and Basrah, and in Baghdad's Shula, Hurriyah and Sadr City Districts, and are extra-judicially and unofficially trying, convicting and executing gay Iraqis.⁶⁹² Such courts have reportedly been operating in militia-controlled areas of Iraq, trying and executing perceived political opponents as well as numerous classes of persons seen as engaging in offences against Islam.⁶⁹³ A clerical judge in one such court stated that he believed that homosexuality was on the decline in Iraq, since *“most [gays] have been killed and others have fled.”*⁶⁹⁴

⁶⁸⁵ David France, *Dying to Come Out: The War on Gays in Iraq*, Gentlemen's Quarterly Magazine, February 2007, http://men.style.com/gq/features/landing?id=content_5304.

⁶⁸⁶ UNAMI HRO, *December 2006 Human Rights Report*, p. 26, see above footnote 10.

⁶⁸⁷ Tris Reid-Smith, *Iraq Police Abduct Gays at Gunpoint*, Pink Paper, 29 November 2006, <http://www.globalgayz.com/iraq-news.html#article19>.

⁶⁸⁸ McGrory, see above footnote 684.

⁶⁸⁹ IWPR, *Baghdad Gays Fear for Their Lives*, Iraq Crisis Report No. 199, 20 October 2006, http://www.iwpr.net/?p=icr&s=f&o=324756&apc_state=heniicrd6201b571b0dd9ebc3b068b94ab0b968.

⁶⁹⁰ IRIN, *Iraq: Male homosexuality still a taboo*, 5 February 2006, <http://www.irinnews.org/Report.aspx?ReportId=26110>.

⁶⁹¹ *Ibid.*

⁶⁹² IWPR, *Baghdad Gays Fear for Their Lives*, see above footnote 689.

⁶⁹³ Ellen Knickmeyer, *“We Don't Need a Verdict,” One Commander Says*, The Washington Post, 25 August 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/24/AR2006082401721.html>.

⁶⁹⁴ IWPR, *Baghdad Gays Fear for Their Lives*, see above footnote 689. See also “Persons Accused of ‘Un-Islamic’ Behaviour”.

According to officials at the Human Rights Ministry, the Government of Iraq requires more time to respond to human rights abuses of homosexual Iraqis due to the highly sensitive nature of the issue.⁶⁹⁵ The Ministry of Human Rights reports that “honour killings” are common when family members are believed to be gay, and a Baghdad-based lawyers’ association reported fifteen cases of “honour killings” of homosexuals in Baghdad over the previous two years alone.⁶⁹⁶ Ibrahim Daud, a family lawyer in Baghdad who has been involved in nearly 65 cases of honour killings involving gay men, said, “*killing for honour has been a common practice for years, and a short prison sentence for the killer is common.*”⁶⁹⁷

The fear of ostracism, “honour killings” and militia targeting is also forcing many young Iraqi gays into the sex trade, as organized gangs use the threat of exposure to coerce Iraqi gays into working for them.⁶⁹⁸ In addition, economic pressures in Iraq, where 48% of youth are unemployed, have led to a sharp increase in male commercial sex workers, despite the high risk of death at the hands of their families or armed groups. The Iraqi Ministry of Labour and Social Affairs has made efforts to address the commercial sex trade, but remains under-resourced to address the issue.⁶⁹⁹

Targeted violence against Iraq’s LGBT community goes largely unpunished, along with status-based and honour killing, kidnapping and forcible coercion into prostitution.⁷⁰⁰ Police are unlikely to provide protection and gay Iraqis report frequent abuse, harassment and misconduct by police, including “*blackmail, torture, sexual abuse and theft.*”⁷⁰¹ Torture and mistreatment of civilians and detainees by Iraqi police is common, including sodomy and sexual brutality as a means of torture.⁷⁰² Further, while sodomy is not a criminal offence in Iraq, UNAMI’s Human Rights Office has received reports of Iraqis held without charge for extended periods in criminal detention facilities for allegedly engaging in acts of sodomy, including a minor child.⁷⁰³

3. Persons Accused of “Un-Islamic” Behaviour

As part of the ongoing stricter interpretation and implementation of Islamic values and traditions in Iraq, persons that appear not to dress or behave in accordance with Islamic rules have been subjected to discrimination, threats, kidnappings, mutilation and killings.

⁶⁹⁵ IRIN, *Iraq: Male homosexuality still a taboo*, 5 February 2006, <http://www.irinnews.org/Report.aspx?ReportId=26110>.

⁶⁹⁶ *Ibid.*

⁶⁹⁷ *Ibid.*

⁶⁹⁸ *Ibidem*, *Iraq: Focus on boys trapped in commercial sex trade*, 8 August 2005, <http://www.irinnews.org/Report.aspx?ReportId=25350>. UNAMI HRO reported that two minors, eleven-year-old Ameer and fourteen-year-old Ahmed, who had reportedly been forced into child prostitution, were killed for their sexual orientation; see UNAMI HRO, *December 2006 Human Rights Report*, p. 26, see above footnote 10.

⁶⁹⁹ *Ibid.*

⁷⁰⁰ Jennifer Copeland, *Persecution of Iraq’s Gay Community*, More4News.com, 8 August 2006, <http://www.channel4.com/more4/news/news-opinion-feature.jsp?id=347>.

⁷⁰¹ IWPR, *Baghdad Gays Fear for Their Lives*, see above footnote 689.

⁷⁰² HRW, *The New Iraq? Torture and ill-treatment of detainees in Iraqi custody*, January 2005 Vol. 17, No. 1(D), <http://www.hrw.org/reports/2005/iraq0105/index.htm>.

⁷⁰³ Information received from UNAMI HRO in February 2007.

Both sexes have become victims of such attacks, as have liberal Muslims and members of religious minorities. Perpetrators of such acts are militant Islamists, both Sunni and Shi'a. There have been reports from several cities, such as Baghdad, Basrah and Fallujah, of religious edicts being made public banning a range of activities.⁷⁰⁴

Persons not abiding by strict Islamic dress codes are easily identifiable targets. Women, including non-Muslims,⁷⁰⁵ have been assaulted, including with acid, for not covering their hair or wearing the *abaya*, the black, all-encompassing veil,⁷⁰⁶ and men have been attacked for wearing short trousers, shaving their beards or having long hair. Reportedly, in areas under the control of religious groups or militias, women have been beaten for showing too much naked skin by not wearing socks or not covering their hair.⁷⁰⁷

Others have been targeted for engaging in activities considered “immoral” or “un-Islamic”, such as women driving cars, working outside the house or playing sports. Basketball player Samira Kubaissy was killed in January 2006 after she had been accused by extremists of un-Islamic behaviour.⁷⁰⁸ Men and women are called upon to segregate in public. On 15 March 2005, members of the Mehdi Army attacked picnicking Basrah University students, claiming they were violating the principles of Islam with their western-style clothing, and by singing, dancing and mingling with the other sex. The Sadrists fired guns at the students and beat them with sticks. Police were also present during the incident but did not intervene. University officials reported that at least 15 students were hospitalized.⁷⁰⁹ On 8 March 2005, three women were killed in the Shi'ite neighbourhood of Al-Sadr. They

⁷⁰⁴ For example, flyers distributed in Baghdad's neighbourhood of Tobji in October 2006 banned “vices” such as music and singing, celebratory gunfire at weddings, the selling of alcohol and drugs, wearing improper Western clothes and cutting hair and warned that those that who violate these bans would be “held accountable”. This religious edict was reportedly issued by the *Committee for Promotion of Virtue and Prevention of Vice*, which is linked to the local office of Muqtada Al-Sadr; see: Sudarsan Raghavan, *Another Freedom Cut Short*, The Washington Post, 6 October 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/10/05/AR2006100501825.html>. See also on religious *fatwas* issued in Basrah, The Independent, *For the women of Iraq, the war is just beginning*, 8 June 2006, http://news.independent.co.uk/world/middle_east/article717570.ece.

⁷⁰⁵ For further information on non-Muslim women forced to cover their hair, see p. 122.

⁷⁰⁶ IRIN, *Iraq: Women attacked for removing headscarves, NGO says*, 7 March 2006, <http://www.irinnews.org/report.aspx?reportid=26174>; *ibidem*, *Iraq: Acid attacks on “immodest” women on the rise*, 4 July 2005, <http://www.irinnews.org/Report.aspx?ReportId=25229>.

⁷⁰⁷ For example, in Baghdad's mainly Shi'ite suburb of Za'afaraniya, members of the Mehdi Army reportedly slap schoolgirls not wearing the hijab and in Amiriyah, a Sunni stronghold in Baghdad, militants shave the heads of three women for not being dressed decently and lash young men for wearing shorts; see: Nancy Trejos, *Women Lose Ground in the New Iraq*, The Washington Post, 16 December 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/12/15/AR2006121501744.html>; Beaumont, see above footnote 174; IRIN, *Iraq: Athletes targeted for sectarian, religious reasons*, see above footnote 648. In May 2006, three athletes were killed in Baghdad's Sunni neighbourhood of Al-Saidiya after leaflets were distributed warning people not to wear shorts, as it “violates the principles of Islamic religion when showing forbidden parts of the body”; see BBC News, *Iraqis shot “for wearing shorts”*, 26 May 2006, http://news.bbc.co.uk/2/hi/middle_east/5020804.stm; The Associated Press, *Iraqi Athletes Killed for Wearing Shorts*, 27 May 2006, <http://abcnews.go.com/International/wireStory?id=2012915>.

⁷⁰⁸ Trejos, *ibid.*; Beaumont, see above footnote 174; IRIN, *Iraq: Athletes targeted for sectarian, religious reasons*, see above footnote 648; The Independent, *For the women of Iraq, the war is just beginning*, 8 June 2006, http://news.independent.co.uk/world/middle_east/article717570.ece.

⁷⁰⁹ Catherine Philp, *Death at “immoral” picnic in the park*, Times Online, 23 March 2005, <http://www.timesonline.co.uk/article/0,,7374-1537512,00.html>.

were believed to be prostitutes.⁷¹⁰ Armed Islamic groups and militias have also launched violent campaigns against homosexuals, killing several.⁷¹¹ Persons known to have HIV/AIDS, who have already suffered from severe discrimination and, under the former regime, spent many years virtually imprisoned in sanatoria,⁷¹² continue to be discriminated against. Some have been killed as they are perceived to have engaged in “*indecent methods against Islamic beliefs*” such as homosexuality, sex outside of marriage and drug use.⁷¹³

In addition, members of certain professions have become victims of religious extremists. There are continuous reports of barbers being killed, threatened or forced to close their shops for shaving men, giving “Western-style” haircuts, or doing *Al-Haff*, the Iraqi practice in which barbers use thread to pull out small hairs on the face to give a closer shave, all considered by Islamic extremists as prohibited under Islam.⁷¹⁴ Male doctors have reportedly been killed for treating female patients and owners of alcohol,⁷¹⁵ DVD and CD shops and shops selling musical instruments or what is considered “inappropriate clothing” have also been targeted.⁷¹⁶

Furthermore, in several government offices, many of which are run by religious parties, Islamic rules have been introduced, including the segregation of staff by sex or the duty imposed on women to wear a headscarf.⁷¹⁷ For example, women teachers have been ordered to adopt Islamic codes of clothing and behaviour.⁷¹⁸ Some women were reportedly denied employment and educational opportunities because they did not present themselves as sufficiently conservative.

⁷¹⁰ BBC News, *Iraqi women shot dead in Baghdad*, 8 March 2005, http://news.bbc.co.uk/1/hi/world/middle_east/4329075.stm.

⁷¹¹ See “Sexual Orientation”.

⁷¹² On the situation under the former regime, see: Paul von Zielbauer, *Iraqis Infected by H.I.V.-Tainted Blood Try New Tool: A Lawsuit*, The New York Times, 4 September 2006, <http://travel2.nytimes.com/2006/09/04/world/middleeast/04aids.html>.

⁷¹³ IRIN, *Iraq: HIV-positive couple murdered*, 9 August 2006, <http://www.irinnews.org/report.aspx?reportid=60142>.

⁷¹⁴ UNAMI HRO reported in its December 2006 human rights report that it “*has also received reports to the effect that several barbers were killed in Kirkuk in the reporting period, probable targets of Islamic extremists advocating conformist Islamic practices such as outlawing shaving for Muslim men. For instance, on 9 December, a “terrorist group” assassinated Qasm Hassan, a barber at the Al-Wasiti Quarter, south Kirkuk*”; see UNAMI HRO, *December 2006 Human Rights Report*, p. 16, see above footnote 10. See also: Raghavan, see above footnote 704; IRIN, *Iraq: Barbers threatened by hardliners*, 24 March 2005, <http://www.irinnews.org/report.aspx?reportid=24977>.

⁷¹⁵ For further information see, for example, “Yazidis^{352F}” and “Roma (Kawliyah)”, as alcohol shops are usually run by non-Muslims.

⁷¹⁶ Raghavan, see above footnote 704. See also: UNAMI HRO, *October 2006 Human Rights Report*, p. 12, see above footnote 66; CNN, *Mosque, music stores bombed in Baquba*, 3 April 2006, <http://edition.cnn.com/2006/US/04/02/sunday/index.html>; Al Jazeera and agencies, *Traditional Iraqi music under threat*, <http://english.aljazeera.net/news/archive/archive?ArchiveId=1546>.

⁷¹⁷ Beaumont, see above footnote 174; UNAMI HRO, *June 2006 Human Rights Report*, p. 10, see above footnote 27.

⁷¹⁸ Peter Beaumont, *Iraq’s universities and schools near collapse as teachers and pupils flee*, The Guardian, 5 October 2006, <http://www.guardian.co.uk/Iraq/Story/0,,1887804,00.html>.

V. ELIGIBILITY FOR INTERNATIONAL PROTECTION

A. *Overall Approach*

In view of the ongoing violence, conflict and human rights violations in Central and Southern Iraq, UNHCR considers Iraqi asylum-seekers from these areas to be in need of international protection. In those countries where the numbers of Iraqis are such that individual refugee status determination is not feasible, UNHCR encourages the adoption of a *prima facie* approach.

In relation to countries which are signatory to the 1951 Convention relating to the Status of Refugees (“1951 Convention”) and/or its 1967 Protocol, and have in place procedures requiring refugee status determination under the Convention on an individual basis, Iraqi asylum-seekers from Central and Southern Iraq should be considered as refugees based on the 1951 Convention criteria, given the high prevalence of serious human rights violations related to one of the five grounds. Where, however, such asylum-seekers are not recognized under the 1951 Convention refugee criteria, international protection should be afforded through the application of an extended refugee definition, where this is available,⁷¹⁹ or otherwise through a complementary form of protection.

International protection needs of asylum-seekers from the three Northern Governorates of Sulaymaniyah, Erbil and Dohuk should be individually assessed based on the 1951 Convention refugee definition. In cases where an asylum-seeker is not recognized as a refugee under the 1951 Convention but nevertheless demonstrates protection needs for which complementary forms of protection may be appropriate, the case should be assessed accordingly. Taking into consideration the tenuous and unpredictable nature of the situation in the region and the possibility of sudden and dramatic change, the approach outlined in

⁷¹⁹ See Article 1 of the Convention Governing the Specific Aspects of Refugee Problems in Africa (“OAU Convention”), 10 September 1969, available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b36018>:

“1. For the purposes of this Convention, the term “refugee” shall mean every person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events is unable or, owing to such fear, is unwilling to return to it.

2. The term “refugee” shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.”

and Section III para. 3 of the Cartagena Declaration on Refugees, 22 November 1984, available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b36ec>:

“To reiterate that, in view of the experience gained from the massive flows of refugees in the Central American area, it is necessary to consider enlarging the concept of a refugee, bearing in mind, as far as appropriate and in the light of the situation prevailing in the region, the precedent of the OAU Convention (article 1, paragraph 2) and the doctrine employed in the reports of the Inter-American Commission on Human Rights. Hence the definition or concept of a refugee to be recommended for use in the region is one which, in addition to containing the elements of the 1951 Convention and the 1967 Protocol, includes among refugees persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order.”

these Guidelines for asylum-seekers from Central and Southern Iraq may, at some point, have to be followed.

UNHCR considers that an internal flight or relocation alternative (IFA/IRA) in Central and Southern Iraq is on the whole not available, because of the overall ability of agents of persecution to perpetrate acts of violence with impunity, the widespread violence and human rights violations, risks associated with travel, and the hardship faced in ensuring even basic survival in areas of relocation. If, however, the availability of an IFA/IRA must be assessed as a requirement in a national eligibility procedure, it should be examined carefully and on a case-by-case basis, bearing in mind the strong cautions in these Guidelines⁷²⁰ and, in general, UNHCR's 2003 Guidelines on International Protection on Internal Flight Relocation/Alternative.⁷²¹

As regards the three Northern Governorates, the overall security situation has been less precarious than the situation in Central and Southern Iraq. However, it remains tense and unpredictable due to a number of primarily political factors. In regard to the availability of an internal flight alternative in the Central and Southern regions, no such alternative is available for Iraqi asylum-seekers originating from the Northern Governorates due to the widespread violence, insecurity and human rights violations in those areas. Whether an IFA/IRA may be available for them within the three Northern Governorates themselves must be examined carefully on a case-by-case basis. The examination should take into account factors such as the background, profile and circumstances of the individual concerned; the existence of legal and physical barriers to accessing the area of relocation, which are known to be prevalent; possibilities of new risks of harm in the area of relocation; and whether undue hardship is likely to be faced by living in the area of relocation. Furthermore, certain categories of individuals with given profiles are not admitted there, including those as listed in these Guidelines.⁷²²

In light of Iraq's history of serious human rights violations and violations of humanitarian law in the country's long history of conflicts, the applicability of the exclusion clauses is a relevant consideration in the context of refugee protection. An individualized assessment is needed based on all relevant facts in each case particularly in relation to those Iraqis with certain backgrounds and profiles, as set out in these Guidelines. Acts which may bring an applicant within the scope of the exclusion clauses could have occurred before or after the fall of the Saddam Hussein regime in 2003. There have been several periods of armed conflict, both international and non-international, as well as specific events which could give rise to exclusion considerations. Exclusion is warranted where the individual responsibility of the asylum-seeker for a crime under the exclusion clauses is established.

In cases where Iraqi asylum-seekers find themselves in countries where there is no national legislative or administrative framework for refugee status determination, concerned Governments should permit Iraqis from Central and Southern Iraq to enter and/or remain in

⁷²⁰ See, more specifically, "Internal Flight or Relocation Alternative".

⁷²¹ UNHCR, *Guidelines on International Protection No. 4: "Internal Flight or Relocation Alternative"*, see above footnote 4.

⁷²² See "Persons Who May Not Be Able to Find Protection".

those countries, even only on a temporary basis, according to any appropriate framework which may facilitate this and allow access to basic protection measures. In relation to persons from the three Northern Governorates, international protection needs may be assessed individually, bearing in mind the caution highlighted already concerning the situation there, which thus may justify the same approach as for asylum-seekers from Central and Southern Iraq, should the situation deteriorate. Persons assessed to be in need of international protection should be permitted lawful stay or residence.

The sections which follow below provide an overview of the refugee criteria in the 1951 Convention, as well as factual considerations relevant to the proper assessment of the international protection needs of Iraqi asylum-seekers, where this is done on an individual rather than a *prima facie* basis.

B. Inclusion for Refugee Status Under the 1951 Convention Criteria

Article 1A(2) of the 1951 Convention, provides that the term “refugee” should apply to any person who

“owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”

The fact that large parts of Iraq are undergoing armed conflict and individuals flee these areas, does not mean that the refugee definition in the 1951 Convention is not applicable. This definition applies in peacetime as well as in times of armed conflict, be it international or non-international in character. While the 1951 Convention does not explicitly refer to those who are compelled to leave their country of origin or habitual residence in the context of armed conflict, such persons are eligible for refugee status if they have a well-founded fear of persecution for reason of one or more of the Convention grounds. This is particularly relevant where individuals are fleeing armed conflicts rooted in ethnic, religious or political differences, where specific groups are victimised. Those fleeing under such circumstances may be at risk of serious harm due to their religion, (imputed) political opinion or ethnicity. There is no need for the applicant to have been singled out or individually targeted, nor is there a requirement that he or she suffers from a risk or impact which is different than for other persons. It is also irrelevant whether the group affected is large or small. Whole communities may risk or suffer persecution for Convention reasons. The fact that all members of the community are equally affected does not in any way undermine the legitimacy of any particular individual claim.

The 1951 Convention does not require that, for a claim to be successful, it must be based on events arising prior to or at the time the applicant leaves the country of origin. Grounds for recognition as a refugee may arise based on events and circumstances occurring after his or her departure. In such situations, the person may become a refugee while being in the host country (“*sur place*”). This means that for Iraqis who had left Iraq prior to the fall of the former regime, their refugee claims should be examined based on the current situation. This

approach would also include those who had previously presented asylum claims and whose claims had been rejected. They should be permitted to submit new claims, and their claims should be examined accordingly.

1. Well-Founded Fear of Persecution

The refugee definition of the 1951 Convention contains both a subjective and an objective element. The former refers to an individual's fear of harm in the event of return to the country of origin or, in the case of a stateless person, the country of habitual residence. The objective element refers to the applicant's fear being well-founded, which means that there is a reasonable likelihood that the harm feared or some other form of harm would materialize upon return.⁷²³

Whether or not an applicant's fear is well-founded must be assessed in the context of the situation in the country of origin, taking into account the personal profile, experiences and activities of the applicant which would put him or her at risk. While having been subjected to persecution or mistreatment in the past would normally indicate that the applicant continues to be at risk of some form of harm in the future, this is not a precondition for recognition as a refugee.⁷²⁴ Additionally, the experiences of others, such as friends, relatives or persons in a similar situation as the applicant or of the same ethnic, religious or social group, may also show that the applicant's fear of becoming a victim of the harm is well-founded.⁷²⁵

The 1951 Convention does not define "persecution". However, it may be inferred from Article 33(1) of the 1951 Convention that a threat to life or freedom on account of race, religion, nationality, political opinion or membership of a particular social group constitutes persecution, as would other serious violations of human rights for the same reasons.⁷²⁶ Yet, the scope of persecution should not be defined solely in terms of existing codified human rights standards. Other kinds of serious harm or treatment, may also amount to persecution.⁷²⁷ Severe discrimination could also amount to persecution, in particular where livelihood is threatened. Measures which are not of a serious character by themselves, may amount to persecution on a cumulative basis.

In the context of Central and Southern Iraq where extreme violence and acts of serious human rights violations by state and non-state actors is rife, the overall situation is such that there is a likelihood or reasonable possibility of serious harm. While there are reports that widespread human rights violations are perpetrated by the authorities including through use of militias, large numbers of religious and political groups commit extreme forms of

⁷²³ See UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*, HCR/IP/4/Eng/Rev.1, UNHCR 1979, Reedited, Geneva, January 1992, para. 37-41, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b3314> (further: "UNHCR, *Handbook*").

⁷²⁴ *Ibidem*, para. 45.

⁷²⁵ *Ibidem*, para. 43.

⁷²⁶ *Ibidem*, para. 51. The requirement of a link with a Convention ground is discussed below at "Link With a 1951 Convention Ground".

⁷²⁷ See UNHCR, *Handbook*, para. 51, see above footnote 723.

violence on a daily basis. Ordinary civilians are often the targets of violence, which includes car bombs, suicide attacks and improvised explosive devices. These methods of violence are usually targeted at chosen areas where civilians of specific religious or ethnic groups gather, including places of worship, market places and neighbourhoods. As clarified above, even where an individual may not have personally experienced threats or risks of harm, events surrounding his or her areas of residence or relating to others, may nonetheless give rise to a well-founded fear. There is also more specific targeting of individuals by extremist elements of one religious or political group against specific individuals of another, through kidnappings and execution-style killings. Rape is also increasingly being used as a means of persecution. Due to the vast number of actors who could perpetrate violence, an asylum-seeker's failure to identify the perpetrator of violence should not be considered as detrimental to his/her credibility.

Persecution is not limited, however, to acts which cause physical harm. Acts which restrict human rights can also amount to persecution, in particular, where the consequences are substantially prejudicial to the individual concerned.⁷²⁸ Hence measures which restrict one's ability to earn a living so that survival is threatened, would amount to persecution.⁷²⁹ Another type of restrictive measures is those which limit an individual's fundamental right to freedom of religion, which could also amount to persecution.⁷³⁰ This applies with regard to measures of a discriminatory nature which result in limitations on religious belief or practice, as well as forced conversion or forced compliance or conformity with religious practices, including, for example, certain clothing requirements or forms of behaviour.⁷³¹ Consideration should be given to the nature of the restrictions, as well as their impact, including cumulative effect, on the individual concerned. It may be noted that throughout Iraq, discriminatory treatment by radical elements belonging to majority Muslim groups against moderate Muslims as well as against members of minority religious groups is increasingly taking on such serious proportions that it could be considered as amounting to persecution. In addition, non-Muslim as well as moderate Muslim women are coming under increasing pressure to abide by strict Islamic codes of behaviour which may be so restrictive as to be intolerable to the individuals concerned.

In the three Northern Governorates, there is relatively greater religious and ethnic tolerance, and non-Muslims as well as members of non-Kurdish ethnic groups, are generally

⁷²⁸ UNHCR, *Handbook*, para. 54, see above footnote 723.

⁷²⁹ UNHCR, *Handbook*, para. 62-64, see above footnote 723.

⁷³⁰ Article 18(3) of the ICCPR permits restrictions on the freedom to manifest one's religion or beliefs if these restrictions "*are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.*" Furthermore, such "*limitations may be applied only for the purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated. Restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner.*" See Human Rights Committee, *General Comment No. 22*, adopted on 20 July 1993, UN Doc. CCPR/C/21/Rev.1/Add.4, 27 September 1993, at paragraph 8, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=453883fb22>.

⁷³¹ Further guidance on the assessment of claims to refugee status based on religion can be found in UNHCR's *Guidelines on International Protection: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*, HCR/GIP/04/06, 28 April 2004, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=4090f9794>.

respected. Nonetheless, there are reports of arbitrary detention and ill-treatment by the authorities of suspected political opponents. Other reports indicate measures of forcible assimilation into Kurdish society and a trend towards increasing discrimination of the non-Kurdish population. Hence, the international protection needs of Iraqi asylum-seekers from the three Northern Governorates should be assessed individually based on the criteria of the 1951 Convention. In particular, given reports of Kurdish political efforts to dominate and “kurdify” the traditionally mixed areas of the Governorates of Kirkuk, Ninewa, Salah Al-Din and Diyala, applicants of non-Kurdish origin, who claim discriminatory treatment in these areas should have their claims assessed to determine if the impact of treatment they or others experienced or fear experiencing, would constitute harm amounting to persecution. In addition, there are indications of growing political tensions and the overall situation remains tenuous and unpredictable. Assessing the international protection needs of asylum-seekers from the three Northern Governorates should thus take into account a situation which may change suddenly and dramatically.

Where the applicant is at risk of harm at the hands of a non-State actor, the analysis of the well-foundedness of his or her fear requires an examination of whether or not the State, including the local authority, is able and willing to provide protection. In the situation of Central and Southern Iraq, given weak government structures, and the fact that government security forces are infiltrated by radical elements from militia groups, protection from State authorities would, in almost all cases, not be available. Consequently, an asylum-seeker should not be expected to seek the protection of the authorities, and failure to do so should not be the sole reason for doubting credibility or rejecting the claim. In addition, given that these areas of Iraq are highly unstable and insecure, and travel fraught with risks, an internal flight or relocation alternative would on the whole be unavailable. In the three Northern Governorates, there are limited possibilities for an internal flight alternative and each case will need to be examined individually. Nonetheless, individuals with certain profiles are not admitted there, including those as listed in these Guidelines.⁷³²

Overall, in certain communities where some protection by tribal leaders against persecutory acts of family members has been available to individuals, particularly for women who face honour killings, such protection is no longer readily available. In many situations, pursuing traditional systems of justice leads to further violations of rights by the communities themselves rather than ensuring justice and respect for human rights. Thus an individual should not be expected to avail himself or herself of traditional justice mechanisms and failure to do so should not be the sole reason for rejecting a claim.

2. Link With a 1951 Convention Ground

The well-founded fear of being persecuted must be related to one or more of the Convention grounds. That is, it must be “for reasons of” race, religion, nationality, membership of a particular social group, or political opinion. The Convention ground must be a relevant contributing factor, though it need not be shown to be the sole, or dominant,

⁷³² See below “Persons Who May Not Be Able to Find Protection”.

cause.⁷³³ More than one Convention ground may also be applicable.⁷³⁴ This will be the case for many Iraqis seeking international protection. Even in instances of common criminal activity, victims are often targeted, at least in part, because of one or more of the 1951 Convention grounds.

a) Race, Religion, Nationality and Political Opinion

Given the nature of the armed conflict and the overall security and political situation in Iraq, the Convention grounds “religion” and (imputed) “political opinion” are particularly relevant. They are also often interlinked. The main religious divide between the Sunnis and Shi’ites has pitted extremists of the two groups against each other along religious lines, impacting virtually all members of these groups. At the same time, given that the insurgency is Sunni driven while the present Government is predominantly Shi’ites, there are also clear political overtones to the violence between the two groups. As explained in these Guidelines, political polarization along religious lines goes back in time to the policies of past regimes, and is exacerbated by the post-2003 emphasis on religious and ethnic identities.⁷³⁵ Thus, in many cases, while an individual’s religious affiliation is a factor in making that person a target for persecutory measures, political opinion is also imputed into the religious affiliation and the individual targeted for that reason as well.

Non-Muslim minority groups are also particularly affected. Groups such as Christians, Sabaeen-Mandaeans, Kaka’i, Yazidis, and Baha’is, which are targeted by Islamic extremist elements for being un-Islamic, including as “infidels”, are also perceived as supporters of the US-led invasion, the MNF and/or the current Iraqi administration and are therefore additionally targeted by Sunni insurgents. In regard to religious persecution, as indicated in these Guidelines, the Baha’is, in particular, face severe discrimination given that the law which prohibits Baha’i as a religion continues to exist.

The Convention grounds “race” or “nationality” may also be relevant in cases where persecution is linked to an individual’s ethnicity, real or perceived, as for example in the case of Shabak or Yazidis who are considered to be Kurdish, Arabs, Turkmen or Roma. In many cases, there will be an overlap with the Convention grounds “religion” and/or “political opinion”.

Persecutory acts in Iraq can thus be clearly linked to political and sectarian reasons, satisfying the causal nexus requirement. As described in these Guidelines, kidnappings, torture, suicide bombings, killings and other crimes are methods used by groups involved in armed conflict. There are also indications that Sunnis and Shi’ites are using violence to

⁷³³ UNHCR, *Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, HCR/GIP/02/01, 7 May 2002, para. 20, available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3d36f1c64>.

⁷³⁴ See UNHCR, *Interpreting Article 1 of the 1951 Convention relating to the Status of Refugees*, April 2001, available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3b20a3914>.

⁷³⁵ See “

drive out other religious groups from their areas. Since these acts are targeted at members of specific religious, ethnic and political groups, the Convention grounds “religion”, “race”, “nationality” and “political opinion” are clearly relevant factors for the commission of these acts.

b) Membership of a Particular Social Group

A person’s “membership of a particular social group” may also be a relevant factor, often in combination with other Convention grounds. In the Iraq context, this factor would often be combined with the ground of “religion” and (imputed) “political opinion”. As set out in UNHCR’s relevant Guidelines:

“a particular social group is a group of persons who share a common characteristic other than their risk of being persecuted, or who are perceived as a group by society. The characteristic will often be one which is innate, unchangeable, or which is otherwise fundamental to identity, conscience or the exercise of one’s human rights.”⁷³⁶

This encompasses two different ways of defining a “particular social group”: on the one hand, under the so-called “protected characteristics” approach, a group is considered to be united by an immutable characteristic or one that is so fundamental to human dignity that a person should not be compelled to forsake it. On the other hand, individuals who share a common characteristic which makes them a cognizable group or sets them apart from society at large may also form a particular social group.⁷³⁷

In the Iraqi context, certain forms of persecution of women, including for example “honour killings” or other attacks, may be related to a transgression of religious prescriptions rather than social mores, in which case the Convention ground “religion” as well as that of “membership of a particular social group” may be applicable. Individuals targeted because they belong to particular families may be considered as members of a particular social group, although such targeting may also be linked to political or religious grounds. Individuals subject to persecution for their unconventional sexual orientation or for their professions may be targeted because their sexual behaviour or their work is considered as un-Islamic and thus both the grounds “membership of a particular social group” as well as religion may be applicable.

The “membership of a particular social group” ground may also be relevant where there is a risk of persecution due to a person belonging to a particular social class based on his or her wealth, as it may also be relevant in the case of those exercising certain professions.⁷³⁸ However, as noted elsewhere in these Guidelines, often such persons are also targeted because their activities are considered to be inconsistent with religious beliefs of the persecutors, or because they are considered to have political opinions not tolerated by the latter.

⁷³⁶ UNHCR, *Guidelines on International Protection No. 2: “Membership of a Particular Social Group” Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, 7 May 2002, HCR/GIP/02/02, para. 11, available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3d36f23f4>.

⁷³⁷ *Ibidem*, para. 6-7, for further guidance.

⁷³⁸ *Ibid.* See also: UNHCR, *Handbook*, para. 43, see above footnote 723.

C. *Exclusion From International Refugee Protection*

In light of Iraq's history of serious human rights violations and transgressions of international humanitarian law in the country's long experience with conflicts, exclusion considerations under Article 1F of the 1951 Convention may well arise in individual claims for refugee status.

The exclusion clauses contained in Article 1F of the 1951 Convention provide for the denial of refugee status to individuals who would otherwise meet the refugee definition set out in Article 1A of the 1951 Convention, but who are deemed not deserving of international protection on account of the commission of certain serious acts.⁷³⁹

Detailed guidance on the interpretation and application of Article 1F of the 1951 Convention can be found in UNHCR's relevant Guidelines and Background Note on Exclusion.⁷⁴⁰ Given the possibly serious consequences of exclusion from international refugee protection, it is important to apply the exclusion clauses with great caution and only after a full assessment of the individual circumstances of the case.

For exclusion to be justified, individual responsibility must be established in relation to a crime within the scope of Article 1F. Such responsibility flows from the person having committed or participated in the commission of a criminal act, or on the basis of command/superior responsibility for persons in positions of authority. Applicable defences as well as proportionality considerations should form part of the decision-making process.

The standard of proof for findings of fact related to exclusion on the basis of Article 1F is that of "*serious reasons for considering*". For this standard to be met, credible and reliable information is required.⁷⁴¹ The burden of proof lies, in principle, on the decision maker, although, as seen below, in certain circumstances which give rise to a presumption of individual responsibility for excludable acts, a reversal of the burden of proof may be justified.⁷⁴²

⁷³⁹ Article 1F stipulates that "*the provisions of the 1951 Convention shall not apply to any person with respect to whom there are serious reasons for considering that he [or she] (a) has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes; b) has committed a serious non-political crime outside the country of refuge prior to his [or her] admission to that country as a refugee; c) has been guilty of acts contrary to the purposes and principles of the United Nations.*"

⁷⁴⁰ UNHCR, *Guidelines on International Protection No. 5: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, 4 September 2003, HCR/GIP/03/05, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3f5857684>, and *Background Note on the Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, 4 September 2003, para. 107-111, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3f5857d24>.

⁷⁴¹ See UNHCR, *Background Note on the Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, 4 September 2003, para. 107-111, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3f5857d24>.

⁷⁴² *Ibidem*, para. 105-106.

A number of issues which are particularly relevant in the Iraqi context are highlighted below. However, decision makers should always refer to UNHCR's Guidelines and Background Note on Exclusion⁷⁴³ when considering the applicability of Article 1F.

Exclusion considerations may be triggered in any individual case if there are elements in the applicant's story that suggest that he or she may have been associated with criminal acts that fall within the scope of Article 1F. In the context of Iraq, exclusion considerations may be of particular relevance in the cases of Iraqis with certain backgrounds and profiles. These would include, for example:

- The previous Ba'athist regime, its armed forces (in particular elite troops and paramilitary forces), the police, the security and intelligence apparatus, and the judiciary
- Members of armed groups opposing the former regime
- The current ISF
- Militias
- Insurgency groups
- Criminal groups.

It should be noted, however, that the fact that a person was at some point a member of the former regime or a member of an organization involved in unlawful violence does not in itself assign individual liability for excludable acts. An individualized assessment, based on all relevant facts, is required in each case.

1. Acts Within the Scope of Article 1F

In cases where exclusion considerations arise, it is necessary to identify and assess the acts which may bring the applicant within the scope of Article 1F. If such acts are identified, it also needs to be determined whether there is credible and reliable information linking the applicant to the acts in question. It should be recalled that Article 1F exhaustively enumerates the types of crimes which may give rise to exclusion from international refugee protection on account of the applicant's conduct.⁷⁴⁴

In the Iraq context, acts which may bring an applicant within the scope of Article 1F occurred both before and after the fall of the regime of Saddam Hussein in 2003. There have been several periods of armed conflict, both international and non-international. Exclusion considerations may arise with regard to a variety of acts by many different actors. In addition to possible violations of international humanitarian law, association with other events in Iraq's history might also give rise to exclusion. These events would include, for example:

⁷⁴³ See above footnote 740.

⁷⁴⁴ More detailed guidance on the kinds of conduct which fall within the scope of Article 1F of the 1951 Convention can be found at paragraphs 23-49 of UNHCR's *Background Note on Exclusion*, see above footnote 741.

a) Before the Fall of the Former Regime

- The systematic persecution of the Kurdish people (including through the *Anfal* campaign in 1988 and the gassing of civilians in Halabja in 1987, forced resettlement, destruction of villages and confiscation of properties)⁷⁴⁵
- The forced expulsion of non-Arab citizens from Kirkuk and other oil-rich areas as part of the *Arabization* campaign⁷⁴⁶
- The forced deportation and denaturalization of Feili Kurds in 1980
- The systematic drainage of the marsh areas (along with bombing raids, torture, disappearances and mass executions) and the consequent destruction of the economic, social and cultural base of the Marsh Arabs after the 1991 Gulf War⁷⁴⁷
- Acts of violence committed by Shi'a opposition groups and the Government throughout the 1990s until the fall of the former regime;
- The Government's repression of the Shi'ite population including "systematic assassinations, attacks and threats carried out against the Shi'ite leadership"⁷⁴⁸
- Systematic persecution by the former regime of (perceived) political opponents, including through summary and arbitrary executions, torture and other forms of cruel and inhuman treatment or punishment (for example amputations and mutilations for ordinary criminal offenses), and enforced or involuntary disappearances.⁷⁴⁹

Crimes committed by various political groups and in particular their armed wings involved in violent resistance against the previous regime of Saddam Hussein (e.g. Kurdish *Peshmerga*,⁷⁵⁰ Badr Corps, Dawa Party) and mostly directed against government officials and institutions would also need to be assessed in the light of the exclusion clauses, in particular Article 1F(b), as the acts in question may have been disproportionate to the alleged political objectives. Similar considerations would apply with regard to serious human rights violations against civilians as well as KDP and PUK military and political officials reportedly committed by several Kurdish Islamist groups such as the Islamic

⁷⁴⁵ See, for example, HRW, *Genocide in Iraq – The Anfal Campaign Against the Kurds*, July 1993, <http://www.hrw.org/reports/1993/iraqanfal/>.

⁷⁴⁶ See "De-Arabization".

⁷⁴⁷ See, for example, HRW, *The Iraqi Government Assault on the Marsh Arabs*, January 2003, <http://www.hrw.org/backgrounder/mena/marsharabs1.htm>.

⁷⁴⁸ See, for example, UNHCHR, Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq, *The Situation of Human Rights in Iraq*, E/CN.4/1999/37, 26 February 1999, para. 20-23, <http://www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/5d0983c1727027ae8025673f0056c924?OpenDocument>.

⁷⁴⁹ See, for example, Indict, *Crimes committed by the Iraqi regime*, <http://www.indict.org.uk/crimes.php>; UN Commission on Human Rights, *Report of the Special Rapporteur, Andreas Mavrommatis, on the situation of human rights in Iraq*, E/CN.4/2002/44, 15 March 2002, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3caaffc42>; USDOS, Bureau of Democracy, Human Rights and Labor, *2001 Country Report on Human Rights Practices – Iraq*, 4 March 2002, <http://www.state.gov/g/drl/rls/hrrpt/2001/nea/8257.htm>; various reports by AI, <http://web.amnesty.org/library/eng-irq/index>; and various reports by HRW, <http://www.hrw.org/doc?t=mideast&c=iraq>.

⁷⁵⁰ For an overview on the Peshmerga and its role throughout the various conflicts, see Michael Garrett Lortz, *Willing to face Death: A History of Kurdish Military Forces – The Peshmerga – From the Ottoman Empire to Present-Day Iraq*, Master of Arts Thesis in International Affairs, Florida State University, 14 November 2005, <http://etd.lib.fsu.edu/theses/available/etd-11142005-144616/>.

Movement in Kurdistan and its various break-away groups, including Jund Al-Islam/Ansar Al-Islam, which opposed the ruling Kurdish parties as of 1991.

b) After the Fall of the Former Regime

Examples of acts carried out by an applicant, which may bring him or her within the scope of an exclusion clause would include:

- Arbitrary arrest, incommunicado detention, torture, disappearances and summary or extrajudicial executions of civilians reportedly committed by parts of the ISF, and in particular the Police, Special Police Commandoes/Iraqi National Police and the FPS;
- Abductions, extortion and intimidation, torture, summary or extra-judicial killings and forced displacement of civilians by militias, at times in collaboration with the ISF, and insurgency groups;
- Forced displacement of Arab settlers in Kirkuk, as well as arbitrary arrests, abductions, incommunicado detention and torture attributed to the Kurdish *Peshmerga*, security and intelligence agencies;
- Abductions, extortion, rape, murder and torture by criminal gangs, at times in cooperation with or on behalf of militias or insurgents.

The applicable sub-clause of Article 1F would need to be determined in light of the circumstances of the individual case.

2. Crimes Against Peace, War Crimes and Crimes Against Humanity (Article 1F[a])

a) Crimes Against Peace

Crimes against peace arise from the

“planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing”.⁷⁵¹

Given the nature of this crime, it can only be committed in the context of an international armed conflict, and only by those in a high position of authority representing a State or a State-like entity. Any of the afore-mentioned acts committed by persons in such positions in relation to the armed conflicts between Iran and Iraq (1980-1988) or the invasion of Kuwait in 1990 and the subsequent Gulf War (1991) could fall within the scope of this category under Article 1F(a).⁷⁵²

⁷⁵¹ Article 6(a) of the *Charter of the International Military Tribunal*, available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b39614>.

⁷⁵² For further details, see paragraphs 26-29 of UNHCR’s *Background Note on Exclusion*. See also UN Security Council resolutions regarding Iraq’s invasion of Kuwait (UNSC, *Resolution 660 (1990)*, 2 August 1990, available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3b00f12240>) and the violent suppression of the Kurdish and Shi’ite uprisings in Iraq following the Gulf War

b) War Crimes

War crimes are serious violations of the laws and customs of war which give rise to criminal responsibility directly under international law, either because this is explicitly provided for in the relevant international instruments,⁷⁵³ or on the basis of customary international law. Decision makers should bear in mind that only those acts which are committed during times of armed conflict, and which are linked to the conflict (the so-called “nexus” requirement) can constitute war crimes. In conducting an exclusion analysis, it is necessary to consider whether the armed conflict is international or non-international in nature, as different legal provisions are applicable to acts committed in either. War crimes may be committed by civilians as well as military persons. Anyone – civilian or military – who enjoys protection under the relevant provisions of international humanitarian law can be the victim of a war crime.⁷⁵⁴ In the Iraq context, the applicability of Article 1F(a) “war crimes” may arise with regard to acts committed during the various periods of armed conflict between 1979 and the present.⁷⁵⁵

i. International Armed Conflict

Acts which constitute “war crimes” when committed in an international armed conflict are defined in the grave breaches provisions of the Four Geneva Conventions of 1949 and Additional Protocol (AP) I thereto of 1977. Article 8(2)(a) and (b) of the Statute of the International Criminal Court is also relevant for the qualification of acts which take place in an international armed conflict after July 1998. Acts committed during an international armed conflict⁷⁵⁶ which come within the definitions set out in the relevant provisions may give rise to exclusion under Article 1F(a) as “war crimes”, provided they take place in the context of, and were associated with, the armed conflict. If this link, or “nexus”, is not present, the acts in question could not amount to “war crimes” under Article 1F(a). Rather,

(UNSC, *Resolution 688 (1991)*, 5 April 1991, available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3b00f16b30>).

⁷⁵³ See below under “International Armed Conflict” and “Non-International Armed Conflict”.

⁷⁵⁴ See UNHCR, *Background Note on Exclusion*, at paragraphs 30-32 and Annex B, see above footnote 741.

⁷⁵⁵ In this context, it is worth noting that members of the KDP and PUK armed forces have been involved in a series of international and internal conflicts, sometimes fighting the Iraqi Central Government, sometimes siding with it, including during the Iran-Iraq War (1980-1988), the Kurdish Civil War (1995-1998) as well as the fighting against Kurdish Islamist groups after 1991, in particular the assault on Ansar Al-Islam in March 2003 with the help of US Forces. KDP/PUK armed forces also supported the US-led troops in defeating Iraqi Government troops in Kirkuk and Mosul in March/April 2003. In relation to these conflicts, exclusion considerations, in particular with relation to Article 1F(a) may come into play. It is noteworthy that the *Peshmerga* also had women in its ranks. See, for example, HRW, *Ansar al-Islam in Iraqi Kurdistan*, see above footnote 414; USDOS, Bureau of Public Affairs, *Saddam’s Chemical Weapons Campaign: Halabja, March 16, 1988*, 13 March 2003, <http://www.state.gov/documents/organization/18817.pdf>.

⁷⁵⁶ Since 1979, Iraq went through various periods of international armed conflict, notably

- The Iraq-Iran War (1980-1988);
- The invasion and occupation of Kuwait in 1990 and subsequent Gulf War (1991); and
- The period from the US-led invasion in March 2003 until the handover of sovereignty to the Iraqi Interim Government on 28 June 2004.

they would need to be assessed under Article 1F(b) or, depending on the circumstances, as crimes against humanity under Article 1F(a).⁷⁵⁷

ii. Non-International Armed Conflict

The legal criteria for determining what acts or methods of warfare are prohibited in a non-international armed conflict are found in Article 3 common to the Four Geneva Conventions of 1949, AP II thereto of 1977,⁷⁵⁸ and Article 8(2)(c) and (e) of the Statute of the International Criminal Court, which is relevant for the qualification of acts which take place after July 1998.⁷⁵⁹

Originally, “war crimes” were considered only in international armed conflicts. Breaches of common Article 3 and AP II did not give rise to criminal responsibility at the international level and, as a consequence, such breaches could not be considered “war crimes”. However, since the mid-1990s, it has become generally accepted that serious violations of international humanitarian law in a non-international armed conflict may give rise to individual criminal responsibility under international law, and there is now general recognition that war crimes may also be committed in the context of non-international armed conflicts.⁷⁶⁰

For the purposes of an exclusion analysis, this means that violations of common Article 3 and AP II which took place before the mid-1990 could not give rise to exclusion on the basis of Article 1F(a) as “war crimes”. Conduct in breach of these provisions could, however, come within the scope of Article 1F(b) as serious non-political crimes or Article 1F(a) as crimes against humanity. In the Iraq context, these considerations should be borne

⁷⁵⁷ See “Crimes Against Humanity”.

⁷⁵⁸ Iraq is not a party to the AP II of 1977. However, acts prohibited under Article 4 and 13 of AP II are considered to form part of customary international law.

⁷⁵⁹ It is worth noting that from July 1998 onward, conscripting or enlisting children under the age of fifteen into armed forces or groups or using them to participate actively in hostilities is a war crime and would as such fall within the scope of Article 1F(a). See Article 8(2)(e)(vii) of the *Rome Statute of the International Criminal Court*, available at http://www.icc-cpi.int/library/about/officialjournal/Rome_Statute_120704-EN.pdf (further: “ICC Statute”). See also: Preparatory Commission for the International Criminal Court, *Report of the Preparatory Commission for the International Criminal Court. Addendum. Part II, Finalized draft text of the Elements of Crimes*, UN Doc. PCNICC/2000/1/Add.2, 2 November 2000, p. 37 and 46, available in UNHCR’s Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=46a5fd2e2>.

⁷⁶⁰ As confirmed by the ICTY, criminal responsibility arises under customary international law for serious violations of Article 3 common to the Four Geneva Conventions of 1949, as supplemented by other general principles and rules on the protection of victims of internal armed conflict, and for breaching certain fundamental principles and rules regarding means and methods of combat in such conflicts. See ICTY, *Prosecutor v. Dusko Tadic aka “Dule”, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction*, 2 October 1995, para. 134, <http://www.un.org/icty/tadic/appeal/decision-e/51002.htm>. Moreover, violations of AP II are explicitly contained as war crimes in Article 4 of the ICTR Statute, <http://69.94.11.53/ENGLISH/basicdocs/statute.html>.

in mind when assessing crimes committed during the 1991 Shi'ite and Kurdish Uprisings.⁷⁶¹

Acts committed during later periods of non-international armed conflict in Iraq may give rise to exclusion under Article 1F(a) as “war crimes”, provided the above-mentioned requirement of the nexus with the armed conflict is met. This could be the case, in particular, for crimes committed during the Kurdish Civil War (1995–1998)⁷⁶² and the armed conflict between the ISF/MNF and armed insurgent groups following the handover of sovereignty to the Iraqi Interim Government on 28 June 2004.⁷⁶³ Acts of violence between the Sunni and Shi'ite communities, which began with tit-for-tat killings in mid 2005 and escalated into brutal violence after the February 2006 Samarra bombing, should be assessed within the context of this armed conflict and may constitute war crimes, if the nexus requirement with the armed conflict is met and if the acts in question meet the definitions under the relevant legal provisions.⁷⁶⁴

c) Crimes Against Humanity

Crimes against humanity involve the fundamentally inhumane treatment of the population in the context of a widespread or systematic attack directed against it. Such crimes include murder, extermination, deportation or forcible transfer of population, imprisonment in violation of fundamental rules of international law, torture, rape, persecution on political, racial or religious grounds, and other inhumane acts (see also Article 7 of the ICC Statute). The act in question, however, only becomes a crime against humanity if it is part of a

⁷⁶¹ For an overview of the kinds of violations of international humanitarian law committed in this context, see HRW, *Endless Torment – The 1991 Uprising in Iraq and its Aftermath*, June 1992, <http://www.hrw.org/reports/1992/Iraq926.htm>.

⁷⁶² On 31 August 1996, the Iraqi troops at the request and with the assistance of the KDP first shelled and then captured the city of Erbil Kurdish self-administrated zone. According to the Special Rapporteur of the Commission on Human Rights, large-scale human rights violations took place, including the excessive use of force, summary executions and arbitrary arrests; UNHCHR, Special Rapporteur of the Commission on Human Rights, *Situation of human rights in Iraq*, A/51/496, 15 October 1996, paragraph 95, <http://www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/e9032b67acacae68025670e0036ca50?Opendocument>; see also UNHCHR, Special Rapporteur of the Commission on Human Rights, *Situation of human rights in Iraq*, A/51/496/Add.1, 8 November 1996, <http://www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/272b2c48b9147de58025671200517701?Opendocument>.

⁷⁶³ As noted earlier in these Guidelines (see above footnote 14), the hostilities between the MNF/ISF and the armed insurgency following the hand-over of sovereignty on 28 June 2004 to the Iraqi Interim Government have been qualified by the ICRC as a non-international armed conflict. See: ICRC, *Iraq post 28 June 2004: protecting persons deprived of freedom remains a priority*, 5 August 2004, <http://www.icrc.ch/Web/Eng/siteeng0.nsf/iwpList322/89060107D77D7299C1256EE7005200E8>. For a discussion of whether the conflict, or “conflicts”, could be considered as an “internationalized internal armed conflict”, see the sources cited in the above footnote 14.

⁷⁶⁴ See also the summary of a press briefing by the ICRC on 30 November 2006, in which the ICRC reminded all parties engaged in the violence that

“regardless of the complexity of the issues at stake in the Iraqi conflict, it is unacceptable and contrary to the most basic principles of humanity and law to target persons not participating in the hostilities. State and non-State actors are equally bound by these rules. The ICRC calls again upon all parties to the conflict to respect the rules of international humanitarian law and to spare civilians and civilian property. In addition, it urges all those who can make use of their moral and political influence on the ground to call for respect of human life and dignity.”

See ICRC, *Iraq: civilians continue to pay the highest price in the conflict*, Press Briefing, 30 November 2006, <http://www.icrc.org/web/eng/siteeng0.nsf/html/iraqi-briefing-301106>.

coherent system or a series of systematic and repeated acts. Thus, acts of torture⁷⁶⁵ committed in a systematic manner or on a widespread scale, targeting political suspects or other civilians, could constitute crimes against humanity as envisaged by Article 1F(a). It is important to note that crimes against humanity can be committed in the context of an internal or international armed conflict, as well as outside a situation of armed conflict.⁷⁶⁶

Crimes against humanity were committed throughout the ruling of the former regime (1979-2003) in situations of international and internal armed conflict as well as during government campaigns aiming at systematically suppressing political opponents or minority groups.⁷⁶⁷ Torture was used systematically and on a widespread scale in Iraq under the former regime of Saddam Hussein.⁷⁶⁸

3. Serious Non-Political Crimes (Article 1F[b])

The gravity of serious non-political crimes as stipulated in Article 1F(b) should be judged against international standards, not simply by its categorization in the host country or country of origin. Examples of “serious” crimes include homicide, rape, torture and armed robbery. A serious crime should be considered non-political when other motives (such as personal reasons or gain) predominate. Where no clear link exists between the crime and its alleged political objective or when the act in question is disproportionate to the alleged political objective, non-political motives are predominant. In the Iraq context, acts such as assassinations, abductions or torture committed by State security forces, armed opposition

⁷⁶⁵ Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment defines torture as

“any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity”.

See the Convention Against Torture, available in UNHCR’s Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b3a94>.

⁷⁶⁶ See UNHCR, *Background Note on Exclusion*, at paragraphs 33–36 and Annex C, see above footnote 741.

⁷⁶⁷ See consistent reporting by the Special Rapporteur of the Commission on Human Rights on the Human Rights Situation in Iraq, <http://www.unhchr.ch/huridocda/huridoca.nsf/FramePage/Iraq+En?OpenDocument>. A Dutch court in The Hague ruled in 2005 that the killing of thousands of Kurds in Iraq in the 1980s was an act of genocide. It said that it had “no other conclusion than that these attacks were committed with the intent to destroy the Kurdish population of Iraq”; see: BBC News, *Killing of Iraq Kurds “genocide”*, 23 December 2005, <http://news.bbc.co.uk/2/hi/europe/4555000.stm>. See also: HRW, *Genocide in Iraq – The Anfal Campaign Against the Kurds*, July 1993, <http://www.hrw.org/reports/1993/iraqanfal/>. There are also claims that the destruction of the marshlands in Southern Iraq constituted “genocide”; see, for example, Prof. Joseph W. Dellapenna, *The Iraqi Campaign Against the Marsh Arabs: Ecocide as Genocide*, Villanova University School of Law, 31 January 2003, <http://jurist.law.pitt.edu/forum/forumnew92.php>; USIP, *The Marsh Arabs of Iraq: Hussein’s Lesser Known Victims*, 25 November 2002, <http://www.usip.org/newsmedia/releases/2002/nb20021125.html>.

⁷⁶⁸ See consistent reporting by the Special Rapporteur of the Commission on Human Rights on the Human Rights Situation in Iraq, available at <http://www.unhchr.ch/huridocda/huridoca.nsf/FramePage/Iraq+En?OpenDocument>.

groups (pre-2003) or insurgency or criminal groups or militias (post-2003) may fall within the scope of Article 1F(b).⁷⁶⁹

4. Acts Contrary to the Purposes and Principles of the United Nations (Article 1F[c])

In UNHCR's view, acts contrary to the purposes and principles of the United Nations as provided for in Article 1F(c) must have an international dimension and be capable of affecting peace, security and peaceful relations between States. In principle, only persons holding most senior positions of power may fall within the scope of this provision. For example, the UN Security Council (UNSC) considered Iraq's invasion in Kuwait in 1990 as a "*breach of international peace and security*."⁷⁷⁰ Also, the violent suppression of the popular uprisings in the aftermath of the Gulf War in 1991, which led to massive displacement to neighbouring countries, in particular Turkey and Iran, was condemned by the UNSC as a threat to international peace and security in the region.⁷⁷¹ It should be noted, however, that most acts which, on account of their gravity and impact on the international plane, come within the scope of Article 1F(c) of the 1951 Convention would also meet the requirements of Article 1F(a) or (b).⁷⁷²

5. Individual Responsibility

a) Basis for Incurring Individual Responsibility

Exclusion on the basis of Article 1F of the 1951 Convention requires a finding of serious reasons for considering that the applicant incurred individual responsibility for excludable acts. For this to be established, it must be determined based on credible and reliable information that he or she committed, or participated in the commission of, the material elements of the crime(s) in question with the requisite mental element (*mens rea*).⁷⁷³ Depending on the circumstances, a person may incur individual responsibility by perpetrating excludable crimes him or herself; by inducing others to commit such crimes (for example, through planning, inciting, ordering); or by making a substantial contribution to the commission of crimes by others in the knowledge that his or her acts facilitated the criminal conduct (for example, through aiding or abetting, or by participating in a joint criminal enterprise).⁷⁷⁴ Under certain circumstances, applicants who held a position of authority within a civilian or military hierarchy may also be held responsible and incur

⁷⁶⁹ For a more detailed discussion, see: UNHCR, *Background Note on Exclusion*, at paragraphs 37-45, see above footnote 741.

⁷⁷⁰ UNSC, *Resolution 660 (1990)*, 2 August 1990, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3b00f12240>.

⁷⁷¹ UNSC, *Resolution 688 (1991)*, 5 April 1991, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3b00f16b30>.

⁷⁷² See UNHCR, *Background Note on Exclusion*, at paragraphs 46-49, see above footnote 741.

⁷⁷³ As reflected in Article 30 of the ICC Statute, the mental element generally required for individual responsibility is "intent" (with regard to conduct or consequences) and "knowledge" (with regard to circumstances or consequences); see UNHCR, *Background Note on Exclusion*, at paragraph 64, see above footnote 741.

⁷⁷⁴ See UNHCR, *Background Note on Exclusion*, at paragraphs. 50-56, see above footnote 741.

individual responsibility for crimes committed by persons under their effective command or control.⁷⁷⁵

As a general rule, mere membership in a particular group or organization is not sufficient to establish individual responsibility for excludable acts. Therefore, for example, the fact that an individual was part of the former regime or Ba'ath Party, does not in itself entail individual liability for excludable acts.⁷⁷⁶ Thus, for applicants who were associated with a group or organization that reportedly has been involved in human rights abuses, it is necessary to conduct a thorough assessment of their activities, role and responsibilities and to determine whether there are serious reasons for considering that the persons' conduct and state of mind gives rise to individual responsibility for crimes within the scope of Article 1F.

In cases where it is established that the applicant's conduct had a significant effect on, and thus amounts to a substantial contribution to, the commission of excludable acts, a careful examination of the applicant's place within the organizational hierarchy is necessary, as holding certain positions could be indicative of the applicant's knowledge of the crimes perpetrated by subordinates or by other parts of the hierarchy. Relevant factors include the nature of the applicant's organization or institution and the extent to which the individual was aware of, for example, the types of operations carried out by members of that organization, or of the fate of the persons arrested under his or her supervision or as a result of the gathering of intelligence information.

In certain cases, an applicant's voluntary membership in a particularly violent group or organization may justify a presumption of individual responsibility for crimes committed by the group or organization, as it may be considered that the individual concerned somehow contributed significantly to the commission of violent crimes. Caution must be exercised when considering whether such a presumption exists. Factors to be taken into account include the actual activities of such a group, its place and role in the society in which it operates, its organizational structure and the individual's position in it, the individual's ability to have a significant influence on its activities, whether the group is cohesive or fragmented and whether and how the nature of the group's violent conduct has evolved over time. Even if a presumption of individual responsibility arises, this does not mean that the person concerned is automatically excludable. The presumption is rebuttable: the applicant must be informed of the evidence/allegations on the basis of which exclusion may be decided and given the opportunity to show that he/she should not be excluded.

⁷⁷⁵ This would be the case if the applicant knew, or should have known, that his or her subordinates were committing or about to commit such crimes, and failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission, or to submit the matter to the competent authorities for investigation and punishment. See UNHCR, *Background Note on Exclusion*, at paragraph 56, see above footnote 741.

⁷⁷⁶ It is also important to note that Ba'ath Party membership was widespread as it carried with it significant benefits, including, for example, greater career opportunities, economic advantages, trips abroad, access to better facilities, and access to university education. Moreover, journalists, officers, high ranking officials, scientists, teachers, lecturers and university-staff were often compelled to join the Ba'ath Party even if they did not share its ideology. Ba'ath party membership alone is therefore not conclusive as regards the applicability of the exclusion clauses.

A plausible explanation regarding the applicant's non-involvement in, or dissociation from, any excludable acts, coupled with an absence of serious evidence to the contrary, should remove the applicant from the scope of the exclusion clauses.⁷⁷⁷

In the context of Iraq, a presumption of individual responsibility for excludable crimes may arise as a result of the person's continued and voluntary functioning in very senior positions of the former government, the Ba'ath Party or the security or military apparatus since these institutions were clearly engaged in activities that fall within the scope of Article 1F. In this context, it is also important to note that the former Iraqi Government has faced international condemnation, including from the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq,⁷⁷⁸ the Commission on Human Rights and the General Assembly, for gross and systematic human rights abuses. Where the individual has remained in very senior positions of the aforementioned institutions, exclusion may be justified, unless he or she can rebut the presumption of knowledge of and personal involvement in such abuses.

b) Grounds Negating Individual Responsibility

A complete exclusion analysis also requires an assessment of whether or not any circumstances which would negate individual responsibility arise in the applicant's case, for example because the person concerned did not have the necessary *mens rea*, or because there are circumstances which give rise to a valid defense, thus exonerating him or her from individual responsibility for his or her acts.⁷⁷⁹

In the Iraqi context, grounds for rejecting individual responsibility may also need to be considered, in particular as to whether duress/coercion, self-defence or the defence of other persons was at issue. The defence of duress would apply where the criminal acts resulted from the applicant acting necessarily and reasonably to avoid a threat of imminent death or serious bodily harm to him or herself or another person.⁷⁸⁰ Acting on orders from superiors, in the absence of the imminent harm necessary to establish duress, will normally not provide a defence to criminal responsibility.⁷⁸¹

In examining defences to criminal responsibility, it should also be noted that persons belonging to the military, security and intelligence services as well as certain professional groups whose work was of special value to the Government (e.g. medical doctors, dentists, retired professionals, government employees, university professors, journalists, members of the media, authors and employees of the Information Ministry) were not allowed to leave the country or required special authorization. Unlawful departures carried with them the

⁷⁷⁷ For further guidance on the criteria which must be met for a presumption of individual responsibility to be justified, see: UNHCHR, *Background Note on Exclusion*, at paragraphs 57-62, 105-106 and 110, see above footnote 741.

⁷⁷⁸ See UNHCHR, *Documents on Special Rapporteur of the Commission on Human Rights on the Situation of Human Rights in Iraq*, <http://www.unhchr.ch/huridocda/huridoca.nsf/FramePage/Iraq+En?OpenDocument>.

⁷⁷⁹ *Ibidem*, para. 64-75.

⁷⁸⁰ The relevant criteria are provided for in Article 31(1)(d) of the ICC Statute.

⁷⁸¹ It should be noted, however, that Article 33 of the ICC Statute provides for a defence of superior orders, in certain circumstances.

risk of detention and serious mistreatment for remaining family members. There are allegations of collective punishment against men and women, such as rape and other forms of torture, in cases where family members were wanted by the authorities but had left the country.⁷⁸² In other cases, legislation provided for severe punishment of those that refused to carry out certain acts. For example, medical doctors who refused to carry out ear amputations and tattooing of army deserters or evaders in line with RCC Decree 115 of 25 of 25 August 1994 were subject to severe punishment.⁷⁸³

c) Proportionality Considerations

If it is established that an applicant incurred individual responsibility for acts within the scope of Article 1F, the final step in the exclusion analysis consists of weighing the seriousness of the acts in question against the consequences of exclusion for the individual concerned.⁷⁸⁴

d) Consequences of Exclusion

Persons to whom an exclusion clause applies are not eligible for refugee status. They cannot benefit from international protection under the 1951 Convention, nor under UNHCR's mandate. However, they may still be protected against return to a country where they are at risk of ill-treatment by virtue of other international instruments.⁷⁸⁵

It is important to recall, however, that family members of excluded individuals are not automatically excluded as well. Their claim to refugee status needs to be examined on an individual basis, and in light of their own situation. Family members may qualify for refugee status even if their fear of persecution results from their relationship to the excluded relative. Family members are only excluded if there are serious reasons for considering that they are also individually responsible for excludable crimes. Where family members have been recognized as refugees, however, the excluded applicant cannot benefit from the right to family unity to secure protection or assistance as a refugee.⁷⁸⁶

⁷⁸² UNHCHR, Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq, *The Situation of Human Rights in Iraq*, A/65/340, 13 September 2001, p. 6-7, [http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/8e85ad0aea73e88bc1256af10051cade/\\$FILE/N0153521.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/8e85ad0aea73e88bc1256af10051cade/$FILE/N0153521.pdf) ; *ibidem*, A/55/294, 14 August 2000, p. 7, [http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/81fd25017cae76c4c125697a0045cd36/\\$FILE/N0060774.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/81fd25017cae76c4c125697a0045cd36/$FILE/N0060774.pdf).

⁷⁸³ UNHCHR, Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq, *The Situation of Human Rights in Iraq*, A/49/651, para. 53-54 and 65, 8 November 1994, <http://www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/4ca4ae2431b4edb880256708005c71fa?Opendocument>.

⁷⁸⁴ *Ibidem*, para. 76-78.

⁷⁸⁵ See UNHCR, *Guidelines on International Protection No. 5: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, HCR/GIP/03/05, 4 September 2003, para. 9, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3f5857684>, and UNHCR's *Background Note on Exclusion*, see above footnote 741, para. 21-22.

⁷⁸⁶ See UNHCR, *Background Note on Exclusion*, see above footnote 741, at paragraphs 94-95.

D. Internal Flight or Relocation Alternative

A detailed analytical framework for assessing the availability of an internal flight alternative or internal relocation alternative (IFA/IRA), is contained in UNHCR's 2003 "*Guidelines on International Protection: the "Internal Flight or Relocation Alternative" within the context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*".⁷⁸⁷

As provided in the Guidelines, in order to assess the possibility of applying an IFA/IRA, two main sets of analyses should be undertaken, namely whether internal relocation is 1) **relevant** and, if so, whether it is 2) **reasonable**. The determination of whether the proposed internal flight or relocation area is an appropriate alternative in the particular case requires an assessment over time, taking into account not only the circumstances that gave rise to the persecution feared, and that prompted flight from the original area, but also whether the proposed area provides a meaningful alternative in the future.

In the context of Iraq, UNHCR's analysis distinguishes between the situation in South and Central Iraq and the situation in the three Northern Governorates. The availability of an IFA/IRA in the latter area would also depend on whether the individual concerned is from Central and Southern Iraq or from within the three Governorates themselves.

1. IFA/IRA in Areas of Central and Southern Iraq

UNHCR considers that an internal flight or relocation alternative in Central and Southern Iraq is on the whole not available, because of the overall ability of agents of persecution to perpetrate acts of violence with impunity, the widespread violence and prevalent human rights violations giving rise to new risks of persecution, risks associated with travel, and the hardship faced in ensuring even basic survival in areas of relocation. When, however, the availability of an internal flight or relocation alternative must be assessed in a national procedure, it should be examined cautiously and in the context of the individual claim. UNHCR's Guidelines on Internal Flight/Relocation Alternative⁷⁸⁸ should be taken into account.

a) The Relevance Analysis

i. Risk of Persecution or Other Serious Harm Upon Relocation

As indicated in these Guidelines, persecution could emanate from state as well as non-state agents. Within Central and Southern Iraq, both state and non-state agents of persecution could pursue their targets throughout and state agents are known to be able to operate with impunity. In regard to non-state agents of persecution, protection by national authorities would on the whole not be available given the fact that the national authorities have limited capacities to enforce law and order, and the security agencies, namely the ISF, are

⁷⁸⁷ UNHCR, *Guidelines on International Protection No. 4: "Internal Flight or Relocation Alternative"*, see above footnote 4.

⁷⁸⁸ *Ibid.*

themselves infiltrated by radical elements. The void created by the absence of a strong central government is gradually being filled by militant groups operating from bases in different areas of Central and Southern Iraq. These groups, whether religious or ethnic, cannot be considered to be operating as effective authorities in the areas under their control, as they themselves are the targets of frequent attacks from individuals and groups in those areas. Absolute allegiance to the ideology of the group is a fundamental requirement, and in the general absence of the rule of law, arbitrariness and human rights violations are rife. The highly volatile and fluid political and security situation existing in Central and Southern Iraq renders the area subject to a great deal of significant unpredictability, with possibilities of new risks of persecution arising from a wide range of actors anywhere at anytime.

Furthermore, in the smaller towns and cities, ongoing communalism and lack of state protection has enforced the need for individuals to stay close to their kinsmen. Any newcomer, particularly when he/she does not belong to the existing sect, tribes or families, is liable to be severely discriminated against or subjected to ill-treatment so as to amount to persecution. Even those who originated from the area may be perceived as newcomers, if they left a long time ago and have lost all links with their tribal-based community.

ii. *Particular Considerations Relating to Formerly Arabized Areas*⁷⁸⁹

The increasing ethnic-religious violence in the formerly arabized areas, the highly sensitive political, ethnic and economic nature of these areas and the risk of further destabilizing the situation through significant population movements need to be considered when assessing the availability of an IFA/IRA in these Governorates.

It must be noted that the distribution of land and housing is disputed between the main ethnic factions. Any access to land granted to newcomers on an *ad hoc* basis (generally done in order to increase an ethnic population in a particular area) by authorities in certain areas is heavily contested by the other ethnic factions, and may have serious consequences for the ability of individuals to secure protection and/or durably reside there without undue hardship.

iii. *Accessibility*

Overall, travel within Central and Southern Iraq is unsafe, with both physical and legal barriers to travel to and reside in various areas.

⁷⁸⁹ See also “De-Arabization” and “Kurds, Arabs, Turkmen^{428F}, Ethnic-Based Christian Groups (Assyrians, Chaldeans, Armenians)^{429F}, Yazidis^{430F} and Shabak^{431F} in Ethnically Mixed Areas”.

Travel by Road

Road travel in Iraq, particularly in Central Iraq, remains highly dangerous.⁷⁹⁰ There has been an increase in roadside bombings in and around Baghdad, Basrah, Mosul, Kirkuk and on all main routes, including fatal attacks on both military and civilian vehicles. Attacks occur throughout the day, but travel after sunset is particularly dangerous. There are daily attacks against the MNF/ISF throughout Central and Southern Iraq. There has also been a rise in violent attacks at false checkpoints set up by insurgents and militias.⁷⁹¹ Travelling is often delayed by MNF/ISF checkpoints and convoys, which also increases the risk of being targeted by insurgents or criminals or being caught in armed clashes.

As formerly mixed areas become increasingly dominated by one sect and their armed groups,⁷⁹² travel in such areas has become highly dangerous for members of the opposite sect. There has been a rise in violent attacks at false checkpoints set up by insurgents and militias who specifically target members of the opposite sect.⁷⁹³ For example, on the road between Baghdad and Balad, Sunnis face increased risks as these areas are under the control of Shi'ite militias. Shi'ites in turn face added risks between Balad and Mosul.

⁷⁹⁰ The USDOS says that “(A)ll vehicular travel in Iraq is extremely dangerous”; see: USDOS, Bureau of Consular Affairs, *Travel Warning – Iraq*, http://travel.state.gov/travel/cis_pa_tw/tw/tw_921.html [accessed April 2007]. The UK Foreign & Commonwealth Office says that “(R)oad travel remains highly dangerous”; see United Kingdom Foreign & Commonwealth Office (FCO), *Travel Advise by Country – Iraq*, <http://www.fco.gov.uk/servlet/Servlet?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029390590&a=KCountryAdvice&aid=1013618386640> [accessed April 2007].

⁷⁹¹ For example, on 1 April 2007, unknown gunmen positioned a fake checkpoint in near the town of Hibhib in Diyala Governorate and abducted 19 civilians at gunpoint; see Aasem Taha, *Mass kidnapping on main road north of Baghdad*, *Voices of Iraq*, 2 April 2007, http://www.iraqupdates.com/p_articles.php?refid=DH-S-02-04-2007&article=16080; on 11 November 2006, Sunni gunmen reportedly ambushed a convoy of minibuses at a fake checkpoint on the highway south of Baghdad near the town of Latifiyah in the “Triangle of Death”, killing 10 Shi'ite passengers and kidnapping about 50; CBS/AP, *10 Shi'ites Killed In Iraq Bus Ambush*, 11 November 2007, <http://www.cbsnews.com/stories/2006/11/11/iraq/main2174419.shtml>; on 5 June 2006, gunmen ordered a three minibuses to stop at a fake checkpoint near the town of Qara Tappah in the Governorate of Dyala, dragging 21 persons, many of them high-school students off the buses before executing those of Shiite and Kurdish origin; see The Telegraph, *Militants execute 21 in Iraq bus attack*, 5 June 2006, <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2006/06/04/uiraq.xml&sSheet=/news/2006/06/04/ixnews.html>.

⁷⁹² See also “Affected Areas”.

⁷⁹³ For example, on 1 April 2007, unknown gunmen positioned a fake checkpoint near the town of Hibhib in Diyala Governorate and abducted 19 civilians at gunpoint; see Taha, see above footnote 791; on 11 November 2006, Sunni gunmen reportedly ambushed a convoy of minibuses at a fake checkpoint on the highway south of Baghdad near the town of Latifiyah in the “Triangle of Death”, killing 10 Shi'ite passengers and kidnapping about 50; CBS/AP, *10 Shi'ites Killed In Iraq Bus Ambush*, 11 November 2007, <http://www.cbsnews.com/stories/2006/11/11/iraq/main2174419.shtml>; on 5 June 2006, gunmen ordered three minibuses to stop at a fake checkpoint near the town of Qara Tappah in the Governorate of Dyala, dragging 21 persons, many of them high-school students off the buses before executing those of Shiite and Kurdish origin; see The Telegraph, *Militants execute 21 in Iraq bus attack*, 5 June 2006, <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2006/06/04/uiraq.xml&sSheet=/news/2006/06/04/ixnews.html>.

In addition, there is also a continuing criminal threat of car-jacking and robbery.⁷⁹⁴ According to the US Department of State,

“(t)ravel in or through Ramadi and Fallujah; in and between al-Hillah, al-Basrah, Kirkuk, and Baghdad; between the International Zone and Baghdad International Airport; and from Baghdad to Mosul is particularly dangerous.”

The fact that Iraqis continue to travel should not be taken as an indicator that traveling is safe. Rather, Iraqis travel out of necessity and avoid traveling as much as possible.

The following provides an overview of Iraq’s main roads and possible security issues.

- Baghdad Western South route

This road leads from Baghdad to the Jordanian, Syrian and Saudi borders passing through the Governorates of Al-Anbar, Babylon, Najaf, Kerbala, Qadissiyah and Al-Muthanna. This road divides into two 50 kms south of Baghdad with one road (Highway No. 10) leading further to the Jordanian and Syrian borders and the other (Highway No. 31) leading to the Saudi Arabian border crossing of ‘Ar’ar.

The first 50kms are considered very dangerous, and the road remains very risky towards the Jordanian/Syrian borders passing by Fallujah and Ramadi with armed conflict and crime being a daily occurrence. The road leading further South to the Saudi border is considerably safer, except for the route towards the town of Hilla (Triangle of Death) and south of it. In late March 2007, the town of Haswa, 50 km south of Baghdad, saw an increase in violence and the road was closed for two days. Further South, the road as such is mostly safe but security incidents are common in the cities it passes, in particular Najaf and Kerbala. Traveling after sunset is not safe. Increased security incidents also occur during Shi’ite religious festivities when Sunni insurgents target Shi’ite pilgrims on their way to the holy cities of Najaf and Kerbala.⁷⁹⁵ On the route between Nassriyah and Basrah frequent incidents of car-jacking have taken place. It was also reported that the fact that cars try to avoid approaching MNF convoys often lead to car accidents.

- Baghdad Eastern South route

This road (Highway No. 6) passes from Baghdad through the Governorates of Al-Wassit, Missan and Basrah towards the Kuwaiti border. This road is generally considered safer than the Western route although sporadic roadside bombs are being reported and car-jackings are a common occurrence.

- Baghdad Western North route

This road passes from Baghdad through the Governorates of Salah Al-Din and Ninewa (Highway No. 1) and further North to Dahuk and finally the Turkish border. The road is extremely dangerous between Baghdad and the town of Tikrit

⁷⁹⁴ FCO, *Travel Advise by Country – Iraq*, see above footnote 790; USDOS, *Travel Warning – Iraq*, see above footnote 790.

⁷⁹⁵ See, for example, Brian Murphy, *Bombers Massacre Shiite Pilgrims in Iraq*, AP, 7 March 2007, <http://abcnews.go.com/International/wireStory?id=2928921>.

with armed conflict between the MNF/ISF and the insurgency taking place (e.g. Dhuluiya, Tikrit, Samarra). The road passes through both Shiite and Sunni-controlled areas and, accordingly, persons belonging to the opposite sect face increased risks of falling victim to sectarian violence. Between Baghdad and Balad, Sunnis face increased risks as these areas are under the control of Shiite militias. Shiites in turn face added risks between Balad and Mosul. Travelling is often delayed by MNF/ISF checkpoints and convoys, which also increases the risk of being targeted by roadside bombs or armed clashes with insurgents.

Within the Region of Kurdistan, the road is guarded by the Kurdish armed forces (*Peshmerga*) and is considered safe.

- Baghdad Eastern North route

This road leads from Baghdad through the Governorates of Diyala, Kirkuk and further North to Erbil (Highway No. 2) and Sulaymaniyah (Highway No. 4). The route between Baghdad up to 35 km south of Kirkuk has been considered one of the most dangerous roads in Iraq for the last three years with sectarian violence, armed conflict and crime being prevalent. Passing through the city of Kirkuk is also considered dangerous with ethnic tensions and insurgency activities heightening in view of the planned referendum on the status of Kirkuk. The roads from Kirkuk to Erbil and Sulaymaniyah are guarded by the Kurdish *Peshmergas* and are considered safe.

Curfews exist in all areas of Central and Southern Iraq (23:00 to 06:00), and may be lengthened at short notice. In Baghdad the current curfew is from 22:00 to 05:00.

Bus stations and buses, both considered “soft targets” where large crowds gather, are frequently targeted. Such attacks usually appear motivated by sectarian differences.⁷⁹⁶

Furthermore, the general shortage of car fuel poses another obstacle to the mobility of people.

⁷⁹⁶ For example, on 27 February 2007, a bomb killed five people at a bus station in Hilla; China Daily, *Bus station bomb kills 5 as Iraqi leaders call for calm*, 27 February 2007, http://english.people.com.cn/200602/27/eng20060227_246328.html; on 6 December 2006, gunmen seized two dozen Shiites from a bus station in the predominantly Sunni town of Muqdadiyah north of Baghdad after separating them from the crowd. They killed them and dumped their bodies in a nearby village; see AP, *Iraq gunmen seize 24 people from bus station, killing 20*, 7 December 2006, http://www.usatoday.com/news/world/iraq/2006-07-12-bus-restaurant-attacks_x.htm; on 17 May 2006, gunmen opened fire with machine guns at a bus stop outside a Baghdad market, killing 23 people in an apparent sectarian attack; see Oliver Poole, *Iraqi gunmen kill 23 in bus stop attack*, The Telegraph, 18 May 2006, <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2006/05/17/wirq17.xml>; in August and December 2005, the Nahda bus station, the main terminal in Baghdad, which serves as the station for buses bound for the Kurdish north and the Shiite-dominated south, has been the scene of bombings and a suicide attack, killing scores of people; see: Jonathan Steele, *Suicide bomber kills 30 in Baghdad bus station attack*, The Guardian, 9 December 2005, <http://www.guardian.co.uk/Iraq/Story/0,2763,1663451,00.html>; Kirk Semple, *Suicide Bombing Attack on a Bus in Baghdad's Main Terminal Kills 30*, The New York Times, <http://www.nytimes.com/2005/12/08/international/middleeast/08cnd-iraq.html?ex=1291698000&en=f9dd8de381f2925c&ei=5088&partner=rssnyt&emc=rss>.

Travel by Air

For those who can afford it, airplane travel has become more readily available via the three major airports in Basra, Baghdad and Erbil. However, insurgents are targeting Baghdad International Airport, which is located 20km southwest of Baghdad and also serves as a US military base (Camp Victory).⁷⁹⁷ Civilian and military aircraft arriving to and departing from the airport have been subjected to attack by small arms and missiles.⁷⁹⁸ In addition, insecurity and lack of proper maintenance of Iraq's aircrafts often lead to cancellations and delays.⁷⁹⁹ Insurgents reportedly have also targeted Erbil Airport.⁸⁰⁰ The US Embassy (and the UN) prohibits all US government employees from departing Baghdad International Airport on commercial airlines.⁸⁰¹

The road to the airport, a 12km stretch of highway linking the airport to the International Zone has been a regular target for insurgents and was labelled the most dangerous road in Iraq. Travellers on the road face constant threats from IEDs, small arms fire and RPG attacks.⁸⁰² Incidents had lessened somewhat over the latter part of 2006. They have, however, risen again in 2007, and fatal attacks continue to take place on an almost daily basis.⁸⁰³

iv. Restrictions on Entry/Residency and/or Locations of Settlement

Furthermore, some neighbourhoods in Baghdad and the local authorities in several Governorates have imposed restrictions on the entry and residence of IDPs and/or their locations of settlement. Measures or restrictions designed to halt new entries into some Governorates/areas/cities are motivated by security, economic (limited municipal resources) saturation-related and political considerations. It is important to note that

⁷⁹⁷ On 7 March 2007, four mortar rounds crashed into the airport compound, including one which struck the main terminal; see Reuters, *Mortars strike Baghdad airport, no casualties*, 8 March 2007, <http://www.alertnet.org/thenews/newsdesk/KHA838258.htm>. On 11 March 2006, explosives were found near a Royal Jordanian Airways plane at Baghdad Airport; see FCO, *Travel Advise by Country – Iraq*, see above footnote 790.

⁷⁹⁸ FCO, *Travel Advise by Country – Iraq*, see above footnote 790; USDOS, *Travel Warning – Iraq*, see above footnote 790. See also: SITE Institute, according to which the Islamic State of Iraq issued a communiqué on 23 March 2007, claiming responsibility for launching an attack on the aircraft carrying the “Crusader” Australian Prime Minister, John Howard, during his 18 March 2007 visit; SITE Institute, *Islamic State of Iraq Claims Attack on Aircraft Carrying Australian Prime Minister, John Howard*, 23 March 2007, <http://www.siteinstitute.org/bin/articles.cgi?ID=publications265807&Category=publications&Subcategory=0>.

⁷⁹⁹ Hannah Allam, *Commercial flights provide a bird's-eye view of Iraq's problems*, McClatchy Newspapers, 15 March 2007, http://www.realcities.com/mld/krwashington/news/columnists/hannah_allam/16911111.htm?source=rss&channel=krwashington_hannah_allam.

⁸⁰⁰ FCO, *Travel Advise by Country – Iraq*, see above footnote 790; USDOS, *Travel Warning – Iraq*, see above footnote 790.

⁸⁰¹ USDOS, *Travel Warning – Iraq*, see above footnote 790.

⁸⁰² See, for example, John F. Burns, *Terror on Iraq's "Death Street"*, The New York Times, 30 May 2005, <http://www.iht.com/articles/2005/05/29/news/street.php>; Jill Carroll and Dan Murphy, *Toughest commute in Iraq? The six miles to the airport*, The Christian Science Monitor, 26 April 2005, <http://www.csmonitor.com/2005/0426/p01s03-woiq.html>.

⁸⁰³ Assessment received by UNAMI/Safety and Security Unit by e-mail on 23 May 2007.

regulations regarding entry and residency are subject to change without prior notice, such that the information provided below may no longer be current by the time of publication of these Guidelines.

Access of IDPs to the city of Fallujah in the Governorate of Al-Anbar and the Governorates of Kerbala, Basrah⁸⁰⁴ and Babylon⁸⁰⁵ is restricted to families originating from these areas, due to overcrowding of public buildings, overloading of basic services and security concerns. In the Governorate of Najaf, IDPs not originating from the city of Najaf are not allowed to settle in the city centre but must live in suburbs or outer districts. As a consequence, the Ministry of Displacement and Migration (MoDM) is no longer registering IDPs not originating from these areas. For example, there are reports that in the Governorate of Kerbala approximately 5,000 IDP families are not registered and accordingly do not have access to services (see below). Latest reports suggest that persons identified as IDPs (e.g. carrying personal belongings or furniture) are being turned away at entry checkpoints.

Registration of new IDPs in the Governorate of Kirkuk is hindered by political motives related to the upcoming referendum on the status of the Governorate later in 2007. Reportedly, the local authorities issued an order banning new IDPs from the Governorate, though it appears not to be fully enforced.

For security purposes, local authorities in the Governorates of Thi-Qar and Muthanna began in early 2007 to register IDPs only if they belonged to one of the tribes in these Governorates. IDPs are required to register with the National Security Directorate and need to have a sponsor who must be a local government employee. Only if these conditions are met will the IDP be registered by MoDM.

Failure to register may result in blocked access to basic services, including food rations, fuel and any kind of protection. Persons relocating to the aforementioned Governorates may be at risk of expulsion or face undue hardship if only allowed to reside outside the city centers with little access to services and subject to possible rejection by local communities.⁸⁰⁶

b) The Reasonableness Analysis

Overall, for the reasons set out below and as demonstrated by the difficulties faced by IDPs in Central and Southern Iraq, UNHCR considers it unreasonable to expect an individual fleeing persecution in Iraq to relocate to an area in Central and Southern Iraq. Such an individual would not be able to lead a relatively normal life without undue hardship. Lack of basic facilities and difficulties with livelihoods and survival render it extremely harsh for

⁸⁰⁴ Until recently, IDPs had to provide evidence that they originate from a mixed area and that their displacement was caused by sectarian violence.

⁸⁰⁵ In the Governorate of Babel, professionals are allowed to enter even if they do not originate from the Governorate.

⁸⁰⁶ Cluster F, Update 23 May 2007, see above footnote 22.

persons to live normal lives at even basic subsistence levels within Central and Southern Iraq.

i. Access to Food (Public Distribution System, PDS)

The majority of families in Iraq are dependent on the Public Distribution System (PDS) to meet their basic food needs. A lack of documentation is a key obstacle to obtaining the food ration. In principle, IDPs can transfer their food ration cards to their place of relocation. However, in practice this has not taken place in many areas for security reasons or political/demographic concerns.⁸⁰⁷ Persons not able to register with the authorities in their place of displacement (see above restrictions on entry) are not able to transfer their ration cards, and accordingly do not have access to the commodities under this programme.

In addition, security and sectarianism regularly hinder access, transportation and distribution of the PDS, resulting in delays in delivery and distribution and shortfalls in both the quality and quantity of items in the basket. Many food items do not reach either the main or local warehouses. Food agents and drivers can fail to gain access to warehouses and/or the recipient communities, and discrimination in the service delivery of the PDS is also an issue in mixed areas.

ii. Access to Shelter

Housing is an urgent priority for the majority of IDPs in all governorates. Although many are living with host families (relatives or friends), inadequate infrastructure-related services, including access to sanitation, potable water and electricity, pose additional health risks to many IDPs, who are also faced with the additional crisis of overcrowding. This is particularly true in Central and Southern Iraq. The inability of many IDPs to contribute to household expenses increases this problem. A significant number of IDP families are also living in public buildings in unsanitary, overcrowded conditions with limited access to electricity. A smaller number are living in collective towns and several hundreds in tented camps.⁸⁰⁸

Whilst significant numbers of IDPs have been able to rent housing in recent months, lack of employment opportunities and depleting financial resources make it difficult for these families to continue rental payments. Some IDPs residing in public buildings live with the threat of eviction.

⁸⁰⁷ IDPs are supposed to return to their place of origin in order to file a request to transfer the food ration cards. This also involves a financial burden. Given that the food ration cards serve as the basis for voter registration for Iraqi elections and referenda, they have acquired political significance. As a consequence, IDPs cannot transfer their food ration cards to the Governorate of Kirkuk, whose demographics are highly disputed. On the other hand, some towns are reportedly reluctant to allow families to take their ration cards when they move, as they do not wish to decrease their political weight; see Kristèle Younès, *The world's fastest growing refugee crisis*, Refugees International, March 2007, p. 5, http://www.refugeesinternational.org/files/9915_file_RI_Iraqreport.pdf.

⁸⁰⁸ Cluster F, Update 23 May 2007, see above footnote 22.

It has been reported that new IDPs, as well as armed groups, are occupying properties left by residents forced to flee, especially in Baghdad. Under the new Baghdad Security Plan (*Operation Imposing Law*), those illegally occupying properties have to leave within two weeks or face eviction and arrest. However, at the time of writing, this order has not been implemented.⁸⁰⁹

iii. Access to Basic Services (Water, Sanitation, Health)

Potable water, sufficient sanitation and health services are pressing needs for IDPs, particularly in villages and rural areas. The additional pressure placed on basic services by new IDP arrivals has resulted in serious deficiencies. The presence of IDPs in any community places an added burden on already weak and strained water and sanitation networks and health services.

Many IDP families are unable to afford the cost of potable tankered water, used increasingly to supplement the shortfalls in the national pipelines. In many parts of the country, IDPs rely instead on unclean sources such as rivers and broken pipes, increasing their exposure to waterborne diseases and other health risks. UNAMI has reported that some 70 percent of the population lack access to potable water and 81 percent lack access to effective sanitation.

Poor diet, overcrowded living conditions and limited access to potable water and sanitation facilities exacerbate the spread of communicable diseases and increase health risks. IDPs face limited access to health care, either because existing services are overstretched by large concentrations of IDPs or because of settlement away from urban areas where facilities either do not exist or are too far to access. Severe shortages in medical equipment, supplies and manpower, and inadequate infrastructure as a result of sustained conflict have weakened Iraq's public health care system, disproportionately affecting IDP families, who can hardly afford alternative private treatment or the escalating cost of medicines.

iv. Access to Income and Employment

Income sources in Iraq are almost exclusively linked to wages or self-employment revenues. The employment situation in the country is extremely precarious. After leaving their homes, most IDPs are not able to secure work in their area of displacement. Many are unable to bring their possessions with them at the time of displacement and their savings are rapidly depleted. While during the first few months after the Samarra bombings, some IDPs were able to transfer their government positions or their retirement benefits to their governorate of displacement, they now face increasing difficulties and delays in doing so.

⁸⁰⁹ Anne Garrels, *Baghdad Squatters Face Deadline to Leave*, NPR, 20 February 2007, <http://www.npr.org/templates/story/story.php?storyId=7492225>; IRIN, *Iraq: New security plan could make more homeless*, 15 February 2007, <http://www.irinnews.org/Report.aspx?ReportId=70208>; Marc Santora, *Iraqi government announces a sweeping security campaign*, International Herald Tribune, 13 February 2007, <http://www.iht.com/articles/2007/02/13/news/iraq.php>.

The Governorates with the highest presence of new IDPs (Al-Anbar, Baghdad, Diyala, Salah Al-Din, Babylon, Kerbala, Missan and Najaf) feature an average unemployment rate which is typically much higher than the national average. UNAMI estimates that the national unemployment rate is some 50 percent rising to 70 percent in the worst affected provinces, such as Al-Anbar. It is important to note that the pace and scale of displacement is causing increasing distress to already unstable labour markets. Both the displaced and host communities are affected by both shortages in job opportunities and the likelihood of reduced wages as a result of the local labour surplus. Heightened employment shortages and inflationary pressures linked to IDPs' concentration may result in tensions between IDPs and their host communities.

v. Access to Education

Access to education for IDP children is increasingly problematic. Overcrowded schools with a shortage of equipment, school supplies and teachers are unable to support additional students. In some cases, IDP children are denied registration. Poor maintenance, unreachable roads and a lack of bus transportation also limit access to education. Some schools have been closed because of occupation by military groups and the MNF, or, due to security concerns, are temporarily closed or have schedules disrupted.

c) Conclusion

In light of the overall situation in Central and Southern Iraq, UNHCR considers that on the whole an internal flight or relocation alternative would not be relevant or reasonable, given, in particular, the existence of widespread violence and prevalent human rights violations, the physical risks and legal barriers encountered in reaching other areas, as well as the serious difficulties faced in accessing basic services and ensuring economic survival in a situation of displacement.

2. IFA/IRA in the Three Northern Governorates of Sulaymaniyah, Erbil and Dahuk

a) Overall Situation

The security situation in the three Northern Governorates has been less precarious than in Central and Southern Iraq. Since the end of the PUK-KDP fighting in 1997, the security situation has stabilized and local authorities have committed themselves to increasing security against external and internal threats. However, the security situation remains tense and unpredictable for the following, primarily political, reasons:

- a. There is anticipation that the conflict prevailing in the other parts of the country, in particular in the Governorates of Kirkuk and Ninewa, might spill over to the three Northern Governorates;
- b. Despite the recent unification of the two KRG administrations, the exercise of joint control still needs to be demonstrated on the crucial portfolios of Peshmerga Affairs,

Interior and Finance. While the Ministry of Extra Regional Affairs has been nominated as the Ministry responsible for displacement issues, it is a new Ministry and will take time before it can effectively carry out its responsibilities;

c. Apparent Kurdish ambitions to expand their areas of control, in particular in the Governorates of Kirkuk and Ninewa, are being met with concern from Arab and Turkmen communities, as well as Turkey and Iran;

d. Tensions are expected to rise in view of a popular referendum on the status of Kirkuk and other disputed areas slated for 2007;⁸¹⁰

e. The reported presence of some 5,000 PKK and 1,000 PJAK fighters in Northern Iraq is a cause for concern. A number of attacks inside Turkey allegedly perpetrated by PKK fighters operating from Northern Iraq prompted Turkey to threaten Iraq with military retaliation. Both Turkey and Iran continue to have troops on the border and carried out operations against Kurdish fighters along the Iraqi border last year.⁸¹¹ The Iraqi Government's repeated promise to close down all PKK offices in the country has yet to fully materialize;⁸¹²

f. Radical Islamic elements, offshoots from *Ansar Al-Islam* (an indigenous Kurdish Islamist Movement) which during the 2003 US-led invasion was attacked by Coalition and Kurdish forces for reportedly providing a safe haven to major terrorist groups, have regrouped, mainly near the Iraqi-Iranian border. They are held responsible for (suicide) attacks in the Kurdistan Region, primarily against senior PUK/KDP political and military officials;⁸¹³

⁸¹⁰ See also "De-Arabization".

⁸¹¹ AP, *Iraq warns Turkey against cross-border operation*, 21 February 2007, <http://www.metimes.com/storyview.php?StoryID=20070221-115132-9033r>; Vincent Boland and Guy Dinmore, *Turkey weighs cross-border attack on PKK separatists*, The Financial Times, 1 February 2007, <http://www.ft.com/cms/s/8b5425fab199-11db-b901-0000779e2340.html>; Reuters Alertnet, *Turk PM asserts right to intervene in Iraq, raps US*, 12 January 2007, <http://www.alertnet.org/thenews/newsdesk/L12896544.htm>; The Christian Science Monitor, *Turkey sharpens response to upsurge in Kurd violence*, 29 August 2006, <http://www.csmonitor.com/2006/0829/p10s01-woeu.html>; see also The Guardian, *Kurds flee homes as Iran shells Iraq's northern frontier*, 18 August 2006, <http://www.guardian.co.uk/Iraq/Story/0,,1852843,00.html>; Oxford Analytica, *Tensions mount at Iraq-Turkey border*, 25 July 2006, http://www.hillnews.com/thehill/export/TheHill/Comment/OpEd/072506_oxford.html; RFE/RL, *Iraq: Turkey Threatens Military Incursion*, 21 July 2006, <http://www.rferl.org/featuresarticle/2006/07/04C77744-2F65-4989-B6DE-D00564FD5DB8.html>; IRIN, *Iraq: Officials warn of displacement following attacks*, 28 May 2006, <http://www.irinnews.org/report.aspx?reportid=26911>; *ibidem*, *Iraq: Kurdish families flee as Iran shells rebel positions*, 2 May 2006, <http://www.irinnews.org/report.aspx?reportid=26335>.

⁸¹² UPI, *Iraq Promises Crackdown On PKK*, 18 November 2006, <http://www.washingtontimes.com/upi/20061118-014937-3262r.htm>; CNN, *Iraq to close offices of Kurdish separatist group*, 19 September 2006, <http://www.cnn.com/2006/WORLD/meast/09/19/iraq.main/index.html>.

⁸¹³ UNHCR, *2006 Return Advisory*, p. 6, see above footnote 7.

g. Growing dissatisfaction with alleged corruption, restrictions on the freedom of the press and the lack of public services generate regular demonstrations and public unrest across the KRG-administered area;⁸¹⁴

h. Despite the KRG authorities' commitment to respect human rights in their areas, serious violations of human rights continue to take place with specific groups being targeted. Journalists and media organizations have repeatedly claimed that press freedom is restricted and that criticism of the ruling parties can lead to physical harassment, arrest and imprisonment on fabricated charges.⁸¹⁵ In 2005 and 2006, street protests due to lack of public services were at times violently suppressed, with large numbers killed, wounded or arrested.⁸¹⁶ Furthermore, those perceived to be sympathetic to Islamist groups may be at risk of arbitrary arrest and detention. In unofficial detention centres run by the political parties' security and intelligence apparatus, detainees are held incommunicado and without judicial review of their detention for prolonged periods of time. The use of torture and other forms of ill-treatment have also been reported.⁸¹⁷

In view of the ongoing power struggle, the Kurdish authorities aim to keep the area "Kurdish" and are in principle reluctant to accept any increase of non-Kurdish populations. Therefore, and for security-related reasons, the KRG authorities are implementing strict controls on the presence of non-Kurdish persons. Depending on the applicant, especially his or her ethnic and political profile, he/she may not be allowed to relocate to the three Northern Governorates for security, political or demographic reasons. While certain factors seem to lead clearly to denial of admission (e.g. former Ba'ath Party membership or a criminal record), at times it is difficult to establish clear criteria to predict who will be admitted or rejected.

Since the escalation of sectarian violence and consequent widespread displacement after the Samarra bombing on 22 February 2006, scores of Iraqis, mainly Kurds and Christians originating from the Region of Kurdistan, and, to a lesser extent, Arab Shi'ites and Sunnis as well as Turkmen, have sought refuge in the relatively safe three Northern Governorates.⁸¹⁸ International and national media have quite extensively covered this trend

⁸¹⁴ See, for example, Ivan Watson, *Kurdish Area Attracts Arabs — and Trouble*, NPR, 23 January 2007, <http://www.npr.org/templates/story/story.php?storyId=6963948>; RFE/RL, *Iraq: Kurds Call For More Government Accountability*, 9 August 2006, <http://www.rferl.org/featuresarticle/2006/08/b502064d-63c7-484b-adcf-91b92c3d0d07.html>; IWPR, *Kurds Protest Energy Shortages*, Iraq Crisis Report No. 184, 7 July 2006, http://www.iwpr.net/?p=icr&s=f&o=322133&apc_state=henh; IRIN, *Iraq: Kurdish authorities vow to upgrade services after protests*, 19 March 2006, <http://www.irinnews.org/report.aspx?reportid=26206>.

⁸¹⁵ See "Situation in the Region of Kurdistan".

⁸¹⁶ See "Persons Opposing the Ruling Parties".

⁸¹⁷ See "(Perceived) Members of Islamist Armed Groups".

⁸¹⁸ According to the KRG authorities, over 140,000 IDPs fled to the Region of Kurdistan by 10 May 2007. 9,175 IDP families (approximately 55,050 persons) entered Dahuk Governorate, which received the largest number of newly displaced among the three Northern Governorates. The large majority of IDPs in Dahuk Governorate are Kurds, around 10% are Christians and only about 5% are Arabs and Turkmen. Most Kurdish and Christian IDP families fled to Dahuk because of their links to that Governorate. In the Governorate of Erbil, 5,070 IDP families (approximately 30,420 persons) have sought refuge. They are composed of Arabs, Kurds and Christians. The Kurdish IDPs usually have links to the Governorate of Erbil, while most Christians and Arabs do not. In Sulaymaniyah Governorate, 9,643 families (approximately 57,858 persons) that arrived since the Samarra bombing were registered. They mostly reside in Sulaymaniyah town and in Kalar District.

and generally describe the three Northern Governorates as a “safe haven” for Iraqis of various religious and ethnic backgrounds.⁸¹⁹

On the one hand, the KRG authorities have admitted a considerable number of IDPs, provided limited financial/material assistance to some groups of new IDPs,⁸²⁰ assisted in securing new jobs and housing for some and established schools teaching in Arabic, though hardly sufficient to absorb increasing numbers of IDPs. Also, Kurdish officials seized the chance to strengthen their workforce, be it labourers in the booming construction sector, much needed doctors and dentists in the health sector,⁸²¹ academics in Kurdish universities or civil servants in the KRG ministries.⁸²² On the other hand, however, a significant number of IDPs face difficulties or may be prevented from finding protection in the three Northern Governorates, be it that they would not be admitted, may not be able to legalize their stay, fear continued persecution or face undue hardship to make their living, as unemployment is high and assistance is provided to few. Furthermore, the influx has squeezed already strained public services (in particular the provision of water, fuel and electricity), the lack of which has been the cause for demonstrations and public unrest across the Governorates of Erbil and Sulaymaniyah in 2005 and 2006.⁸²³ The prevailing housing crisis has been further exacerbated and rents are increasing.⁸²⁴ The local authorities

The majority of families are Arabs (both Shi'ite and Sunni), Kurds (with links to the Governorate), Christians (mainly Chaldeans originating from the Governorate as well as some Christians from Baghdad and Basrah) and some Turkmen. See: Cluster F, Update 23 May 2007, see above footnote 22.

⁸¹⁹ See, for example, Omar Sinan, *Iraqi Arabs seek sanctuary in Kurdish north*, AP, 7 February 2007, <http://news.lp.findlaw.com/ap/o/51/02-07-2007/0669002c4b47f08f.html>; Mohammed A. Salih, *Students, Professors Flee to the Kurdish North*, IPS, 26 January 2007, <http://ipsnews.net/news.asp?idnews=36329>; Senanayake, *Iraq: Growing Numbers Flee Sectarian Violence*, see above footnote 196; Shamal Aqrabi, *Christians, Muslims flee Baghdad for Kurdistan*, Reuters, 23 January 2007, http://www.iraqupdates.com/p_articles.php/article/13779. See also: IWPR, *Kurdistan Bolstered by Influx of Arab Academics*, Iraqi Crisis Report No. 209, 19 January 2007, http://iwpr.net/?p=icr&s=f&o=328622&apc_state=henh; *ibidem*, *Iraqi Kurdistan safe haven for fleeing Arabs*, Iraqi Crisis Report No. 198, 13 October 2006, http://iwpr.net/?p=icr&s=f&o=324561&apc_state=henpicr; The Economist, *From killing zone to safe haven*, 10 August 2006, http://www.economist.com/world/africa/displaystory.cfm?story_id=7281204.

⁸²⁰ Christian IDPs in the Governorates of Erbil and Dahuk, who originate from the Kurdistan Region, currently receive a monthly allowance by the Ministry of Finance headed by Sarkis Aghajan (US \$65 in the Governorate of Dahuk, US \$100 in the Governorate of Erbil).

⁸²¹ According to Sulaymaniyah Director General of Health, Dr. Sherko Abdullah, 150 doctors from central and southern parts of Iraq have come to Sulaymaniyah Governorate since 2003. The local authorities provide the doctors with rental assistance (US \$200/month) and help them set up their own clinics or find a job public hospitals and health centres, see Hawlati, *Arab Doctors Head for Kurdistan*, published and translated by Iraqi Press Monitor, No. 563, 8 November 2006, http://iwpr.net/?apc_state=henmicr&o=c-1-1162944000-2-1163030400-3-icr&o1=month-11_year-2006&month=11&year=2006.

⁸²² IWPR, *Iraqi Kurdistan safe haven for fleeing Arabs*, see above footnote 819; The Economist, *From killing zone to safe haven*, 10 August 2006, http://www.economist.com/world/africa/displaystory.cfm?story_id=7281204.

⁸²³ See, for example, RFE/RL, *Iraq: Kurds Call For More Government Accountability*, 9 August 2006, <http://www.rferl.org/featuresarticle/2006/08/b502064d-63c7-484b-adcf-91b92c3d0d07.html>; IWPR, *Kurds Protest Energy Shortages*, Iraq Crisis Report No. 184, 7 July 2006, http://www.iwpr.net/?p=icr&s=f&o=322133&apc_state=henh; IRIN, *Iraq: Kurdish authorities vow to upgrade services after protests*, 19 March 2006, <http://www.irinnews.org/report.aspx?reportid=26206>.

⁸²⁴ A two-room apartment in Ainkawa, a town near Erbil, where many Christian IDPs have settled, currently costs at least US \$ 500 a month, with more spacious properties costing double; see AFP, *Iraq Christians Flee Baghdad for Peace and Hardship in the North*, 26 June 2006, http://www.iraqupdates.com/p_articles.php/

have plans to establish camps to deal with the large numbers of IDPs.⁸²⁵ The local community appears divided over the influx and some express fear of the spread of insecurity, renewed *Arabization*, further degeneration of public services, skyrocketing prices, and the spread of such social phenomena as begging, prostitution and HIV/AIDS.⁸²⁶

Therefore, despite the hospitable attitude of the KRG authorities towards some IDPs, the availability of an IFA/IRA must be carefully assessed on a case-by-case basis, taking into consideration the following:

b) The Relevance Analysis

i. Accessibility

The three Northern Governorates of Sulaymaniyah, Erbil and Dahuk are not easily accessible, as travel by road in Iraq is highly dangerous. The road leading from Baghdad to Dahuk passes through the Governorates of Salah Al-Din and Ninewa (Highway No. 1). The route between Baghdad and the town of Tikrit is a scene of armed conflict between the MNF/ISF and the insurgency (e.g. Dhuluiya, Tikrit, and Samarra). In addition, the road passes through both Shi'ite and Sunni-controlled areas. Accordingly, persons belonging to the opposite sect face increased risks of falling victim to sectarian violence. The other major route to the North leads from Baghdad through the Governorates of Diyala, Kirkuk and further to Erbil (Highway No. 2) and Sulaymaniyah (Highway No. 4). The route between Baghdad up to 35 km south of Kirkuk has been considered the most dangerous road in Iraq for the last three years, with sectarian violence, armed conflict and crime prevalent. Passing through the city of Kirkuk is also considered dangerous, as ethnic tensions and insurgency activities have heightened in anticipation of the planned referendum on the status of Kirkuk.⁸²⁷ The roads from Mosul to Dahuk and Kirkuk to Erbil and Sulaymaniyah, respectively, are guarded by the Kurdish *Peshmegas* and are considered safe.⁸²⁸

[article/8923](#). According to information received by UNHCR, an employee's average salary ranges between US \$200-500.

⁸²⁵ A tented camp to initially host 2,000 IDP families is planned for Shalalat in the Governorate of Ninewa, 5km North-East of Mosul City and South of Sheikhan (therefore located outside the Region of Kurdistan). The camp's security and administration would be the responsibility of the local authorities of Dahuk Governorate. Also, the authorities in Sulaymaniyah Governorate have brought up the idea of establishing camps for new IDPs; so far there are no concrete steps given the reluctance expressed by UNHCR and ICRC.

⁸²⁶ IWPR, *Iraqi Kurdistan safe haven for fleeing Arabs*, see above footnote 819. Hawler Post newspaper reported on 6 September 2006 that the Kurdistan Institute for Political Issues conducted a poll between 26 August and 3 September 2006 involving 900 persons from Erbil, Sulaymaniyah and Dahuk on the issue of the Arabs relocating in the Kurdistan Region due to instability in their areas: the results showed that 79% were against allowing Arabs to come to the Region of Kurdistan, 63% were against their settlement in the Region and said it will have a bad impact on the security situation. Only 13% believed that it was good to let them settle in the Region of Kurdistan.

⁸²⁷ See "De-Arabization".

⁸²⁸ See also above "Travel by Road".

In order to access the three Northern Governorates from other parts of Iraq, all Iraqis, including Kurds, must go through checkpoints at the unofficial borders (the so-called “green line”) between Central Iraq and the KRG-administered area. Other areas along the unofficial border have been heavily mined in the past decade and are regularly patrolled by Kurdish *Peshmerga*. Such conditions make it nearly impossible for persons to cross into the three Northern Governorates through the countryside without endangering themselves. Therefore, entry through the few major roads and their checkpoints is, practically, the only option available.

There are regular flights by Iraqi Airways between Baghdad and Sulaymaniyah and Baghdad and Erbil. A one-way ticket costs US \$95 (to Erbil) and US \$60 (to Sulaymaniyah), an amount that cannot be borne by many for economic reasons. In addition, the Baghdad airport road is not considered safe.⁸²⁹

ii. *Entry Measures*⁸³⁰

The Kurdish parties have introduced strict security measures at their checkpoints and persons not originating from the Region of Kurdistan, depending on their profile, may be denied entry into the Region of Kurdistan. Despite the unification of the administrations in the Region of Kurdistan, the three Governorates of Sulaymaniyah, Erbil and Dahuk continue to apply their independent entry and residency measures.

Governorate of Sulaymaniyah

In the Governorate of Sulaymaniyah, admission into the Governorate is generally not restricted and does not require a sponsor.⁸³¹ However, persons from *arabized* areas claimed by the PUK, i.e. Kirkuk and Khanaqeen in the Governorate of Diyala, are generally denied entry to the Governorate for political and demographic reasons, unless they only wish to come for a visit.⁸³² In that case, they are allowed entry but are not able to bring their belongings or a large amount of luggage with them.

Persons arriving in Sulaymaniyah by airplane do not face any entry restrictions.

⁸²⁹ See above “Travel by Air”.

⁸³⁰ This Chapter is largely based on information obtained from UNAMI, UNHCR staff (checked with local authorities) and UNHCR’s implementing partners.

⁸³¹ There are special procedures applicable to persons wishing to relocate to the District of Kalar. An IDP first has to approach the security office in person and submit a petition requesting permission to relocate. The applicant needs a Kurdish sponsor who resides in Kalar. The sponsorship letter needs to be ratified by the Notary Public Office in Kalar. Only after these conditions have been met will the security officer provide the permission to relocate and to bring family members and belongings. Any applicant without a sponsor from Kalar will be denied permission to relocate. Once the IDP has moved to Kalar and rented a house, a letter from the *Mukhtar* (neighbourhood representative) needs to be submitted to the security office to confirm the IDPs’ address in Kalar.

⁸³² While Kurds are not permitted entry in order to maintain a Kurdish presence in these formerly *arabized* areas, Arabs, Turkmen, Yazidis and members of other religious or ethnic groups from disputed areas are denied entry as the authorities do not want to be confronted with the accusation of changing the demographics by relocating non-Kurds from these areas.

Governorate of Erbil

In the Governorate of Erbil, non-Kurds need to have a sponsor,⁸³³ which may prove difficult for persons not originating from the Governorate. Those Christian and Arab IDPs that manage to have a sponsor usually have previous links to the Governorate, e.g. family or business relations, or manage to find a sponsor based on their economic or professional profile (they may find a company to sponsor them, due to their profession, otherwise be encouraged to work in the Governorate, e.g. doctors or engineers). The sponsor has to present him/herself at the entry checkpoint and provide his or her ID card, phone number and address. The IDP has to fill out a card at the entry checkpoint and will be allowed to enter the Region. Persons that do not have a sponsor will be denied entry into the Governorate.

Governorate of Dahuk

In the Governorate of Dahuk, families are allowed to enter without a sponsor, while single men not originating from the Kurdistan Region continue to need a sponsor for security reasons.⁸³⁴ The sponsor has to present him/herself at the entry checkpoint and provide his or her ID card, phone number and address. The IDP has to fill out a card at the entry checkpoint and will be allowed to enter the Region. Single males without a sponsor will generally be denied entry to the Governorate, though it appears that the authorities exceptionally grant entry to IDPs without a sponsor, provided that 1) the person's background can be thoroughly checked by the KDP, if the party has an office in the person's place of origin (e.g. in Kirkuk, Ninewa), and it is determined that he does not pose a security risk and 2) the person can establish that he fled violence or persecution.⁸³⁵ Otherwise, the person will not be admitted to the Governorate of Dahuk.

iii. Residency

Every person who does not originate from the Region of Kurdistan and is allowed to enter will have to apply for a quasi residence permit in order to legalize his/her stay. The provision of a quasi residency permit depends mainly on security concerns. Generally, persons suspected of links to the insurgency, or the former regime, or who have a criminal record, will not be able to obtain residency. Again, the procedures vary from Governorate to Governorate.

⁸³³ The sponsor could either be an individual person or a company. The responsibility of the sponsor is to inform authorities that he/she knows the IDP and, in case of security-related incidents, the sponsor will be questioned. The sponsor should have his/her food ration card issued in the Governorate of Erbil and have a good reputation.

⁸³⁴ The sponsor could either be an individual person or a company. The responsibility of the sponsor is to inform authorities that he/she knows the IDP and, in case of security-related incidents, the sponsor will be questioned. The sponsor should have his/her food ration card issued in the Governorate of Dahuk and have a good reputation.

⁸³⁵ It is the discretion of the authorities to decide whether this threshold is reached, and this may vary in the various Governorates.

Governorate of Sulaymaniyah

Persons not originating from the Region of Kurdistan must have a sponsor⁸³⁶ who should accompany the person/family to the Residency Section in the Security Department. Doctors, owners of companies/restaurants and university teachers are currently exempted from the sponsorship requirement. IDPs with a sponsor are requested to fill out an information card upon arrival with the following information:

- Place of residence;
- Name of sponsor;
- Personal data (name, age, etc.).

He/she will have to undergo a security screening in which the reasons for relocation are investigated. Provided the person is not considered a security risk, he/she will be granted a quasi residency permit for 3-6 months, which is subject to extension.

Persons who do not have a sponsor are denied a quasi residency permit and are requested to leave the Governorate or are otherwise forcibly removed.⁸³⁷ Persons originating from Kirkuk or Khanaqeen, including Kurds, Arabs, Turkmen and members of other ethnic or religious groups, are not able to obtain a quasi residency permit for demographic and political reasons.

Governorate of Erbil

Persons not originating from the Region of Kurdistan need to have a sponsor, who should accompany the person/family to the Residency Section in the Security Department. Persons without a sponsor will not be able to obtain a quasi residency permit. The IDPs are requested to fill out an information card upon arrival with the following information:

- Place of residence;
- Name of sponsor;
- Personal data (name, age, etc.).

He/she will have to undergo a security screening investigating the reasons for relocation. Applicants for a quasi residence permit must establish either political links to the region or that they have fled violence or persecution; otherwise applications for a quasi residence

⁸³⁶ The sponsor could be an individual person or a company. The responsibility of the sponsor is to inform authorities that he/she knows the IDP and, in case of security-related incidents, the sponsor will be questioned. The sponsor should have his/her food ration card issued in the Governorate of Sulaymaniyah and have a good reputation.

⁸³⁷ Awene website / Sulaymaniyah, No. 46, 28 November 2006 (in Sorani Kurdish), reported that 42 Iraqi Arabs, who were working in Bazyan Cement Factory, were detained on 26 November 2006 by Chamchamal Security Forces in order to be returned to their places of origin outside the Region of Kurdistan given that they had entered the Governorate of Sulaymaniyah without sponsorship and without registering with the security forces. The head of the Chamchamal Security Directorate, Muqadam Ahmad Nadr, told Awene that the arrested people had come to Chamchamal (sub-District in Sulaymaniyah Governorate) without the knowledge of the security forces, adding that “*any Arab residing in Chamchamal need[s] to report their presence to the authorities.*”

permit will be denied due to the serious lack of shelter in the Governorate. Persons who are not able to legalize their stay are not permitted to remain in the Governorate.⁸³⁸

Governorate of Dahuk

IDPs not originating from the Kurdistan Region have to approach the Residency Section in the Security Department to obtain a residency paper. Single men not originating from the Kurdistan Region generally need to have a sponsor in order to legalize their stay. On an exceptional basis, and provided that 1) the person's background can be thoroughly checked and it is determined that he does not pose a security risk; and, 2) the person can establish that he fled violence or persecution, a quasi residency permit might be given. Otherwise, the person will not be able to remain in the Governorate of Dahuk and will be removed.

IDPs applying for a residency paper are requested to fill in an information card upon arrival with the following information:

- Place of residence;
- Name of sponsor, in case of single men;
- Personal data (name, age, etc.).

He/she will have to undergo a security screening in which the reasons for relocation are investigated. In Dahuk Governorate, applicants for a quasi residence permit need to either establish political links to the region or provide evidence that they have fled violence or persecution; otherwise applications for a quasi residence permit will be denied due to the serious lack of shelter in the Governorate.

iv. General Rules

In all three Governorates, the quasi residency permit is valid for three to six months and is subject to extension. Once an IDP has obtained a quasi residency permit, he/she remains under surveillance. Persons who are considered a threat to security or who have committed a crime will not have their quasi residency permit renewed or may have it withdrawn and be obliged to leave the Governorate.

Persons relocating to the three Northern Governorates need to legalize their stay with the local authorities, regardless of the length of stay or the purpose of visit (tourism, business, family visit, relocation to escape violence or persecution). Even if the person stays only for a short period of time, he/she nevertheless must register with the security. Renting an apartment or staying at a hotel require a quasi residency permit. Accordingly, persons who do not register with the authorities or are denied a quasi residency permit will not be able to rent an apartment or to check into a hotel. It is worth noting that hotels are instructed to register their clients on the basis of their ID card and are obliged to share such information with the security. If the person intends to change his/her location, the authorities must be informed as well.

⁸³⁸ UNHCR is not aware if persons have actually been removed from the Governorate.

v. *Risk of Persecution or Other Serious Harm Upon Relocation*

A person from Central or Southern Iraq may be out of reach of his or her persecutors if relocated to the three Northern Governorates, as the state protection of the Kurdish authorities may come into play. Protection by the KRG authorities will, however, only be provided if the person is both admitted to the Region of Kurdistan and if the Kurdish authorities are able and willing to provide protection in the given case concerned.

Despite the existence of police/security structures in the three Northern Governorates, of which an individual could conceivably avail him/herself in order to seek state protection, as well as the fact that the KRG authorities are to some extent able and willing to provide such protection, people in the three Northern Governorates depend mainly on their family, community or tribal links for protection. Persons not originating from the North will, therefore, only be able to rely on the protection of the authorities. Depending on the cause of persecution, the authorities may not be willing or able to provide protection.

This is particularly the case for members of the former Ba'ath Party, Government or security apparatus, since the KRG authorities would not be willing to provide protection to persons thought to have supported the former regime, which was responsible for egregious crimes against the Kurdish people.

There is also a strong likelihood that a high-profile person (e.g. a political leader, academic, judge, etc.) could still be at risk of persecution by non-state actors if relocated to the three Northern Governorates. The KRG authorities are not always able to protect individuals in their territory from such attacks.

Women at risk of "honour killing", as well as persons fleeing tribal conflict (blood feuds) may also still be reached by their persecutors if relocated within Iraq.

c) *The Reasonableness Analysis*

Persons legally residing in the three Northern Governorates in principal have access to food rations through the PDS, education, health and employment. Also, IDPs are allowed to rent apartments or houses, but are, except for Kurds, not entitled to own immovable property. However, for a number of reasons, access to these services is not always guaranteed. For example, IDPs often face bureaucratic hurdles and delays of several months in obtaining their food rations in the place of displacement, meaning that they may be without food for several months.

In addition, it must be noted that there are at least 770,000 IDPs in the three Northern Governorates.⁸³⁹ Accordingly, services such as education, health, electricity, fuel and water are under tremendous pressure. All Governorates lack drugs and medical equipment and have difficulties absorbing increasing numbers of school children. All three Governorates

⁸³⁹ See: Cluster F, Update 23 May 2007, see above footnote 22. This figure includes both persons displaced as result of sectarian violence and ongoing military operations since 2006 (143,000 persons) as well as persons displaced prior to 2006 (634,000 persons).

have reported a shortage of Arabic-speaking teaching staff and school facilities. High rents are exhausting the resources of displaced families, and reportedly some families had to return to their places of origin because they could no longer afford the high living costs.⁸⁴⁰ Unemployment is soaring and many young Kurds leave the Region for economic reasons.⁸⁴¹

IDPs originating from the three Northern Governorates usually do not face difficulties accessing public services at par with the general population. However, Kurds originating from “disputed areas”, i.e. Mosul, Kirkuk and Khanaqeen, are discouraged from relocation by additional restrictions imposed by the authorities in an attempt to maintain a “Kurdish presence” in these areas for political and demographic reasons. For example, Kurdish IDPs from Mosul are not able to transfer their food ration cards to Dahuk Governorate unless they can establish that they have fled violence or persecution. This process can prove lengthy and they may face several months without access to their food rations. IDPs from Kirkuk and Khanaqeen are not able to obtain their food rations in the Governorate of Sulaymaniyah, thereby seriously affecting their ability to provide for their daily living, given that the majority of Iraqis depend on the PDS.

IDPs who do not register with the local authorities, or are not granted a quasi residency permit, do not have access to PDS, employment and housing (all three Governorates) and are not entitled to access the public education and health systems (Governorates of Sulaymaniyah and Dahuk).

Access to public services and employment may also prove difficult for persons with no family, tribal or political connections in the Region. This is particularly true for women, as for cultural reasons they need their family/tribe to support them economically.

Another factor is whether the claimant has family, community and/or political links in the proposed area of relocation that could facilitate his/her economic survival and integration. If a person previously resided in the three Northern Governorates for a considerable length of time without protection problems, he or she would, in general, be deemed integrated into the local community and could be expected to relocate to that area. However, this is not applicable for persons from “disputed areas” as they are generally discouraged or even prevented by the local authorities from returning to the Region of Kurdistan, even if they had previously resided there.

While the larger cities in the Region of Kurdistan generally have a mixed population that allows persons of other ethnic, religious or tribal affiliation to integrate, relocation to more rural or homogenous areas is more difficult, as the person might be exposed to a serious risk of rejection by the community, which could result in physical insecurity and/or undue hardship.

⁸⁴⁰ Younès, see above footnote 807, p. 5.

⁸⁴¹ See, for example, Ivan Watson, *Many Youths Long to Leave Kurdistan Behind*, NPR, 30 January 2007, <http://www.npr.org/templates/story/story.php?storyId=7085621>; *ibidem*, *Kurdish Area Attracts Arabs — and Trouble*, NPR, 23 January 2007, <http://www.npr.org/templates/story/story.php?storyId=6963948>.

In addition, non-Kurdish persons, particularly Arabs, usually do not speak the language nor are familiar with Kurdish customs and traditions, making it difficult for them to integrate into Kurdish societies. Arabs are also often met with suspicion by the Kurdish authorities and population for perceived links to the former regime and/or the ongoing insurgency.⁸⁴² According to UNAMI, Arab IDPs in the three Northern Governorates suffer from discrimination and are given the least assistance by the Kurdish authorities due to security fears.⁸⁴³

d) Persons Who May Not Be Able to Find Protection

The following provides a non-comprehensive list of groups of persons who may not be able to find protection upon relocation in the three Northern Governorates. Such persons may not be admitted to the Region, may still be targeted by the perpetrators of persecutory acts, or may have difficulties accessing basic services and therefore face undue hardship.

- Persons with no family, community, political or business links to the three Northern Governorates, as they may not be able to find a sponsor guaranteeing their entry and/or residency;
- Former Ba'athists, unless their background has been cleared and no involvement in crimes has been established;
- Members of former security/intelligence services;
- Persons with a criminal record;
- Arab males, as well as those suspected of supporting the insurgency or intending to carry out terrorist attacks in the Region of Kurdistan;
- Persons with a high profile (e.g. political figures, academics, judges, etc.), because they may still be within reach of their persecutors;
- Turkmen and Arabs from Kirkuk, who may be denied entry to the Governorate of Sulaymaniyah for political reasons (this may be viewed as changing the demographics of Kirkuk); if admitted, they may face undue hardship due to obstacles in accessing services;
- Kurds and members of religious minorities from Kirkuk, Khanaqeen and Mosul, who would face problems relocating to the Governorates of Sulaymaniyah and Dahuk for political and demographic reasons; if admitted, they may face undue hardship due to obstacles to accessing services;
- Women fearing "honour killing" as well as persons fleeing tribal conflict (blood feuds), as they may still be within reach of their families or communities which are the sources of the threats;
- Single women and female heads of household, if not accompanied by male relatives and/or receiving financial assistance from relatives, who may face undue hardship due to limited access to employment, except for qualified professionals.

3. IFA/IRA Within the Three Northern Governorates for Iraqis Who Originate From These Governorates

⁸⁴² See also Sunni Arabs.

⁸⁴³ UNAMI HRO, *December 2006 Human Rights Report*, p. 17-18 and 20, see above footnote 10.

After repeated announcements about merging the KDP-administration in Erbil/Dahuk and the PUK-administration in Sulaymaniyah, the two administrations were united on 21 January 2006. The seat of the KRG is in Erbil. According to the power-sharing agreement, the KDP heads or will head the KRG Ministries of Finance, Peshmerga Affairs, Higher Education, Agriculture, Martyrs, Culture, Electricity, Natural Resources, Municipalities, Sports and Youth as well as the Ministry for Extra-Regional Affairs. The PUK oversees the Interior, Justice, Education, Health, Social Affairs, Water Resources, Transportation, Reconstruction, Planning and Human Rights ministries. The KRG Ministries of Finance, Peshmerga Affairs and Interior should unite within one year;⁸⁴⁴ however, to date no agreement has been reached on the merger of these crucial portfolios.

In the past, UNHCR has argued that a person originating from the area under one party's administration might not be able to relocate to the area under the other party's administration should he or she face persecution in his or her area of origin, given the various political, legal and other obstacles encountered in relocating.⁸⁴⁵ Despite the unification of the two administrations and the establishment of a joint Government and National Assembly, the two administrations still remain largely split and continue to exercise their individual powers. The (partial) unification reinforces the argument that the granting of legal residence and protection to a person fleeing persecution in the area dominated by the other party may be withdrawn for political reasons (i.e. not to upset the other party in the process of unification).

Persons seeking to relocate from one area to the other in order to flee persecution may face the following difficulties:

- Difficulty accessing the other area (passing of checkpoints);⁸⁴⁶
- Granting of residency may depend on political considerations and may be withdrawn if the political agenda changes;
- Granting of protection may also depend on political considerations as well as tribal and personal affiliation;
- Fear that family members who stay behind could be harassed if a person flees to the other administration's area;
- Difficulties accessing basic services without family/community support network (mainly single women and female heads of households);
- Those fearing persecution by Islamist groups may not be able to find protection in the other part of the three Northern Governorates, as they may still be within reach of their persecutors; the same applies to women fearing "honour killing" as well as persons fleeing tribal conflict (blood feuds) as they may still be within reach of their families and communities.

⁸⁴⁴ KRG, *Kurdistan Regional Government Unification Agreement*, para. 1-5, 21 January 2006, http://www.krg.org/articles/article_detail.asp?LangNr=12&RubricNr=107&ArticleNr=8891&LNNr=28&RN Nr=70. For a full list of the KRG cabinet, inaugurated on 7 May 2006, see KRG, *Ministers of the new unified cabinet*, 7 May 2006, http://www.krg.org/articles/article_detail.asp?ArticleNr=10938&LangNr=12&LNNr=28&RNNr=70.

⁸⁴⁵ See UNHCR, *2005 Eligibility Guidelines*, Annex VII, p. 57-59, see above footnote 8.

⁸⁴⁶ Despite the unification, there continue to be a total of four checkpoints on the former border between the KDP and the PUK-ruled areas.

Conclusion

Availability of an internal flight or relocation alternative in the three Northern Governorates needs to be assessed individually based on the specific Governorate to be entered, as well as the circumstances, background and profile of the individual concerned, including whether the individual originates from Central and Southern Iraq or from within the three Northern Governorates. Consideration should be given to the underlying policies of the authorities to keep the three Northern Governorates “Kurdish” and the implications this has for determining the political and ethnic profile of those who may be permitted to enter and reside. Those from the Arabized areas are not permitted to enter, and neither are those with the profiles as listed above. Whether the agents of persecution could pursue their targets would also need to be assessed. The security risks entailed in travelling to the three Northern Governorates whether from Central and Southern Iraq or from within the three Northern Governorates are also relevant factors in assessing the relevance of the internal flight or relocation alternative.

VI. EFFECTIVE PROTECTION OF REFUGEES OF ARAB ORIGIN IN IRAQ

Refugees of Sunni Arab origin, in particular Palestinians, Syrians and Iranians (Ahwazis), have come under increased pressure due to their perceived affiliation with the former regime and the ongoing Sunni-led insurgency.⁸⁴⁷ There have been consistent allegations of Arab refugees becoming targets for false accusations in the media, arbitrary detention, extra-judicial executions and torture by militias, and evictions. The Iraqi Government is responsible for providing protection to these refugees, given that they cannot avail themselves of the protection of their home countries. Shi'ite-dominated ISF and militias have been identified as the main perpetrators of attacks against refugees.⁸⁴⁸ Currently, the Iraqi authorities are neither willing nor able to provide effective protection, which requires the delivery of legal, physical and material protection. Also, many refugees of Arab origin do not hold valid documentation, limiting their freedom of movement, access to services and putting them at risk of detention and possibly *refoulement*. While “effective protection” should be linked to the seeking of viable durable solutions, the current security and political climate as well as economic conditions in Iraq do not allow for the refugees’ local integration.

Palestinian refugees make up the largest refugee group in Iraq. They have been targeted since the fall of the former regime. Security incidents against Palestinian refugees have steadily risen since the 22 February 2006 Samarra bombing. However, in December 2006, there was a sharp increase of reports of threats, abductions and killings.⁸⁴⁹ Between November 2006 and January 2007, UNHCR received reports of 37 Palestinians killed in targeted attacks. There are regular reports of bodies found with torture marks. In the case of abductions, at times ransoms have been requested. However, payment does not necessarily result in the release of the family member. There have even been reports that families have had to pay a ransom for the return of a relative’s corpse. While most reported incidents are targeted attacks, including killings and kidnappings, they include mortar attacks on Palestinian residential areas, presumably by militias, and group detentions by ISF. The Baladiyah compound, the principal Palestinian area in Baghdad, came under mortar attack twice in December 2006, causing deaths and injuries, including small children. In January 2007, two group detentions took place on the same day. There were allegations of mistreatment, and possibly torture, at the hands of the ISF from one of the groups of detainees. The rise in attacks has led to increasing numbers of Palestinians fleeing to the Iraqi-Syrian border.⁸⁵⁰ It is believed that the vast majority of Palestinians having been able

⁸⁴⁷ See for further information: UNHCR’s Press Briefing Notes, available at <http://www.unhcr.org/cgi-bin/texis/vtx/iraq?page=briefing>, which regularly provide updates on the situation of Palestinians in particular. See also: Gabriela Wengert and Michelle Alfaro, *Can Palestinian refugees in Iraq find protection?*, Forced Migration Review, No. 26, September 2006, <http://www.fmreview.org/FMRpdfs/FMR26/FMR2609.pdf>.

⁸⁴⁸ See also “Lack of National Protection”.

⁸⁴⁹ For a (non-comprehensive) list of reported incidents involving Palestinian refugees, see “Annex IX: Attacks on Palestinian Refugees in Iraq”.

⁸⁵⁰ As of 31 January 2007, UNHCR assisted a total of 1,087 Palestinians ex-Iraq in Syria, Jordan and the Iraq-Syrian border areas (97 refugees in the Ruweished Camp in Jordan, 356 Palestinians in the No Man’s

to flee Iraq have done so illegally through the use of false documents and through the assistance of smugglers.

More detailed information is contained in UNHCR's 2006 aide-mémoire on Palestinians in Iraq.⁸⁵¹

Land on the border between Iraq and Syria near Al-Tanf, 330 Palestinians on the Al-Walid border crossing between Iraq and Syria and 304 Palestinians in the Al-Hol Camp in Syria).

⁸⁵¹ See: UNHCR, *Aide-Mémoire: Protecting Palestinians in Iraq and Seeking Humanitarian Solutions for Those Who Fled the Country*, December 2006, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=45b0fe2e>.

VII. ANNEXES

The following annexes provide a non-comprehensive overview of attacks on various specific groups in Iraq as outlined in these Guidelines. The information has been gathered by UNHCR from public sources. While UNHCR could not independently verify all of the reports, the information should be considered as an indicator of the level of violence that is taking its toll on these groups in Iraq.

Annex I: Attacks on Christian Religious and Political Representatives

The following incidents were reported during the last five months of 2006:

- On 6 December 2006, it was reported that Elder Munthir, 69, a high-ranking leader of the Presbyterian Church in Mosul, who had been kidnapped on 26 November, was found dead.⁸⁵²
- On 4 December 2006, Father Samy Al-Raiys, a Chaldean Catholic priest, Rector at the Major Seminary of the Chaldean Patriarchate and teacher of Morality in the Faculty of Theology at Babel College in Baghdad, was kidnapped on his way to the Church of Mar Khorkhis (Saint George),⁸⁵³ he was later released.⁸⁵⁴
- On 28 November 2006, Father Doglas Yousef Al Bazi, Chaldean parish priest at Saint Elias in Baghdad, was released after nine days in captivity. He had been kidnapped on 19 November 2006.⁸⁵⁵
- On 23 November 2006, Isoh Majeed Hedaya, President of the *Syriac Independent Unified Movement* (SIUM) was assassinated in Qaraqosh. He was a leading proponent of the creation of an autonomous region for the Assyrians in the Ninewa Plain.⁸⁵⁶
- On 11 October 2006, the decapitated body of Father Boulos Iskander Behnam was found in Mosul. He had been kidnapped by an unidentified group that demanded a ransom and that his church condemn a statement made by Pope Benedict XVI.⁸⁵⁷
- On 24 September 2006, a hand-grenade was thrown at the car of the priest Izria Wurda when leaving the orthodox Maria cathedral in the Al-Riad quarter of Baghdad. Persons present at the service, police and passers-by hurried to the scene when a car loaded with

⁸⁵² Asia News, *Christian leader in Mosul kidnapped and killed*, 6 December 2006, <http://www.asianews.it/index.php?l=en&art=7937&geo=23>.

⁸⁵³ *Ibidem*, *Another Chaldean Priest Abducted in Baghdad*, 5 December 2006, <http://www.aina.org/news/2006120595730.htm>.

⁸⁵⁴ UNAMI HRO, *December 2006 Human Rights Report*, p. 10, see above footnote 10.

⁸⁵⁵ Asia News, *Kidnapped priest released in Baghdad*, 29 November 2006, <http://www.asianews.it/index.php?l=en&art=7879&geo=23>.

⁸⁵⁶ EasternStar News Agency, *Assyrian Leader in Iraq Assassinated for Advocating Assyrian Autonomy*, 27 November 2006, <http://www.aina.org/news/20061127133032.htm>; UNAMI HRO, *December 2006 Human Rights Report*, p. 13, see above footnote 10.

⁸⁵⁷ Al Jazeera, *Iraq priest "killed over pope speech"*, 13 October 2006, <http://english.aljazeera.net/news/archive/archive?ArchiveId=36747>.

explosives blew up. Two people were reportedly killed, including the verger of the church, Josef Ischo, and a child. Seventeen persons in all were injured.⁸⁵⁸

- On 15 August 2006, Father Hanna Saad Sirop, Chaldean Catholic Priest and Director of the Theology Department at Babel College in Baghdad was kidnapped as he left a Baghdad church after a mass celebrating the Assumption; he was freed after 27 days during which he had reportedly been threatened and tortured;⁸⁵⁹
- In early August 2006, Father Raad Washan, a Chaldean priest in Baghdad, was kidnapped and held for approximately 48 hours.⁸⁶⁰

⁸⁵⁸ Society for Threatened People, *Society for Threatened Peoples calls for Christian refugees from Iraq to be given long-term asylum in Germany*, 25 September 2006, <http://www.gfbv.de/pressemit.php?id=664&stayInsideTree=1>.

⁸⁵⁹ AP, *Over 35,000 Christians have fled Iraq*, 12 October 2006, <http://www.jpost.com/servlet/Satellite?cid=1159193427145&pagename=JPost%2FJPArticle%2FShowFull>; Asia News, *Priest abducted in Baghdad threatened and tortured*, 13 September 2006, <http://www.asianews.it/view.php?l=en&art=7203>.

⁸⁶⁰ Cindy Wooden, *Pope appeals for release of priest kidnapped in Baghdad*, Catholic News Service, 22 August 2006, <http://www.catholicnews.com/data/stories/cns/0604741.htm>.

Annex II: Attacks on Sabaean-Mandaean Representatives

The following incidents were reported since 2003 (not comprehensive):

- On 3 December 2006, militiamen broke into the house of Taleb Salman Uraibi, assistant to one of the Mandaean religious Sheikhs, in Hay Ur neighbourhood and abducted him. His body was found later that day with evidence of torture.⁸⁶¹ Reportedly, his family was prevented from holding a funeral service for him by extremists who threatened to blow up their house.⁸⁶²
- On 11 October 2006, Sheikh Raad Mutar Saleh was shot dead by gunmen after they broke into his house in Al-Suwaira in the Governorate of Wassit.⁸⁶³
- On 5 July 2006, there was an attack on the life of *Ganzebra*⁸⁶⁴ Sattar Jabbar Helou, the most senior Mandaean cleric and his brother, *Tarmida* Karim Jabbar Helou, also a cleric. Under the eyes of the ISF, the Sheikh was dragged out of his car and abducted in Baghdad. Thanks to the intervention of a senior Iraqi official, Sheikh Sattar was released.⁸⁶⁵ The Society for Threatened People further reported a failed attempt to kidnap Sheikh Sattar's 17-years old son.⁸⁶⁶
- On 23 March 2005, an armed assault took place on the house of Adel Dishar Zamil, the head of the Sabaean-Mandaean community in Wassit Governorate. A threat calling him an infidel was written on his door.⁸⁶⁷
- On 16 January 2005, Riyadh Radhi Habib, President of the Mandaean Supreme Spiritual Council in Basrah, died after being shot more than 90 times by three gunmen reportedly demanding that he convert to Islam.⁸⁶⁸
- On 10 January 2005, an armed assault took place on the house of Salem Turfi Aziz, the community's head in Kirkuk.⁸⁶⁹
- On 30 November 2004, *Tarmida* Saleem Ghada was ambushed at the Mandaean place of prayer on the Diyala River. The clergyman was leading prayers when he was shot seven times in the legs, severely wounding him.⁸⁷⁰

⁸⁶¹ UNAMI HRO, *December 2006 Human Rights Report*, p. 14, see above footnote 10.

⁸⁶² Nina Shea, *Testimony before The US Congressional Committee On International Relations, Subcommittee On Africa, Global Human Rights, And International Operations*, Center For Religious Freedom, 21 December 2006, <http://www.christiansofiraq.com/ninasheatestifiesdec216.html>.

⁸⁶³ Keith Roderick, *The Unholy Month of Ramadan*, National Review Online, 18 October 2006, <http://article.nationalreview.com/?q=NGZhNmUwNjdmMDcwODhkNDMyMTQ2Y2UzYTFkMDOxNmY>.

⁸⁶⁴ The Sabaean-Mandaean priestly hierarchy is divided into three ranks: ordinary priests or *Tarmida* (disciples), *Ganzebra* (bishops or "treasurers") and *Rishama*, (the head of the people). The only Rishama is Sheikh Abdullah Najem, who has been living in London for many years. The highest religious figure in Iraq is Ganzebra Sheikh Sattar Jabbar Helou; see Mandaean Society in America, *A Brief Note on the Madaeans: Their History, Religion and Mythology*, http://mandaeunion.org/History/EN_History_007.htm.

⁸⁶⁵ The Sunday Telegraph, *Persecution of a sect*, 22 October 2006, <http://www.news.com.au/dailytelegraph/story/0,22049,20614857-5001031,00.html>.

⁸⁶⁶ Society for Threatened People, *Mandäer im Iraq*, p. 5, see above footnote 309.

⁸⁶⁷ *Ibidem*, p. 20.

⁸⁶⁸ USDOS, *2005 Country Report on Human Rights Practices – Iraq*, see above footnote 333.

⁸⁶⁹ Society for Threatened People, *Mandäer im Iraq*, p. 20, see above footnote 309.

⁸⁷⁰ Information from the Sabian Mandaean Association of Australia; see Bolender, see above footnote 304.

- On 2 July 2003, an armed assault took place on clergymen Sheikh Karim Selman Uraibi and his brother Talib.⁸⁷¹
- On 3 May 2003, extremists attacked and looted the house of Mejbek Jabbar Helou, the brother of Sheikh Sattar Jabbar Helou. His pregnant wife was severely beaten and suffered a miscarriage. Their son Naseer Mejbek was kidnapped.⁸⁷²

⁸⁷¹ Society for Threatened People, *Mandäer im Iraq*, p. 18, see above footnote 309.

⁸⁷² *Ibid.*

Annex III: Attacks on Former Members of the Ba'ath Party, the Armed Forces and Security/Intelligence Services and Other Persons Affiliated With the Former Regime

The following incidents have been reported since May 2003:

- 12 February 2007: Gunmen killed a primary school guard in central Kut. The guard was a former member of the Ba'ath party.⁸⁷³
- 26 January 2007: Militiamen in Baghdad have kidnapped and killed ten senior officers of the former Iraq Army. Reportedly, they were on their way home following a government meeting held to bring back former army personnel into the Iraqi army.⁸⁷⁴
- 23 January 2007: Gunmen killed a suspected former member of the Ba'ath Party in the Governorate of Babel.⁸⁷⁵
- 17 January 2007: Gunmen shot dead a former member of the Ba'ath Party outside his home in Al-Za'afaraniya District in south-eastern Baghdad.⁸⁷⁶
- 6 January 2007: A former Ba'ath Party member was killed in a drive by shooting in Kifl, a town about 150 km south of Baghdad.⁸⁷⁷
- 6 January 2007: Gunmen killed two former members of the Ba'ath Party in two separate incidents in Najaf.⁸⁷⁸
- 6 January 2007: A former Ba'ath Party member was shot dead in Diwaniyah.⁸⁷⁹
- 3 January 2007: Gunmen killed two former Ba'ath Party officials near the town of Hilla.⁸⁸⁰
- 21 December 2006: Two gunmen shot dead a former member of the Ba'ath party in central Kerbala.⁸⁸¹
- 21 December 2006: A former member of the Ba'ath Party was killed by gunmen in central Amarah.⁸⁸²

⁸⁷³ Reuters Alertnet, *Factbox – Security developments in Iraq, Feb 12*, 12 February 2007, <http://www.reuters.com/article/latestCrisis/idUSKHA231334>.

⁸⁷⁴ See Azzaman, *Militiamen kidnap and kill 10 former army officers*, 26 January 2007, http://www.iraqupdates.com/p_articles.php?refid=DH-S-26-01-2007&article=13917

⁸⁷⁵ Borzou Daragahi, *Uncertain helicopter crash reports in Iraq*, Los Angeles Times, 23 January 2007, <http://www.latimes.com/news/nationworld/world/la-ex-iraq23jan24,1,5351278.story?coll=la-headlines-world&track=crosspromo>.

⁸⁷⁶ Voices of Iraq, *Iraq-Security Highlights*, 17 January 2007, <http://www.aswataliraq.info/modules.php?op=modload&name=News&file=article&sid=35352&mode=thread&order=0&thold=0>.

⁸⁷⁷ Reuters Alertnet, *Factbox – Security developments in Iraq, Jan 6*, 6 January 2007, <http://www.reuters.com/article/latestCrisis/idUSL06738343>.

⁸⁷⁸ Gulf News, *130 killed in new wave of violence*, 7 January 2007, http://www.gulf-daily-news.com/1yr_arc_Articles.asp?Article=166619&Sn=WORL&IssueID=29293&date=1-7-2007.

⁸⁷⁹ Reuters Alertnet, *Factbox – Security developments in Iraq, Jan 6*, see above footnote 877.

⁸⁸⁰ *Ibidem*, *Factbox – Security developments in Iraq, Jan 3*, 3 January 2007, <http://www.alertnet.org/thenews/newsdesk/L03128274.htm>.

⁸⁸¹ Voices of Iraq, *Iraq-Security Highlights*, 21 December 2006, <http://gorillasguides.blogspot.com/2006/12/december-22nd-update2-news-in-english.html>.

⁸⁸² *Ibid.*

- 18 September 2006: Gunmen killed two former Ba'ath Party members and a former army brigadier in Mosul.⁸⁸³
- 18 September 2006: Gunmen killed a former member of the Ba'ath Party in Hilla.⁸⁸⁴
- 14 September 2006: unidentified gunmen killed two Shi'a members of the former Ba'ath Party in the southern city of Al-Amarah.⁸⁸⁵
- 12 September 2006: Gunmen shot dead Colonel Abbas Al-Nuaimi, a former security officer while he was in police custody being transferred from prison to face trial for crimes committed during the rule of Saddam Hussein in Hindiya near Kerbala. Al-Nuaimi was the former security chief in the town and was allegedly involved role in quelling the Shi'ite uprising in 1991.⁸⁸⁶
- 18 August 2006: A former Ba'ath Party member was assassinated in Diwaniyah.⁸⁸⁷
- 20 July 2006: Gunmen assassinated a former official of the Ba'ath Party in Kerbala.⁸⁸⁸
- 10 July 2006: A former high-ranking army officer, ex-staff Maj. Gen. Salih Mohammed Salih, was killed in a shoot-out in Basrah.⁸⁸⁹
- 30 June 2006: Armed men on a motorcycle killed a former member of the Ba'ath Party as he travelled in a vehicle with his wife in Kut.⁸⁹⁰
- 10 May 2006: Gunmen killed the brother of a famous Iraqi playwright, Falah Shaker, whose works thrived under Saddam Hussein's regime. Shaker was an Iraqi writer believed to have written a novel attributed to Saddam.⁸⁹¹
- 13 April 2006: The Basrah-based construction company "Al-Fayhaa" was raided by armed men wearing Iraqi police uniforms and driving the same type of vehicles used by the Iraqi police. Sunni and Shi'a employees were apparently separated and seven Sunni were summarily executed. Their killing was interpreted by the construction company as a retribution for their company's earlier association with the Ba'ath party.⁸⁹²
- 5 January 2006: Unknown gunmen killed a member of the former Ba'ath Party near his house in Kerbala.⁸⁹³

⁸⁸³ Pakistan News Service, *Iraq oil city shudders as bombing campaign kills 27*, 18 September 2006, <http://www.paktribune.com/news/index.shtml?154513>.

⁸⁸⁴ AP, *More Than 40 Killed in Latest Wave of Violence in Iraq*, 18 September 2006, <http://wcbs880.com/pages/84764.php?contentType=4&contentId=207371>.

⁸⁸⁵ *Ibidem*, "Iraq War a disaster for Middle East", 14 September 2006, http://www.aljazeera.com/me.asp?service_ID=12468.

⁸⁸⁶ Reuters, *Gunmen kill Saddam-era official in police custody*, 12 September 2006, <http://news.oneindia.in/2006/09/12/gunmen-kill-saddam-era-official-in-police-custody-1158068540.html>.

⁸⁸⁷ Reuters Alertnet, *Factbox – Security incidents in Iraq, Aug 18*, 18 August 2006, <http://today.reuters.com/News/CrisesArticle.aspx?storyId=L18816288>.

⁸⁸⁸ Ryan Lenz, *U.S. Says Attacks in Iraq Up 40 Percent*, AP, 20 July 2006, <http://www.phillyburbs.com/pb-dyn/news/93-07202006-686526.html>.

⁸⁸⁹ AP, *Gunmen ambush bus in Baghdad, killing 7*, 10 July 2006, http://www.usatoday.com/news/world/iraq/2006-07-10-sunni-shi'ite_x.htm.

⁸⁹⁰ UNAMI HRO, *June 2006 Human Rights Report*, p. 4, see above footnote 27.

⁸⁹¹ AP, *Iraqi president calls for an end to violence*, 10 May 2006, http://www.usatoday.com/news/world/iraq/2006-05-10-iraq-violence_x.htm.

⁸⁹² UNAMI HRO, *April 2006 Human Rights Report*, p. 3, see above footnote 74.

⁸⁹³ Deutsche Presse Agentur (DPA), *Over 90 Iraqis killed in deadliest day since elections*, 5 January 2006, http://news.monstersandcritics.com/middleeast/article_1073608.php/Over_90_Iraqis_killed_in_deadliest_day_since_elections.

- 23 October 2005: A former member of the Ba'ath Party was assassinated by gunmen in Najaf.⁸⁹⁴
- 22 October 2005: A daughter of a former Ba'ath Party member was killed and two others were wounded in an assassination attempt on her father in Diwanayah.⁸⁹⁵
- 17 February 2005: Haider Kadhim, a former intelligence worker, was shot in the back of the head after six gunmen disguised as ISF talked their way into his home in the Baghdad neighbourhood of Saidiyah.⁸⁹⁶
- 12 February 2005: Taha Hussein Amiri, a prominent judge who handed down death sentences during Saddam's regime, was killed by two gunmen on motorcycles as he was being driven to work in the city of Basrah.⁸⁹⁷
- February 2005: Abdulrazak Karim Al-Douri, a former major in the Iraqi Intelligence Service, and who had worked in the Interior Ministry, was killed together with a co-worker when gunmen surrounded their car and shot them.⁸⁹⁸
- 19 November 2005: Five former members of the Ba'ath Party were killed in a series of attacks in Kerbala.⁸⁹⁹
- 17 November 2005: A former member of the Ba'ath Party was assassinated and his son is wounded by gunmen in Kerbala.⁹⁰⁰
- 26 July 2004: Brigadier Khaled Dawoud, a former Ba'ath Party District Head, and his son were killed in Baghdad. It was likely a revenge killing by Dawoud's victims.⁹⁰¹
- 8 July 2004: Ali Abbas, the former treasurer of a Regional Committee of the Ba'ath Party, was killed when a bomb hidden in his car exploded outside the Baghdad rope factory that he owned.⁹⁰²
- 20 December 2003: Gunmen targeted Damiyah Abbas, a former provincial official of the Ba'ath Party, killing her five-year-old son in front of their home in Najaf. She was believed to have participated in the repression of the 1991 Shi'ite uprising.⁹⁰³
- 20 December 2003: Former Ba'ath party official Ali Kassem, suspected of being an informer for the intelligence services, was killed in Najaf.⁹⁰⁴
- 19 December 2003: Gunmen killed former Ba'ath Party official and district mayor of Najaf's Al-Furat neighbourhood, Ali Qassem Al-Tamini, in Najaf.⁹⁰⁵

⁸⁹⁴ Asheville Global Report, *Iraq War timeline Oct. 17–23, 2005*, No. 354, 27 October – 2 November 2005, http://www.agrnews.org/?section=archives&cat_id=14&article_id=298.

⁸⁹⁵ *Ibid.*

⁸⁹⁶ Allam, see above footnote 511.

⁸⁹⁷ *Ibid.*

⁸⁹⁸ *Ibid.*

⁸⁹⁹ Asheville Global Report, see above footnote 894.

⁹⁰⁰ *Ibid.*

⁹⁰¹ Paul Garwood, *Heavy Fighting at Buhriz Kills 15*, AP, 26 July 2004, <http://www.juancole.com/2004/07/heavy-fighting-at-buhriz-kills-15-paul.html>.

⁹⁰² Reuters, *Former Baath official killed by bomb*, 8 July 2004, <http://www.abc.net.au/news/newsitems/200407/s1149853.htm>.

⁹⁰³ CBC News, *Two former Baathists killed in revenge attacks*, 20 December 2003, http://www.cbc.ca/world/story/2003/12/20/revenge_killings031220.html.

⁹⁰⁴ *Ibid.*

⁹⁰⁵ Christopher Torchia, *Pentagon to send more troops to Iraq*, AP, 21 December 2003, <http://www.seacoastonline.com/2003news/12212003/world/66788.htm>.

- 17 December 2003: An angry mob dragged Ali Al-Zalimi, a former regional chief of the Ba'ath party, from his car and beat him to death in Najaf. He was believed to have helped repress the 1991 Shi'ite uprising.⁹⁰⁶
- October 2003: Kasim Al-Falahi, former Iraqi Ambassador to Lebanon, who headed the Iraqi Intelligence Service in southern Iraq from 1996 to 1998, was abducted by gunmen. His body was found two days later with a single bullet through his forehead.⁹⁰⁷
- October 2003: Six unknown gunmen sprayed the house of Qassem Al-Hantawi, a former brigadier with the Iraqi Intelligence Service, in Baghdad. While Al-Hantawi survived, four former colleagues of his were killed, including Assam Al-Douri, who left his job as an accountant in the Iraqi Intelligence Service 15 years ago and had reportedly even cancelled his membership in the Ba'ath Party.⁹⁰⁸
- October 2003: Mohammed Abdul Nabi Al-Gishi and Muhsen Abdul Wahid Al-Hajama, school principals, teachers and division commanders in the Ba'ath Party, were killed in two different incidents in Basrah. Reportedly, they were responsible for arresting people.⁹⁰⁹
- September 2003: Dr. Abdullah Al-Fadhil was killed by gunmen shot in his car as he was leaving the College of Medicine in Basrah. He was known to have enforced a decree to cut off the ears of army deserters.⁹¹⁰
- 4 June 2003: Shaikh Ali Sa'adoun, head of the Sa'adoun tribe, was killed by four gunmen. The tribe had maintained close ties with the former Government and some of its members were local officials.⁹¹¹
- 17 May 2003: The singer Daoud Qais, known for his odes to former President Saddam Hussein, was shot dead.⁹¹²
- 16 May 2003: A man called Salam had reportedly killed Najm Abud, the son of a Ba'ath Party member suspected of ordering the execution of Salam's brother in Al-Amarah. The family of Najm Abud reportedly retaliated immediately, killing Salam and setting fire to his house.⁹¹³
- 14 May 2003: Karim Hamid Qasem Al-Azawi, a barber, was shot dead by two masked gunmen while at work in Basrah. His family told AI that he might have been killed because he was a member of the Ba'ath Party, despite the fact that he had been imprisoned by the former regime.⁹¹⁴
- 13 May 2003: An attempt to kill a Ba'ath Party member in the Al-Hartha area of Basrah resulted in clashes between two tribal groups in which at least five people died and three were wounded.⁹¹⁵
- 10 May 2003: Falah Dulaimi, the assistant dean of the Mustansiriya University's College of Sciences, was shot by students as he walked to his campus office. He was

⁹⁰⁶ *Ibid.*

⁹⁰⁷ Ratnesar, see above footnote 508.

⁹⁰⁸ *Ibid.*

⁹⁰⁹ Brinkley, see above footnote 510.

⁹¹⁰ *Ibid.*

⁹¹¹ AI, *Iraq – The need for security*, see above footnote 510.

⁹¹² Wilson, see above footnote 510.

⁹¹³ AI, *Iraq – The need for security*, see above footnote 510.

⁹¹⁴ *Ibid.*

⁹¹⁵ *Ibid.*

described by students and teacher as one of the “*Baath Party’s legion of small tyrants*”.⁹¹⁶

- 5 May 2003: Abd Al-Abbas Na’im, who was Head of the Legal Affairs Department of Basrah’s Teaching Hospital and a high-ranking Ba’ath Party member, was shot dead in his house in Abu Al-Khasib.⁹¹⁷
- 4 May 2003: Abed Taher Iskandar, a teacher and senior member of the Ba’ath Party, was shot in the head near the Education Department of Al-Jamiat residential area in Basrah, shortly after receiving his salary. The fact that his money was not taken indicates that he was the victim of a revenge killing.⁹¹⁸

⁹¹⁶ Wilson, see above footnote 510.

⁹¹⁷ AI, *Iraq – The need for security*, see above footnote 510.

⁹¹⁸ *Ibid.*

Annex IV: Attacks on Government Officials and Other Persons Associated With the Current Iraqi Government, Administration and Institutions

The following incidents have been reported since February 2006:

- 6 February 2007: The Governor of Baghdad, Hussein Al-Tahhan, survived an assassination attempt in an attack on his motorcade on the Baghdad-Kut highway en route to the Governorate of Wassit to attend a conference for governors there.⁹¹⁹
- 1 February 2007: The Governor of Salah Al-Din Governorate, Mohammed Al-Qaisi, survived a suicide bombing attack in a college campus of the Salah Al-Din University. Insurgents targeted Al-Qaisi several times in the past, including a car bomb attack near his convoy six months earlier in Tikrit.⁹²⁰
- 2 January 2007: In Baqouba, gunmen killed Diyala Governorate Council member Ali Majeed and three members of his family.⁹²¹
- 4 December 2006: A member of the IIP in Al-Karkh branch, Jawad Ahmad Al-Falahi, was assassinated in Al-Amiriyah by gunmen as he was leaving his house.⁹²²
- 28 November 2006: Kirkuk Governor. Abdul Rahman Mustafa survived an assassination attempt when a suicide bomber blew himself up near the official's convoy, killing one civilian and wounding at least 12. It was the third assassination attempt on his life.⁹²³
- 24 November 2006: Sheikh Salih Naji Al-Messudi, a member of the Association of Muslim Scholars, was kidnapped and his body found two days later.⁹²⁴
- 20 November 2006: SCIRI members Ali-Flaih Al-Ghrani and Dr. Ali Al-Adhadh, Member of Parliament from United Iraqi Alliance block, were killed in in Jbalah District and in Hilla, respectively.⁹²⁵
- 21 November 2006: The Deputy-Health Minister, Hakim Al-Zamili escaped an assassination attempt.⁹²⁶
- 20 November 2006: The body of an Iraqi leader from Al-Wifaq Front, Abdel Karim Al-Obaidi was found.⁹²⁷
- 19 November 2006: The Deputy-Health Minister, Ammar Al-Saffar, was kidnapped from his house in Al-Adhamiya by 24 gunmen, some of whom were reportedly dressed in Iraqi police uniforms.⁹²⁸

⁹¹⁹ Abdul-Jabbar al-Safarani, *Baghdad governor survives assassination attempt*, Voices of Iraq, 7 February 2007, http://www.iraquupdates.com/p_articles.php?refid=DH-S-07-02-2007&article=14283.

⁹²⁰ Xinhua, *Iraqi provincial governor survives suicide attack*, 1 February 2007, http://news.xinhuanet.com/english/2007-02/01/content_5684809.htm.

⁹²¹ Steven R. Hurst, *Iraq: 12,000 Civilians Killed in '06*, AP, 2 January 2007, <http://www.breitbart.com/news/2007/01/02/D8MDDKLG2.html>.

⁹²² UNAMI HRO, *December 2006 Human Rights Report*, p. 16, see above footnote 10.

⁹²³ AP, *Iraqi governor escapes an assassination attempt by a suicide bomber*, 28 November 2006, http://www.iraquupdates.com/p_articles.php/article/12164; Al Jazeera, *Iraqi governor survives bomb blast*, 18 November 2006, <http://english.aljazeera.net/NR/exeres/E2E10231-2A5B-4305-B1A8-CB55FC69D691.htm>.

⁹²⁴ UNAMI HRO, *December 2006 Human Rights Report*, p. 16, see above footnote 10.

⁹²⁵ *Ibid.*

⁹²⁶ *Ibidem*, p. 15.

⁹²⁷ *Ibidem*, p. 16.

- 13 November 2006: Five employees of the state-owned North Oil Company were ambushed and killed in the northern outskirts of Baghdad as they drove into the capital.⁹²⁹
- 15 October 2006: Gunmen assassinated Raad Al-Haiali, a provincial official and a member of the IIP in Mosul.⁹³⁰
- 25 September 2006: On 25 September, the Minister of Health, Dr. Ali Al-Shemmari, survived an assassination attempt.⁹³¹
- 16 July 2006: Adil Mohamed Al-Qazaz, the President of the Northern Oil Company, was abducted by gunmen in Baghdad.⁹³²
- 10 July 2006: A member of Diyala Governorate Council, Adnan Iskandar Al-Mahdawi, was killed and two of his guards were wounded in a drive-by shooting.⁹³³
- 10 July 2006: Unidentified gunmen assassinated an official in the IIP and two of his guards.⁹³⁴
- 1 July 2006: Lawmaker Tayseer Al-Mashhadani of the National Accord Front was kidnapped when travelling from her home in Baqouba with eight bodyguards when gunmen in two vehicles hijacked her convoy in a Shi'ite neighbourhood in Baghdad. She was released nearly two months later on 26 August 2006.⁹³⁵
- 26 June 2006: Ten employees of a state-owned agricultural research centre were abducted in Taji.⁹³⁶
- 6 June 2006: Gunmen in Baghdad kidnapped the Director General of the State Company for Oil Projects, Muthana Al-Badri in northern Baghdad.⁹³⁷
- 6 June 2006: Four Iraqi employees of the state-owned Northern Oil Company were kidnapped in Kirkuk on 6 June 2006.⁹³⁸
- 10 May 2006: Gunmen assassinated the leader of the IIP in Al-Zubayr in the Governorate of Basrah.⁹³⁹
- 10 May 2006: Gunmen riding in two cars assassinated a Defence Ministry press office employee as he drove to work.⁹⁴⁰

⁹²⁸ UNAMI HRO, *December 2006 Human Rights Report*, p. 15, see above footnote 10.

⁹²⁹ Reuters Alertnet, *Factbox – Security developments in Iraq, Nov 13*, 13 November 2006, <http://www.alertnet.org/thenews/newsdesk/IBO356703.htm>.

⁹³⁰ Kirk Semple, *5 Americans Killed in Iraq, Bringing Month's Toll to 53*, The New York Times, 16 October 2006, <http://travel.nytimes.com/2006/10/16/world/middleeast/16iraq.html>.

⁹³¹ UNAMI HRO, *October 2006 Human Rights Report*, p. 5, see above footnote 66.

⁹³² Paul von Zielbauer, *Gunmen Seize President of Iraqi Oil Company*, International Herald Tribune, 16 July 2006, <http://www.ihf.com/articles/2006/07/16/news/iraq.php>.

⁹³³ AP, *Gunmen ambush bus in Baghdad, killing 7*, 10 July 2006, http://www.usatoday.com/news/world/iraq/2006-07-10-sunni-Shi'ite_x.htm.

⁹³⁴ UNAMI HRO, *August 2006 Human Rights Report*, p. 5, see above footnote 26.

⁹³⁵ CNN, *Kidnapped Iraqi lawmaker released*, 26 August 2006, <http://www.cnn.com/2006/WORLD/meast/08/26/iraq.main/index.html>.

⁹³⁶ Borzou Daragahi, *Peace plan could mean some Iraqi insurgents get amnesty*, Los Angeles Times, 26 June 2006, http://seattletimes.nwsourc.com/html/nationworld/2003086002_iraq26.html.

⁹³⁷ Institute for the Analysis of Global Security, *Iraq Pipeline Watch*, <http://www.iags.org/iraqpipelinewatch.htm> [accessed November 2006].

⁹³⁸ Daily Times, *Gunmen kill 3 students, four policemen in Iraq*, 8 June 2006, http://www.dailytimes.com.pk/default.asp?page=2006%5C06%5C08%5Cstory_8-6-2006_pg7_1.

⁹³⁹ AP, *Iraqi president calls for an end to violence*, 10 May 2006, http://www.usatoday.com/news/world/iraq/2006-05-10-iraq-violence_x.htm.

⁹⁴⁰ *Ibid.*

- 2 May 2006: A suicide car bomber attacked the motorcade of Al-Anbar Governor Maamoun Sami Rasheed, killing three bodyguards.⁹⁴¹
- 27 April 2006: Meysoun Al-Hashemi, the sister of Iraqi Vice-President Tariq Al-Hashemi was killed in a drive-by shooting in Baghdad. She had been the head of the Women's Affairs Department of the IIP.⁹⁴²
- 18 April 2006: Gunmen killed the brother of Saleh Al-Mutlaq, the former chief Sunni Arab representative of the National Assembly's Constitutional Drafting Committee and leader of the Iraqi National Dialogue Front.⁹⁴³
- 13 April 2006: Mahmoud Al-Hashemi, brother of Iraqi Vice-President Tariq Al-Hashemi was killed, shot dead while driving in Baghdad.
- 16 February 2006: Hamash Al-Mousawi, member of the City Council of Khan Bani Saad in the Governorate of Diyala, was shot dead in a drive-by shooting.⁹⁴⁴

⁹⁴¹ Voice of America and agencies, *Iraqi Governor Escapes Roadside Bombing, 3 Bodyguards Dead*, 2 May 2006, <http://www.globalsecurity.org/military/library/news/2006/05/mil-060502-voa04.htm>.

⁹⁴² BBC News, *Top Iraq official's sister killed*, 27 April 2006, http://news.bbc.co.uk/2/hi/middle_east/4949376.stm.

⁹⁴³ Reuters, *Brother of Iraqi leader killed*, 18 April 2006, <http://tvnz.co.nz/view/page/425822/702346>.

⁹⁴⁴ CNN, *U.S.: Iraqi death squad members detained*, 16 February 2006, <http://www.cnn.com/2006/WORLD/meast/02/16/iraq.main/index.html>.

Annex V: Attacks on Professors, Teachers and Students

The following incidents have been reported since April 2006:

- 13 February 2007: Up to 16 people are reported to have been killed and 27 wounded after a suicide bomber detonated explosives in a van near the College of Economic Sciences in Baghdad.⁹⁴⁵
- 1 February 2007: Gunmen broke into the Physical Education College of Diyala in Baqouba and killed the Dean, Walhan Hamed Al-Rubaie.⁹⁴⁶
- 29 January 2007: A law student, Ali Abdul-Mutalib Al-Hashimi, and three professors, Adnan Al-Abid, Abdel Muttaleb Al-Hashemi and Amer Al-Qaissi were abducted from Nahrein University in Baghdad as they were leaving the university in the Khadimiyah District. Their bodies were found in Baghdad's central morgue three days later.⁹⁴⁷
- 23 January 2007: Shi'ite professor and economist Diya Al-Meqoter was shot dead in Baghdad's Adhamiya neighbourhood. He was widely known for his programme on Sharqiya television channel during which he interviewed a group of poor people who presented their ideas for starting a small business. He was teaching economics at the Al-Mustansiriya University and also headed the Consumer Association.⁹⁴⁸
- 22 January 2007: Gunmen killed a female teacher on her way to work at a girls' school in the mainly Sunni neighbourhood of Khadra in western Baghdad.⁹⁴⁹
- 17 January 2007: At least 70 people, including students and teachers, were killed and more than 170 others injured as a suicide bomber and a car bomb exploded at the entrance of Al-Mustansiriya University in east Baghdad.⁹⁵⁰
- 21 December 2006: Dr. Muntather Mohammed Al-Hamadani, the Assistant Dean at the Faculty of Law at Al-Mustansiriya University and Dr. Ali Jassam, were assassinated by unknown gunmen in Al-Slaikh area.
- 11 December 2006: Gunmen kidnapped five teachers of one primary school near Al-Dijeel village.⁹⁵¹
- 5 December 2006: Professor Abdul Hameed Al-Harith, the head of the Psychological and Educational Studies Office in Baghdad University, was killed in central Baghdad on his way to work.⁹⁵²

⁹⁴⁵ Al Jazeera, *Bomber strikes near Baghdad college*, 13 February 2007, <http://english.aljazeera.net/NR/exeres/0627A091-AB98-45A0-8A03-28AA4B4F110D.htm>.

⁹⁴⁶ Reuters Alertnet, *Factbox – Security developments in Iraq, Feb 1*, 1 February 2007, <http://www.reuters.com/article/topNews/idUSYAT15750720070201>.

⁹⁴⁷ AP, *Bodies of three Sunni professors and a student found, three days after their abduction*, 31 January 2007, http://www.khaleejtimes.com/DisplayArticleNew.asp?xfile=data/focusoniraq/2007/January/focusoniraq_January208.xml§ion=focusoniraq.

⁹⁴⁸ AP, *Professor and economist who helped the poor is shot dead in Baghdad*, 23 January 2007, <http://www.ihf.com/articles/ap/2007/01/23/africa/ME-GEN-Iraq-Professor-Killed.php>.

⁹⁴⁹ CBS / AP, *Deadly Day Claims 100 Iraqis*, 22 January 2007, <http://www.cbsnews.com/stories/2007/01/22/iraq/main2381540.shtml>.

⁹⁵⁰ BBC News, *Bombers rock Baghdad university*, see above footnote 574.

⁹⁵¹ UNAMI HRO, *December 2006 Human Rights Report*, p. 16, see above footnote 10.

⁹⁵² DPA, *Security official, academic killed in Baghdad*, 7 December 2006, http://news.monstersandcritics.com/middleeast/news/article_1230649.php/Security_official_academic_killed_in_Baghdad.

- 5 December 2006: Dr. Mohammed Haidar Sulaiman, a professor in the Physical Education Faculty of one of Baghdad's universities, was assassinated by unknown gunmen.⁹⁵³
- 20 November 2006: Insurgents killed the President of the Scientific Department of Mosul University and the Director of the Registration Department of the College of Education in Kirkuk University.⁹⁵⁴
- 2 November 2006: Gunmen killed Jassim Al-Asadi, the Dean of Baghdad University's School of Administration and Economics.⁹⁵⁵
- November 2006: The body of Dr. Najdat Al-Salihi, a psychology professor at Al-Mustansiriya University in Baghdad, was found after his disappearance three weeks earlier.⁹⁵⁶
- 30 October 2006: Unknown gunmen killed Dr. Essam Al-Rawi, Professor in the Geology Department of the University of Baghdad, head of the Professor's Union and a senior member of the Association of Muslim Scholars as he was leaving his Baghdad home.⁹⁵⁷
- 21 August 2006: A teacher was killed by gunmen in Balad Ruz, about 50 kilometres east of Baqouba.⁹⁵⁸
- 21 June 2006: Gunmen killed the dean of the Abdullah Bin Om Kalthoum School in Al-Zubayr, in Basrah, during the final examinations. He was reportedly killed in front of his students.⁹⁵⁹
- 19/20 June 2006: A group of armed men, allegedly from the Ministry of Interior, attacked the students' dormitory at the University of Kufa during the night. According to information received by UNAMI HRO, the men beat the students severely and shot inside the premises, wounding some of the students and destroying property. Tens of students were reportedly arrested and tortured after the incident.⁹⁶⁰
- 18 June 2006: On 18 June, gunmen killed Modhaer Zayed Al-Dabagh, a lecturer in the Computer College of Mosul University, in front of the Ministry of Interior in Baghdad.⁹⁶¹
- 16 June 2006: Sheikh Yousif Al-Hussein, Dean of Al-Hassan Al-Basri School, was killed in Basrah.⁹⁶²
- 15 June 2006: Qasim Yousif Yacoub, a lecturer at Basrah University, was killed.⁹⁶³

⁹⁵³ UNAMI HRO, *December 2006 Human Rights Report*, p. 16, see above footnote 10.

⁹⁵⁴ *Ibid.*

⁹⁵⁵ AP, *Baghdad University dean is assassinated*, 2 November 2006, <http://www.msnbc.msn.com/id/15525444/>.

⁹⁵⁶ Bryan Bender and Farah Stockman, *Iraq's violent "brain drain" called a threat to future*, The Boston Globe, 30 November 2006, http://www.boston.com/news/world/articles/2006/11/30/iraqs_violent_brain_drain_called_a_threat_to_future/.

⁹⁵⁷ Aparisim Ghosh, *Baghdad Bulletin: Death Stalks the Campus*, Time Magazine, 2 November 2006, <http://www.time.com/time/world/article/0,8599,1553793,00.html>.

⁹⁵⁸ CNN, *Attacks kill at least 10 Iraqis*, 21 August 2006, <http://edition.cnn.com/2006/WORLD/meast/08/21/iraq.main/>.

⁹⁵⁹ UNAMI HRO, *June 2006 Human Rights Report*, p. 6, see above footnote 27.

⁹⁶⁰ *Ibid.*

⁹⁶¹ *Ibid.*

⁹⁶² *Ibid.*

⁹⁶³ UNAMI HRO, *June 2006 Human Rights Report*, p. 6, see above footnote 27.

- 10 June 2006: Ahmad Abdul Wadir Abdullah, a Sunni Arab professor at the College of Chemistry in the University of Basrah, was killed.⁹⁶⁴
- 23 May 2006: A high school teacher, Nazar Qadir, was killed in a drive-by shooting on his way to work near Kirkuk city.⁹⁶⁵
- 15 May 2006: Four teachers were reportedly killed en route to their school near the town of Balad Ruz.⁹⁶⁶
- 12 May 2006: A Shi'a professor, Widad Al-Shimri, and her seven-year-old daughter were slain as they drove through Baqouba in the Governorate of Diyala.⁹⁶⁷
- 12 May 2006: A professor of Islamic law, Khalaf Al-Jumaili, was shot dead after assailants stopped his car in Fallujah.⁹⁶⁸
- 2 May 2006: Mohammed Abdul-Raheem Al-Ani, a professor at Al-Mustansiriya University and a doctorate student in the College of Islamic Sciences of Baghdad University as well as a member of the Muslim Scholars Association, was allegedly arrested by members of the Ministry of Interior. His body was found in the Forensic Medicine Morgue in Baghdad.⁹⁶⁹
- May 2006: At least seven university students were assassinated in Mosul.⁹⁷⁰
- 19 April 2006: Gunmen opened fire against staff members at Baqouba University killing three university professors.⁹⁷¹
- 24 April 2006: Two car bombs exploded in front of Al-Mustansiriya University in Baghdad, causing the death of three persons and injuring 25 others. Another bomb detonated near the Technical Medical Institute in Bab Al-Mouatham in Baghdad, killing three persons.⁹⁷²

⁹⁶⁴ *Ibid.*

⁹⁶⁵ AP, *Wave of sectarian violence leaves 41 dead across Iraq*, 23 May 2006, <http://www.iht.com/articles/2006/05/23/news/iraq.php>.

⁹⁶⁶ CNN, *Mortar attacks wound 4 British soldiers; 4 teachers killed near Baquba*, 15 May 2006, <http://www.cnn.com/2006/WORLD/europe/05/14/sunday/index.html?eref=sitesearch>.

⁹⁶⁷ Al Jazeera, *Iraq kidnappings thwarted, US says*, 14 May 2006, <http://english.aljazeera.net/News/archive/archive?ArchiveId=22722>.

⁹⁶⁸ *Ibid.*

⁹⁶⁹ UNAMI HRO, *June 2006 Human Rights Report*, p. 5, see above footnote 27.

⁹⁷⁰ *Ibidem*, p. 6.

⁹⁷¹ *Ibid.*

⁹⁷² *Ibid.*

Annex VI: Attacks on Doctors and Other Medical Personnel

The following incidents have been reported since February 2006:

- 20 January 2007: Salah Mehdi Hamza, a popular children's doctor who had been kidnapped on 16 January in Baghdad, was found dead, even though his family handed over a US \$40,000 ransom and a box full of jewels and gold ornaments. He had already been kidnapped twice. The first time was for three weeks when he was forcibly taken to Fallujah, the Sunni insurgent stronghold, to care for the wounded.⁹⁷³
- 15 May 2006: Unknown gunmen assassinated Dr. Adnan Abbas Al-Hashemy after he was leaving his private clinic in Mosul. Reportedly, two other doctors were killed the same week in Mosul.⁹⁷⁴
- 8 May 2006: Unidentified gunmen arrived in two private cars to the Al-Zayzafon pharmacy in Al-Sukar District in Mosul. The men took the pharmacist Fadhel Ezalddin Nidham and executed him in public before setting the pharmacy on fire.⁹⁷⁵
- 9 April 2006: Several armed men gunned down Dr. Darb Mohammed Al-Mousawi, Director of the Ear, Nose and Throat Centre of the University of Baghdad at the door of his clinic in Baghdad's Adhamiya neighbourhood.⁹⁷⁶
- 12 February 2006: Halit Ali was killed after he left home to go to work at the state hospital of Hawija near Kirkuk.⁹⁷⁷
- 11 February 2006: Dr. Khalid Abdullah, who was working in the city hospital of Hawija, west of Kirkuk, was shot dead by masked gunmen who had barged into the hospital.⁹⁷⁸

⁹⁷³ Patrick Cockburn, *Children's doctor among latest victims of Iraq kidnap epidemic*, The Independent, 26 January 2007, http://news.independent.co.uk/world/middle_east/article2186519.ece.

⁹⁷⁴ UNAMI HRO, *October 2006 Human Rights Report*, p. 5, see above footnote 66.

⁹⁷⁵ *Ibidem*, *June 2006 Human Rights Report*, p. 6, see above footnote 27.

⁹⁷⁶ *Ibidem*, *April 2006 Human Rights Report*, p. 10, see above footnote 74.

⁹⁷⁷ Turks.US, *Doctor and Contractor Killed in Kerkuk Iraq*, 12 February 2006, <http://www.turks.us/article~story~20060212105931442.htm>.

⁹⁷⁸ AP, *Kidnapped contractor, doctor killed in Iraq*, 12 February 2006, <http://www.abc.net.au/news/newsitems/200602/s1568007.htm>.

Annex VII: Attacks on Judicial Personnel

The following incidents were reported since January 2005:

- 10 December 2006: lawyer Nawfel Al-Chalabi was kidnapped in front of the New Baghdad Courthouse.⁹⁷⁹
- 23 November 2006: the Director of Legal Affairs in the Council of Ministers, Ali Muthafar Abdel Wahhab, was shot dead by gunmen in front of his house in Hay Al-Dawoudi in Al-Mansour area in Baghdad.⁹⁸⁰
- 19 November 2006: Judge Muthafer Al-Obaidy, who also worked with the Council of Ministers, was kidnapped by unidentified gunmen from his house in Al-Khadra area in Baghdad.⁹⁸¹
- 15 November 2006: Judge Naim Al-Akeli, head of the Al-Kharkh Criminal Court in Baghdad was killed by a roadside bomb.⁹⁸²
- 2 November 2006: Gunmen killed Tariq Abid Ali, a judge in Baqouba's Criminal Court, along with his son Ziyad.⁹⁸³
- On 16 October 2006: Emad Al-Faroon, the brother of the Chief Prosecutor in the current *Anfal* trial, was killed by gunmen in front of his wife, in the neighbourhood of Al-Jamaa in Baghdad. The couple had earlier left their home as it had become unsafe for them and had only returned to collect personal possessions.⁹⁸⁴
- 9 October 2006: Mithat Salih, a public notary in the town of Madaen, was shot dead on his way to work.⁹⁸⁵
- 4 October 2006: Abdel Muttaleb Al-Haidari, a prominent lawyer, was shot dead by unknown assailants inside his house in Al-Amiriyah area in Baghdad.⁹⁸⁶
- 29 September 2006: Kadhim Abdel Hussein, the brother-in-law of Mohammed Oreibi Al-Khalifa, the chief judge in the *Anfal* trial, was shot dead along with his son, while two other relatives were severely wounded. The victims were shot when Kadhim, who had left his home several months earlier due to security risks, went to pick up some possessions.⁹⁸⁷
- 3 September 2006: The body of Abdel Monem Yassin Hussein, an assistant to lawyer Badih Aref Izzat, one of the defence lawyers in the trial of Saddam Hussein, was reportedly found in the Medico-Legal Institute of Baghdad. He had been kidnapped on 29 August 2006.⁹⁸⁸

⁹⁷⁹ UNAMI HRO, *December 2006 Human Rights Report*, p. 15, see above footnote 10.

⁹⁸⁰ *Ibid.*

⁹⁸¹ *Ibid.*

⁹⁸² *Ibid.*

⁹⁸³ Reuters Alertnet, *Factbox – Security developments in Iraq*, Nov 2, 2 November 2006, <http://www.reuters.com/article/topNews/idUSL0270233920061103>.

⁹⁸⁴ UNAMI HRO, *October 2006 Human Rights Report*, p. 9, see above footnote 66.

⁹⁸⁵ *Ibid.*

⁹⁸⁶ *Ibid.*

⁹⁸⁷ *Ibid.*; BBC News, *Saddam judge relative shot dead*, 29 September 2006, http://news.bbc.co.uk/2/hi/middle_east/5391674.stm.

⁹⁸⁸ UNAMI HRO, *October 2006 Human Rights Report*, p. 9, see above footnote 66.

- 1 July – 31 August 2006: According to UNAMI HRO, at least three judges and seven lawyers were killed, another female judge was kidnapped, two others survived assassination attempts while another received death threats and moved to another part of the country.⁹⁸⁹
- 30 August 2006: Gunmen murdered Nadiya Mohammed Hasan, the Director General of the Public Notary in the Ministry of Justice, her driver and two bodyguards in Baghdad.⁹⁹⁰
- 29 July 2006: Salah Abdel-Kader, a lawyer and professor in Baghdad and known for working on cases involving “honour killings” and child custody, was shot dead in his office. It was reported that a note was found near his body saying: “*This is the price to pay for those who do not follow Islamic laws and defend what is dreadful and dirty.*” Reportedly, he had been threatened several times previously.⁹⁹¹
- 21 June 2006: One of the lawyers defending former President Saddam Hussein, Khamis Al-Obaidi, was abducted by individuals dressed as police officers from his home in Baghdad’s Adhamiya District. He was later found murdered in an area near Sadr City.⁹⁹²
- 21 May 2006: Judge Akrem Jumaa Al-Maamori, from Al-Khark court in Baghdad, was killed.⁹⁹³
- 12 May 2006: Ahmed Midhat Al-Mahmoud, a lawyer and son of the President of the High Judicial Council, was killed with two of his bodyguards in Baghdad.⁹⁹⁴
- 11 May 2006: A judicial investigator of the CCCI, Firas Mohammed, was killed in Baghdad.⁹⁹⁵
- 9 May 2006: Mohaimen Al-Mahmood, a judge in Al-Adhamiya First Instance Court, was killed in front of his home by unidentified gunmen and Iskandar Al-Jiboury, a judge in the CCCI, was allegedly poisoned along with two of his bodyguards.⁹⁹⁶
- 25 April 2006: The President of the Tribunal of First Instance in Baghdad was killed.⁹⁹⁷
- 5 April 2006: An investigative judge was killed in Baghdad.⁹⁹⁸
- 3 April 2006: Lawyer Matr Kaabi was gunned down by armed men in the centre of Basrah.⁹⁹⁹
- 30 March 2006: Gunmen killed lawyer Maymuna Hamdani in Basrah, riddling her body with nine bullets according to the police. She was a prominent lawyer in the city and the legal advisor for the municipal electricity department.¹⁰⁰⁰

⁹⁸⁹ UNAMI HRO, *August 2006 Human Rights Report*, p. 7, see above footnote 26.

⁹⁹⁰ *Ibid.*

⁹⁹¹ IRIN, *Iraq: Lawyers killed for defending cases “against Islam”*, 16 August 2006, <http://www.irinnews.org/report.aspx?reportid=60380>.

⁹⁹² BBC News, *Saddam defence lawyer shot dead*, 21 June 2006, http://news.bbc.co.uk/2/hi/middle_east/5101162.stm.

⁹⁹³ UNAMI HRO, *June 2006 Human Rights Report*, p. 5, see above footnote 27.

⁹⁹⁴ AP, *Son of top Iraqi judge shot dead*, 15 May 2006, <http://english.aljazeera.net/news/archive/archive?ArchiveId=22745>.

⁹⁹⁵ UNAMI HRO, *June 2006 Human Rights Report*, p. 5, see above footnote 27.

⁹⁹⁶ *Ibid.*

⁹⁹⁷ *Ibidem*, *April 2006 Human Rights Report*, p. 10, see above footnote 74.

⁹⁹⁸ *Ibid.*

⁹⁹⁹ AP, “*Hostile fire*” *downs US helicopter in Iraq*, 3 April 2006, <http://www.abc.net.au/news/newsitems/200604/s1606728.htm>.

- 4 December 2005: Judge Midhat Al-Mahmoud, President of the High Judicial Council, survived a suicide bomb attack against his home.¹⁰⁰¹
- 8 November 2005: Gunmen opened fire on a car carrying two lawyers defending Saddam Hussein's half-brother Barzan Ibrahim Al-Tikriti and former Vice President Taha Yassin Ramadan, in the *Dujail* trial. Adel Al-Zubeidi was killed and Thamer Hamoud Al-Khuzai was wounded in the incident.¹⁰⁰²
- 20 October 2005: A day after the start of the *Dujail* trial, in which former President Saddam Hussein and seven others stand accused of the killing of 148 Shi'ites, Defence Attorney Saadun Janabi was murdered in Baghdad.¹⁰⁰³
- 17 August 2005: Jasim Waheeb, an investigative judge at the Appellate Court of Al-Karkh, and his driver were shot to death in Baghdad's Al-Doura neighbourhood.¹⁰⁰⁴
- 17 June 2005: A judge and his driver were killed in Mosul City by unknown gunmen.¹⁰⁰⁵
- 3 March 2005: Judge Barawiz Mohammed Mahmoud Al-Merani and lawyer, Aryan Mahmoud Al-Merani, both working with the Iraqi High Tribunal tasked to try Saddam Hussein and former members of his government, were killed by gunmen outside their home in Adhamiya. The killings came one day after the court issued referrals for five former regime members for crimes against humanity. It is possible that the killings were related to the Kurdish ethnicity of the victims.¹⁰⁰⁶
- 2 March 2005: A criminal court judge involved in human rights cases was shot dead in front of his house. His lawyer brother was also killed.¹⁰⁰⁷
- 26 January 2005: Senior judge Qais Hashim Shameri and his driver were killed by gunmen. Jaish Ansar Al-Sunna claimed responsibility in a Web posting, calling the judge "*one of the heads of infidelity and apostasy of the new Iraqi government*".¹⁰⁰⁸

¹⁰⁰⁰ AP, *Bakers, lawyer among five killed in Iraq attacks*, 30 March 2006, http://www.khaleejtimes.com/displayArticle.asp?col=§ion=focusoniraq&xfile=data/focusoniraq/2006/March/focusoniraq_March135.xml.

¹⁰⁰¹ *Ibidem*, *Son of top Iraqi judge shot dead*, see above footnote 994.

¹⁰⁰² BBC News, *Saddam trial lawyer is shot dead*, 8 November 2005, http://news.bbc.co.uk/2/hi/middle_east/4417948.stm.

¹⁰⁰³ Kamal Taha, *Saddam lawyers determined to defend him despite threats*, Middle East Online, 2 November 2006, http://www.iraqupdates.com/p_articles.php?refid=DH-S-02-11-2006&article=11507.

¹⁰⁰⁴ Arabic News, *Judge killed, Muslim Scholars commission attacked*, 19 August 2005, <http://www.arabicnews.com/ansub/Daily/Day/050819/2005081906.html>.

¹⁰⁰⁵ *Ibidem*, *Iraqi judge killed in Iraq*, 17 June 2005, <http://www.arabicnews.com/ansub/Daily/Day/050617/2005061702.html>.

¹⁰⁰⁶ Robert Worth, *Judge killed before Saddam trial*, Agencies, 3 March 2005, <http://www.theage.com.au/news/Iraq/Judge-killed-before-Saddam-trial/2005/03/02/1109700536629.html>; AP, *Judge, lawyer on Iraq war crimes tribunal killed*, 2 March 2005, <http://www.msnbc.msn.com/id/7064658/>.

¹⁰⁰⁷ *Ibid.*

¹⁰⁰⁸ AP, *Video shows American hostage; judge killed in clashes*, 26 January 2005, http://www.usatoday.com/news/world/iraq/2005-01-25-voter-safety_x.htm.

Annex VIII: Attacks on Athletes and Sports Officials

The following incidents were reported in the media since January 2006:

- 26 January 2007: The body of well-known Shi'ite boxer Hassan Hadi was found in Haifa Street, a Sunni-dominated neighbourhood of Baghdad, after he had been kidnapped some days earlier.¹⁰⁰⁹
- December 2006: Iraq's Olympic cycling coach was killed after gunmen kidnapped him from his home.¹⁰¹⁰
- December 2006: The body of Hadib Majhoul, head of the popular Talaba club and a member of the Iraqi Soccer Federation, was found dead after he was seized by gunmen while driving to work.¹⁰¹¹
- 1 November 2006: Armed men seized Khalid Nejim, the basketball federation chief who also was a coach for the national basketball team, and Issam Khalef, who coached blind athletes, from a youth club on Palestine Street in eastern Baghdad.¹⁰¹²
- November 2006: A blind Iraqi athlete and a Paralympics coach were kidnapped, but were released unharmed after sports officials said their abductors determined neither was linked to the Sunni insurgency.¹⁰¹³
- 9 October 2006: Hazim Hussein, an Iraqi international soccer referee, was kidnapped by unidentified assailants as he left the Iraqi Federation of Football in Baghdad's north-eastern Shaab Stadium. According to the head of the Iraqi Referee Association, the kidnappers had demanded a US \$200,000 ransom.¹⁰¹⁴
- 6 October 2006: Gunmen killed Naseer Shamil, a former Iraqi national volleyball player, in his shop in Baghdad.¹⁰¹⁵
- 3 September 2006: Ghanim Ghudayer, a popular Iraqi soccer player of Baghdad's Air Force Club and member of Iraq's Olympic team was kidnapped by unknown assailants in the Al-Amil neighbourhood. His whereabouts remain unknown.¹⁰¹⁶
- July 2006: Iraq's national soccer coach, Akram Ahmed Salman, resigned after receiving death threats against him and his family warning him against continued training of the

¹⁰⁰⁹ AP, *Iraqi boxer abducted, killed*, 26 January 2007, <http://www.thestar.com/printArticle/175293>.

¹⁰¹⁰ *Ibidem*, *Cycling coach latest victim of violence in Iraq*, 21 December 2006, <http://sports.espn.go.com/oly/cycling/news/story?id=2704659&campaign=rss&source=ESPNHeadlines>.

¹⁰¹¹ AP, *Gunmen Kidnap Soccer Official in Baghdad*, 1 December 2006, <http://www.wtop.com/?nid=157&sid=992412>.

¹⁰¹² *Ibidem*, *Gunmen kidnap Iraqi coach for blind*, 2 November 2006, <http://www.thestate.com/mld/thestate/news/world/15902505.htm>.

¹⁰¹³ Kirsten Sparre, *Disabled athletes also targets for kidnappers in Iraq*, Play The Game, 8 November 2006, http://www.playthegame.org/News/Up%20To%20Date/Disabled_athletes_also_targets_for_kidnappers_in_Iraq.aspx.

¹⁰¹⁴ AP, *Iraqi international soccer referee kidnapped in Baghdad*, 11 October 2006, http://www.iraqupdates.com/p_articles.php?refid=WH-S-16-10-2006&article=11002.

¹⁰¹⁵ *Ibidem*, *Scattered violence leaves 25 dead in Iraq*, 7 October 2006, http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/20061007/iraq_violence_061007/20061007?hub=Newsletter.

¹⁰¹⁶ *Ibidem*, *Iraqi Olympic Soccer Player Kidnapped*, 4 September 2006, <http://www.foxnews.com/story/0,2933,212041,00.html>.

national team.¹⁰¹⁷ He told AFP that rivalry between various sports officials was the reason behind the threats.¹⁰¹⁸

- 15 July 2006: Gunmen stormed a meeting of sports officials and abducted 30 persons, including the head and the deputy head of Iraq's Olympic Committee and the chairmen of the Iraqi Taekwondo and Boxing Federations.¹⁰¹⁹ *The Times* reported in October that of the 30 kidnapped, two were bodyguards whose bodies were found dumped on a street. Others were released, although Ahmed Al-Hijjiya, the head of the Olympic Committee, is still missing.¹⁰²⁰
- 13 July 2006: The coach of Iraq's national wrestling team, Mohammed Karim Abid Sahib, was murdered.¹⁰²¹
- 29 May 2006: The coach of Iraq's national tennis team and two players were killed after extremists distributed leaflets warning people in Sunni neighbourhoods in Baghdad not to wear shorts.¹⁰²²
- 24 May 2006: Fifteen members of Iraq's tae kwon do team were kidnapped between Falluja and Ramadi when driving to a training camp in Jordan. The kidnappers reportedly demanded US \$100,000 for their release.¹⁰²³
- 14 May 2006: Mannar Mudhafar, one of the best soccer players on the popular Zawra team, was shot to death in Baghdad.¹⁰²⁴
- January 2006: Female basketball player Samira Kubaisy was killed after being accused by extremists of un-Islamic behaviour.¹⁰²⁵
- 25 January 2006: Jasseb Rahma, a former Iraqi wrestling champion, was gunned down in front of his family in Basrah.¹⁰²⁶

¹⁰¹⁷ The Telegraph, *Victorious Iraqi soccer chief driven into hiding by threats*, 3 August 2006, <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2006/08/03/wirq03.xml>.

¹⁰¹⁸ Play The Game, *Athletes and sports officials in Iraq under constant threat of murder or abduction*, 10 August 2006, http://www.playthegame.org/News/Up To Date/Athletes_and_sports_officials_in_Iraq_under_constant_threat_of_murder_and_abduction.aspx.

¹⁰¹⁹ AP, *Gunmen kidnap Iraq's Olympic chief*, 15 July 2006, http://www.chinadaily.com.cn/world/2006-07/15/content_641696.htm.

¹⁰²⁰ Owen Slot, *Iraqi sport in state of terror after gunmen draw blood*, *The Times*, 10 October 2006, http://www.timesonline.co.uk/tol/sport/more_sport/article667015.ece.

¹⁰²¹ Joshua Partlow, *Iraq Given Control of Province*, *The Washington Post*, 14 July 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/07/13/AR2006071301545.html>.

¹⁰²² BBC News, *Iraqis shot "for wearing shorts"*, 26 May 2006, http://news.bbc.co.uk/2/hi/middle_east/5020804.stm.

¹⁰²³ *Ibid.*

¹⁰²⁴ IRIN, *Iraq: Athletes targeted for sectarian, religious reasons*, see above footnote 648.

¹⁰²⁵ *Ibid.*

¹⁰²⁶ Middle East Times, *Regional roundups: Former Iraqi wrestling champion shot dead*, 3 March 2006, <http://www.metimes.com/storyview.php?StoryID=20060227-092345-4862r>.

Annex IX: Attacks on Palestinian Refugees in Iraq

The following provides an overview of attacks on Palestinian refugees in Iraq since September 2006. Please note that – in contrast to the other Annexes, the reports of attacks on Palestinians were gathered by UNHCR from private sources, and to the extent possible verified with the UN or other agencies. As stated earlier, this list is not exhaustive.

- 28 February 2007: Reportedly in response to the attack on Al-Doura neighbourhood and the discovery of the badly beaten body of the Palestinian male killed on 26 February (mentioned below), 47 Palestinians fled to the Iraqi-Syrian border crossing of Al-Walid. By month's end, there were 471 Palestinians in Al-Walid.
- 25 February 2007: There were reports that Mehdi Army militiamen attacked the Al-Sihha compound in Baghdad's Al-Doura neighbourhood, raiding apartments, beating and robbing Palestinians. Two Palestinians were reportedly abducted. One was later released claiming he had been badly beaten. The badly beaten body of the second was reportedly found the next day. Photos were shared with UNHCR; however the person in the photos is so badly beaten his face is unrecognizable.
- 22 February 2007: The home of a Palestinian man in Baghdad's Ghazaliya District was reportedly raided by Ministry of Interior Special Forces and he and his family were beaten and robbed. He and six other Iraqis were detained. While the Iraqi detainees were released the next day, the Palestinian man remained in detention in the third brigade camp in Al-Amiriya, having been reportedly subjected to severe physical abuse.
- 16 February 2007: Three Palestinians were arrested in Baladiyat compound. There were reports that their families, as well as the family of a fourth man, who had been detained several months earlier, were subsequently requested to pay a ransom of US \$2,500 for the release of each person by the ISF. Despite the fact that the ransom was paid, the men were not released. The same day, 29 Palestinians arrived at the Iraqi-Syrian border.
- 11 February 2007: A Palestinian male from Baladiyat disappeared while driving his taxi. His body was found four days later. In an unrelated incident, another Palestinian male, from Tobji District, was reportedly abducted from his home by members of the Mehdi Army. He was released three days later after being seriously beaten.
- 10 February 2007: Thirty-two Palestinians arrived at the Iraqi-Syrian border.
- 9 February 2007: A Palestinian male was reportedly stopped and abducted by persons in a black car after leaving his home in Baladiyat.
- 8 February 2007: A Palestinian male was reportedly abducted from the street in Al-Doura. The same day, eight Palestinians arrived at the Iraqi-Syrian border.
- 7 February 2007: A Palestinian man, whose home had been attacked by mortars on 27 January 2007, was reportedly gunned down and killed along with two Iraqi friends by four masked, armed men. Also, 14 Palestinians arrived at the Iraqi-Syrian border.
- 6 February 2007: Fifty-one Palestinians arrived at the Iraqi-Syrian border.
- 4 February 2007: A Palestinian man from Tobji District in Baghdad was reportedly arrested by Special Forces of the Ministry of Interior and released the same day after having been severely beaten.
- 1 February 2007: A Palestinian man (and father of a child killed in the 13 December 2006 attack on Al-Baladiyat), was stopped on his way to work and taken away at an ISF

checkpoint in Yousifiya area. He was released later upon the request of the MNF who found that there were no charges against him. He was reportedly badly beaten while in detention. Reportedly, his family was extorted for US \$6,000 by the ISF to secure his release. Even after his release, the ISF reportedly threatened the family to re-arrest him in order to obtain the money. On 25 February 2007, the family reportedly paid US \$3,500 to an official of the Ministry of Interior and members of the Mehdi Army. In an unrelated incident, another Palestinian man, from Yousifiya was reportedly detained by the ISF.

- 31 January 2007: Two Palestinian males, a man and his nephew, were kidnapped from Al-Doura / Al-Mahdiya District. They were released the same day after claiming they had been beaten by Sunni insurgents. In a separate incident, a Palestinian youth was kidnapped along with an Iraqi Sunni friend. A local Shi'a cleric intervened and was able to free the Palestinian youth, but only after he was forced to watch the execution of his friend.
- 30 January 2007: A Palestinian woman and two Palestinian men from Al-Doura were attacked by four armed gunmen in a vehicle. The three reportedly survived the attack and were taken to hospital.
- 25 January 2007: Two Palestinian brothers from Al-Mansouriya were reportedly killed by militia.
- 24 January 2007: Seventy-three Palestinians reportedly fled to Al-Walid on the Iraqi-Syria border, many of whom had just been released from detention the previous day.
- 23 January 2007: Seventeen Palestinians were rounded up at approximately 5:00 am by ISF in Hay Al-Nidhal neighbourhood in Baghdad. Reportedly, the ISF broke down the doors and windows of the homes in order to gain entrance, taking away the males and leaving the women and children behind. There were reports that some of the women were beaten during this process. Additional reports claim that the building was attacked by gunfire the previous afternoon from unknown gunmen and that the previous night, four persons in civilian dress and driving an unmarked vehicle, presumed by residents to be militia, came to the building to request that the residents sign a document which stated that they would not attack ISF or MNF and that they would not support terrorism. The 17 men were released later in the day and there were allegations that they had been severely beaten in detention. There were reports that another 13 men were briefly detained later that day in Hay Al-Amin area near Baladiyat, but reports were unclear as to whether they were militia or ISF (one source suggested they were militia with group members dressed as police).
- 19 January 2007: A Palestinian woman and her two sons were killed by Sunni militia in Hay Al-Adel. In a separate incident, there was a report of a Shi'ite militia attack in Baghdad Al-Jadida. Residents of Baghdad Al-Jadida received verbal death threats to evacuate the compound and leave Iraq.
- 18 January 2007: The body of a Palestinian man was found in Al-Bataween. In a separate incident, a Palestinian was kidnapped by armed persons and released on 23 January after his family paid a ransom of US \$10,000.
- 14 January 2007: One Palestinian man was killed and another injured in a militia attack on the Palestinian compound in Baghdad Al-Jadida. When the family tried to retrieve victim's body from the Ibn Al-Nafis Hospital after paying a ransom of US \$500, the militia attacked and killed an Iraqi family they mistook for the Palestinians. The

Palestinian family fled the hospital and found another way to retrieve their relative's body. In a separate incident, a Palestinian working as a taxi driver in Al-Za'afaraniyah was kidnapped by militiamen and later found dead.

- 13 January 2007: The body of a Palestinian man was discovered after he had been kidnapped from Al-Karrada neighbourhood several days earlier. Also, the body of another Palestinian man was found in the Baghdad Central Morgue. He had been missing since 11 July 2006. He had previously fled to Baladiyat after being threatened by militia in Al-Hurriya neighbourhood.
- 12 January 2007: Two Palestinian men were separately kidnapped from Al-Za'afaraniyah and Al-Doura neighbourhoods. Their bodies were found two days later.
- 11 January 2007: One Palestinian man was kidnapped from Hay Al-Awal. His whereabouts remain unknown.
- 8 January 2007: A Palestinian from the UAE was kidnapped while visiting relatives in Al-Karrada area in Baghdad. He was released on 15 January 2007 after his family paid US \$30,000 in ransom.
- 7 January 2007: A Palestinian man was killed in Baghdad's Al-Mansour area.
- 1 January 2007: One Palestinian man was reportedly kidnapped by militiamen from Al-Doura. Even though the family paid US \$30,000 ransom, he was later found dead.
- 25 December 2006: The dead body of a Palestinian was found, reportedly bearing numerous marks of torture, after having been kidnapped on 20 December 2006. In a separate incident, two Palestinian men from Ghazaliya District in Baghdad were reportedly kidnapped by Shi'ite militiamen.
- 24 December 2006: A Palestinian man was allegedly detained by the Iraqi 4th regiment special forces (*Maghawir Allua Arahba*) at his home in Baladiyat. There has been no information about his whereabouts.
- 15 December 2006: A Palestinian man was kidnapped from Al-Doura neighbourhood and later found killed, his body bearing signs of torture.
- 13 December 2006: Baladiyat compound was attacked with mortars reportedly killing nine persons, including children, and injuring 20.
- 12 December 2006: Three persons were reportedly abducted and killed in Al-Doura; the body of another Palestinian man, previously kidnapped from Al-Mansour, was found dead in Baladiyat.
- 9 December 2006: A Palestinian shopkeeper and two of his employees were reportedly kidnapped from a shop in Al-Sana in Baghdad. Witnesses saw militiamen in sports clothing entering the shop and taking them away. In a separate incident, there was a confirmed report of an attack on Baladiyat. Three shells landed in the compound, injuring 10 persons. No fatalities were reported.
- 8 December 2006: The manager of the Haifa Sports Club, a well known community figure, was reportedly kidnapped from his home, with a ransom demand of US \$100,000. He was later found killed.
- 2 December 2006: Two Palestinian brothers were reportedly kidnapped by militiamen from their shop in Al-Mashtal, near Baladiyat. Their bodies were found on 7 December 2006.
- 1 December 2006: A Palestinian man was reportedly taken from his shop in Baladiyat by militiamen and killed in the street when he resisted. In a separate incident, the bodies of two Palestinians, kidnapped on the same day from Al-Fadl, were found dead.

- 24 November 2006: A well-known Palestinian religious leader was reportedly kidnapped by militia in Al-Doura; his body was found on 27 November 2006 bearing signs of torture.
- 13 November 2006: A Palestinian woman was reportedly killed near Baladiyat by militiamen when she returned to collect personal items from her home, from which the family had previously fled.
- 19 October 2006: The Baladiyat compound was attacked and shelled by approximately 6-8 mortars. Palestinians in the compound said that three to five people were killed and some 20 injured. An attempt to get an ambulance into the compound to take away the injured failed when the ambulance was attacked by militiamen; one report said that the ambulance driver was killed. The Iraqi authorities claimed the ambulance was attacked by the Palestinians. The next day, UNAMI reported that another missile had been launched into Baladiyat compound, but no one was hurt.
- 7 October 2006: Alleged members of the Mehdi Army raided the Al-Hurriya neighbourhood and threatened all persons residing between streets 80 and 90 that they had until 10:00, 8 October, to leave the area or they would be killed. During the raid, the militia forcibly evicted at least one Palestinian family from their home located in a shelter belonging to the Ministry of Labour and Social Affairs, where many Palestinians live. The militiamen took the keys of the home with them. Another Palestinian was allegedly robbed of ten million Iraqi Dinars during the raid.
- 25 September 2006: UNHCR was contacted by representatives of the Palestinian community in Baghdad regarding an alleged incident in which about 12 vehicles, including 5 GMC vehicles appearing to belong to the Iraqi Police, other white GMC cars, two BMWs and another three small cars went to the Al-Doura area of Baghdad. Armed persons believed to belong to Shi'ite militias knocked on the doors of the Palestinian families in the neighborhood and handed over leaflets, threatening that the Palestinians should leave their homes within 72 hours or they would be killed. Some Palestinian families took the threats seriously and left their houses, while others refused to leave. A second round of threats was reportedly issued to the same area on 30 September by loudspeaker, stating that they had until the next evening, 1 October, at 19:00 or they would be burned. Members of the Palestinian community confirmed that a number of families fled their homes.
- 23 September 2006: UNHCR received an unconfirmed report that a 25-year old man was kidnapped from his shop in Al-Jadida neighbourhood in Baghdad by five armed men in civilian clothing. The abductors later contacted the family and demanded a US \$100,000 ransom and for them to leave their home.

Annex X: Selected Bibliography

Note: This selected bibliography contains all sources referred to more than twice in the Guidelines. All Internet links were accessed in February 2007, unless otherwise indicated, except for links to UNHCR's Refworld website (www.refworld.org) which were accessed in July 2007.

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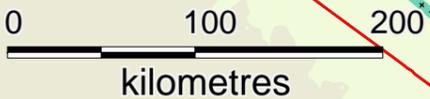


LEGEND

	Capital		Secondary road
	UNHCR sub office		Railway
	UNHCR field office		
	UNHCR presence		
	Refugee settlement		
	Refugee camp		
	Main town or village		
	Secondary town or village		
	International boundary		
	Main road		

ELEVATION
(Above mean sea level)

	Below mean sea level
	0 to 250 metres
	250 to 500 metres
	500 to 750 metres
	750 to 1000 metres
	1000 to 1750 metres
	1750 to 2500 metres
	2500 to 3250 metres



Iraq Governorates



Governorate	Number
Anbar	iq01
Basrah	iq02
Muthanna	iq03
Qadissiya	iq04
Najaf	iq17
Erbil	iq11
Sulaymaniyah	iq05
Taamim	iq13
Babil	iq06
Baghdad	iq07
Dahuk	iq08
Thi-Qar	iq09
Diyala	iq10
Karbala	iq12
Missan	iq14
Ninewa	iq15
Salah al-Din	iq18
Wassit	iq16

- ⊙ Governorate capital
- ~ Governorates
- ▬ Country border
- ~ River
- Lakes

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Humanitarian
Coordinator for Iraq

