Home Office
UK Border Agency

IRAQ

BULLETIN: TREATMENT OF PERSONS RETURNING TO IRAQ, INCLUDING FAILED ASYLUM SEEKERS; THE SITUATION OF INTERNALLY DISPLACED PERSONS AND PROCEDURES TO RE-OBTAIN DOCUMENTATION TO ACCESS SERVICES AND FACILITIATE INTERNAL MOVEMENT

Country of Origin Information Service

Date: 16 April 2012

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Preface

i) This Country of Origin Information (COI) bulletin has been produced by COI Service, UK Border Agency, for use by officials involved in the asylum and human rights decision making process. The bulletin contains information available up to 9 March 2012, with the exception of the 'COI Service bulletin – collation of IGC member states' responses on returns to Iraq', dated 16 April 2012, which was updated in April 2012 from an earlier version dated December 2011 to include the UK response.

ii) The bulletin provides information on three broad themes: i) the treatment of failed Iraqi asylum seekers who were voluntarily or forcibly returned to Baghdad; ii) the situation of internally displaced persons; and iii) documentation, access to services and freedom of movement in Iraq. The bulletin does not contain any UK Border Agency opinion or policy.

iii) The bulletin should be read in the context of the general socio-economic and human rights situation in Iraq and users are recommended to consult the Iraq COI Report, August 2011. Further information about freedom of movement into and within the Kurdistan Region of Iraq is available in the Joint Report of the Danish Immigration Service/UK Border Agency Fact Finding Mission to Erbil and Dahuk, Kurdistan Region Iraq (KRI), conducted 11 to 22 November 2011, released in March 2012.

iv) The bulletin is a compilation of extracts produced by a range of external information sources, most of which are in the public domain. All information is attributed throughout the text to the original source material. The term 'ibid' is used to refer to a source that has been previously cited. Where the source documents identified are available in electronic form the relevant weblink has been included together with the date that the link was accessed. A number of source documents which are not currently publicly available have been annexed, the remainder are available on request from COI Service. Officials are advised to examine the original source documents directly.

v) In compiling the bulletin no attempt has been made to resolve discrepancies between information provided in different source documents, though where discrepancies exist these have been brought together. The term 'sic' has been used in this document only to denote incorrect spellings or typographical errors in quoted text; its use is not intended to imply any comment on the content of the material.

vi) The bulletin is largely based upon source documents issued during the previous two years. However, some older source documents may have been included because they contain relevant information not available in more recent documents. All sources contain information considered relevant at the time this bulletin was issued.

vii) In producing this bulletin COI Service has sought to provide an accurate, up-to-date, balanced and impartial compilation of extracts of available, relevant source material on the themes outlined above. Any comments regarding this bulletin or suggestions for additional source material are very welcome and should be submitted to COI Service below:

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Independent Advisory Group on Country Information

viii) The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the UK Border Agency's COI material. The IAGCI welcomes feedback on the UK Border Agency's COI products. Information about the IAGCI's work can be found on the Independent Chief Inspector's website at http://icinspector.independent.gov.uk/

ix) In the course of its work the IAGCI reviews the content of selected UK Border Agency COI documents and makes recommendations specific to those documents and of a more general nature. A list of the COI reports and other documents which have been reviewed by the IAGCI or the Advisory Panel on Country Information (the independent organisation which monitored UK Border Agency's COI material from September 2003 to October 2008) is available at http://icinspector.independent.gov.uk/country-information-reviews/

x) Please note: it is not the function of the IAGCI to endorse any UK Border Agency material or procedures. Some of the material examined by the Group relates to countries designated or proposed for designation to the Non-Suspensive Appeals (NSA) list. In such cases, the Group's work should not be taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself. The IAGCI can be contacted at:

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Enforced returns and treatment of returnees

1. THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR) ELIGIBILITY GUIDELINES AND POSITION ON ENFORCED RETURNS

UNHCR'S GUIDANCE ISSUED IN 2009

1.01 The United Nations High Commissioner for Refugees (UNHCR) most recent detailed guidance (at the time of writing) on assessing the protection needs of Iraqis are its Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum Seekers (UNHCR Eligibility Guidelines 2009), dated April 2009. The guidelines explain the UNHCR's overall approach to the assessment of International Protection needs of Iraqi asylum seekers as follows:

'In view of the serious human rights violations and ongoing security incidents which are continuing in the country, most predominantly in the five Central Governorates of Baghdad, Diyala, Kirkuk, Ninewa and Salah Al-Din, UNHCR continues to consider all Iraqi asylum seekers from these five Central Governorates to be in need of international protection. In those countries where the numbers of Iraqis asylum-seekers from those five Central Governorates 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 or relevant regional instruments and have in place procedures requiring refugee status to be determined on an individual basis, Iraqi asylum-seekers from the Central Governorates of Baghdad, Diyala, Kirkuk, Ninewa and Salah Al-Din should be considered as refugees based on the 1951 Convention criteria or the relevant applicable regional criteria.'[1]

1.02 The same source explains with regard to international protection cases involving persons from the Southern Governorates of Iraq:

'Although serious concerns remain regarding the sustainability of the improvements, the security situation in the Southern Governorates of Babel, Basrah, Diwaniyah, Kerbala, Missan, Muthanna, Najef, Thi-Qar and Wassit has significanty stabilized since late 2007. The largely homogenous population in Al-Anbar Governorate makes it less prone to ethnic and sectarian violence than the other Central Governorates. Therefore, the international protection needs of asylum-seekers from the Southern Governorates of Babel, Basrah, Diwaniyah, Kerbala, Missan, Muthanna, Najef, Thi-Qar and Wassit and from Al-Anbar Governorate should be assessed individually based on the 1951 Convention refugee definition or relevant regional instruments…The caution highlighted already concerning the situation in those locations should be borne in mind, which thus may justify the same approach as for asylum-seekers from the Central Governorates, should the situation deteriorate.'[2]

1.03 With regard to asylum seekers from the Kurdistan Region of Iraq (KRI), the UNHCR Eligibility Guidelines 2009 observed that in: '... the three Northern Governorates of

[1] UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum Seekers, April 2009, http://www.unhcr.org/4a2640852.html, para 12, p.18
[2] Ibid, para 14, p. 19

Sulaymaniyah, Erbil and Dohuk, UNHCR is maintaining its position thus far, namely that their claims should be individually assessed based on the 1951 Convention refugee definition.'[3]

1.04 On the matter of internal relocation, or internal flight alternative, the UNHCR Eligibility Guidelines 2009 report in regard to the central and southern governorates:

'... UNHCR maintains that an internal flight or relocation alternative should not be considered to be available for Iraqi asylum-seekers within any parts of the Central and Southern Governorates because of the overall ability of agents of persecution to perpetrate acts of violence with impunity, the ongoing violence and human rights violations, risks associated with travel, and the hardship faced in ensuring even basic survival in areas of relocation.'[4]

For further details refer to the UNHCR Eligibility Guidelines 2009

1.05 In July 2010 UNHCR provided an interim advisory note entitled Note on the Continued Applicability of the April 2009 UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum-Seekers to update asylum decision makers handling Iraqi cases. The note, which remains the most current, up-to-date advisory note issued by UNHCR explained: '... the continued validity of the April 2009 UNHCR Guidelines and to inform that issuance of revised guidance is pending further developments in Iraq. UNHCR continues to monitor and assess developments as they relate to the determination of eligibility for the international protection of Iraqi asylum-seekers and will issue comprehensively updated and revised guidelines once the situation so warrants.'[5]

For further details refer to the Note on the Continued Applicability of the April 2009 UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum-Seekers July 2010

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UNHCR STATEMENTS CONCERNING ENFORCED RETURNS FROM EUROPE AND THE APPLICATION OF ARTICLE 15C OF THE EUROPEAN UNION QUALIFICATION DIRECTIVE

1.06 In June 2010 UNHCR issued a statement raising its concerns over plans by several European Union member states to enforce the removal of Iraqi citizens to Baghdad. The document set out the reasons against this proposal as follows:

'Our position and advice to governments is that Iraqi asylum applicants originating from Iraq's governorates of Baghdad, Diyala, Ninewa and Salah-al-Din, as well as from Kirkuk province, should continue to benefit from international protection in the form of refugee status under the 1951 Refugee Convention or another form of protection depending on the circumstances of the case. Our position reflects the volatile security situation and the still high level of prevailing violence, security incidents, and human rights violations taking

[3] Ibid, para 16, p. 20
[4] Ibid, para 17, p.20
[5] UNHCR, Note on the Continued Applicability of the April 2009 UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum-Seekers, http://www.unhcr.org/refworld/pdfid/4c4fed282.pdf, I. Summary, p.1

place in these parts of Iraq. UNHCR considers that serious - including indiscriminate - threats to life, physical integrity or freedom resulting from violence or events seriously disturbing public order are valid reasons for international protection.' [6]

1.07 The same statement also reaffirmed UNHCR's position in the Eligibility Guidelines with regard to internal relocation, as noted:

'... While some have proposed that returned Iraqis could reside in other parts of the country from where they originate, UNHCR's position is that no internal flight alternative exists in Iraq because of the on-going levels of violence in Baghdad, Diyala, Kirkuk, Ninewa and Salah Al-Din, and in view of access and residency restrictions in various governorates as well as the hardship faced by returnees in ensuring even survival in areas of relocation.'[7]

1.08 Additionally the source explained that UNHCR was: '...concerned about the signal that forced returns from Europe could give to other host countries, particularly those neighbouring Iraq.'[8]

1.09 A similar statement issued by UNHCR, dated 3 September 2010, reiterated their concerns over the ongoing forced return of Iraqis from Western European countries. The source reported that a chartered flight with 61 people on board who had been residing in Sweden, Norway, Denmark and the UK had landed at Baghdad airport on 1 September 2010.[9] The source highlighted that UNHCR's guidelines:

'... ask governments not to forcibly return people originating from the governorates of Baghdad, Diyala, Kirkuk, Ninewa and Salah Al-din, in view of the serious human rights violations and continuing security incidents in these areas. Our position is that Iraqi asylum applicants originating from these five governorates should benefit from international protection in the form of refugee status under the 1951 Refugee Convention or an alternative form of protection.'[10]

1.10 The source observed that whilst some individuals who had been returned may be '.... destined for safer areas such as the Kurdistan Region Government Region...' or '... may have elected to return voluntarily…[of the] 11 individuals we [UNHCR] were able to interview on arrival some originated from Baghdad, and at least one person was a Christian from Mosul, in the Governorate of Ninewa. The security situation in that Governorate remains extremely volatile.'[11] Additionally the report repeated UNHCR's concerns: '...about the signal that forced returns from Western Europe could give to Iraq's neighbouring countries, which, despite a score of national priorities, are hosting large numbers of Iraqi refugees.'[12] Additionally the report noted that: 'UNHCR has so far not been able to confirm reports that three Iranians were among those on board.'[13]

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[6] UNHCR, UNHCR warns over European deportations to Iraq, 8 June 2010 http://reliefweb.int/node/357314
[7] Ibid
[8] Ibid
[9] UNHCR, UNHCR concerned at ongoing deportations of Iraqis from Europe, 3 September 2010, http://reliefweb.int/node/366713
[10] Ibid
[11] Ibid
[12] Ibid
[13] Ibid

1.11 A report from IRIN News entitled 'UNHCR concerned over Iraqi deportations', dated 29 September 2010, explained:

'The UN Refugee Agency (UNHCR) has expressed concern about the growing number of deportations of Iraqi asylum-seekers from Western Europe in the last two months. ... Special charter flights to take failed asylum-seekers home have increased in frequency, and Iraqis are being returned to parts of the country which are still unsafe, in contravention of UNHCR guidelines for the handling of Iraqi asylum applications, it says. ...The deportations are handled by Frontex, a Warsaw-based agency set up to coordinate operations between European Union (EU) member states in the field of border security, and their planes can carry returnees from several different countries. The most recent (on 22 September) had failed asylum applicants from Sweden, Norway, the Netherlands and the UK.'[14]

1.12 On 18 January 2011 UNHCR issued a briefing note concerning plans to enforce the return of Iraqi asylum seekers from Sweden:

'UNHCR is very concerned by reports that Sweden plans to send around 25 Iraqis back to Baghdad tomorrow, Wednesday 19th January [2011]. We understand that a number of those scheduled for return belong to religious and ethnic groups targeted by violence in Iraq. They, and others slated for return, appear to have profiles that would warrant protection under the 1951 Refugee Convention or the European Union's Qualification Directive.'[15]

1.13 According to the briefing note, UNHCR opposed the enforced return of Iraqis on account of the continued security risks present in Iraq, particularly in the five central Iraqi Governorates. As noted:

'UNHCR has frequently appealed to states to ensure that asylum applicants originating from Iraq's central governorates of Baghdad, Diyala, Ninewa and Salah-al-Din, as well as from Kirkuk province, benefit from international protection in the form of refugee status under the 1951 Convention or another form of protection depending on the circumstances of the case. We understand that many of those being returned on Wednesday come from these areas...Our position reflects the volatile security situation and the still high level of prevailing violence, security incidents, and human rights violations taking place in these parts of Iraq. UNHCR considers that serious – including indiscriminate – threats to life, physical integrity or freedom resulting from violence or events seriously disturbing public order are valid reasons for international protection.' [16]

1.14 The UN Assistance Mission for Iraq (UNAMI) Human Rights Office/Office for the High Commissioner for Human Rights (OHCHR), Baghdad, 2010 Report on Human Rights in Iraq, dated January 2011, covering events in 2010, observed:

'Several European countries (including Belgium, Denmark, the Netherlands, Norway, Sweden and the UK) have forcibly repatriated failed Iraqi asylum seekers to Iraq, through

[14] IRIN News, UNHCR concerned over Iraqi deportations, 29 September 2010, http://www.irinnews.org/Report/90616/REFUGEES-UNHCR-concerned-over-Iraqi-deportations
[15] UNHCR, UNHCR concerned at planned forced return from Sweden to Iraq, 18 January 2011, http://www.unhcr.org/4d3593846.html
[16] Ibid

Baghdad. UNHCR has publicly stated that Iraqi asylum applicants originating from the governorates of Baghdad, Diyala, Kirkuk, Ninawa and Salahuddin should continue to benefit from international protection in the form of refugee status under the 1951 Convention on the Status of Refugees or another form of protection depending on the circumstances of the case, given the lawlessness, volatile security situation and the human rights violations taking place in these parts of Iraq which could seriously threaten the life, physical integrity or freedom of persons forcibly returned to these areas. On 22 October, the European Court of Human Rights recommended that deportations to Baghdad should be suspended due to an increase in violence. On 16 November the Council of Europe criticized some European countries for continuing deportations.' [17]

1.15 A footnote in the aforementioned report further explained:

'In a letter to the governments of the Netherlands, Sweden and the UK, the Court announced that any Iraqi challenging his deportation would have it suspended in application of Rule 39 of the Rules of Court, which enables the Court to adopt interim measures either 'at the request of a party' or 'of its own motion.': European Court of Human Rights ECHR-LEO.IG bis PHA, 22 October 2010. Other Signatories to the European Convention on Human Rights, such as Sweden and the United Kingdom, announced that they would not halt deportations except in the case of individual Iraqi nationals unless the European Court of Human Rights communicates with the State concerned that the deportation would be inappropriate: see Swedish Migration Board (Migrationsverket), 'No General Stop for Deportations to Iraq', 16 November 2010, available online http://www.migrationsverket.se/info/3155_en.html accessed 21 January 2010."' [18]

1.16 A second footnote explained: 'Only those Iraqis whose case actually reaches the European Court of Human Rights can benefit from interim measures granted by the Court.' [19]

1.17 A report in the Guardian dated 9 March 2011 commenting on the resumption of charter flights from EU member states to Iraq in March 2011 stated that: 'The decision to resume charter flights was in defiance of warnings by the United Nations high commissioner for refugees that it is unsafe to remove people to Baghdad and central Iraq…' [20]The source further explained that: 'The UNHCR has criticised European states, including the UK, that have sent Iraqis back to the five central governorates, or provinces, including Baghdad. "We are very concerned about reports that the Home Office has returned Iraqis to Baghdad," a spokeswoman for the UNHCR said. "The situation for minorities [such as Christians] in Iraq is very precarious. There has been a deterioration in security."' [21]

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[17] UNAMI Human Rights Office/OHCHR, Baghdad, 2010 Report on Human Rights in Iraq, dated January 2011, p.46, http://www.uniraq.org/documents/UNAMI_HR%20Report_English_FINAL_1Aug11.pdf

[18] UNAMI Human Rights Office/OHCHR, Baghdad, 2010 Report on Human Rights in Iraq, dated January 2011, p.46, footnote 142 http://www.uniraq.org/documents/UNAMI_HR%20Report_English_FINAL_1Aug11.pdf

[19] UNAMI Human Rights Office/OHCHR, Baghdad, 2010 Report on Human Rights in Iraq, dated January 2011, p.46, footnote 143, http://www.uniraq.org/documents/UNAMI_HR%20Report_English_FINAL_1Aug11.pdf

[20] The Guardian, Deportation flights to Iraq resume despite UN warning, 9March 2011, http://www.guardian.co.uk/uk/2011/mar/09/deportation-flights-iraq-resume?INTCMP=SRCH

[21] Ibid

1.18 Whilst on 19 January 2011, a UNHCR report quoted UNHCR's Director of International Protection, Volker Turk, who, speaking at a forum in Brussels questioned the approach taken by some European countries towards persons fleeing from: '[t]he indiscriminate effect of generalized violence in countries like Afghanistan, Iraq and Somalia.'[22] With regard to the application of 15c of the EU Qualification Directive, which: '...extends subsidiary protection to civilians who would face a risk of serious harm in a situation of indiscriminate violence if sent home ...[Mr] Türk revealed that UNHCR researchers examining adherence to the Directive had so far found "an exceedingly narrow interpretation, one which would defy common sense in many cases." He added that Article 15c was used in such a small number of cases that it risked being "an empty shell in protection terms."'[23]

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2. REPORTS OF DETENTION AND HUMAN RIGHTS VIOLATIONS COMMITTED AGAINST RETURNEES

2.01 The US State Department's, 2010 Human Rights Report: Iraq (USSD Report 2010), published 8 April 2011 observed that: 'The constitution provides for freedom of movement in all parts of the country and the right to travel abroad and return freely. The government generally respected these rights. There were some limitations in practice, particularly regarding travel into and residence in the Kurdistan region, but the KRG allowed Christian families displaced from Baghdad to Erbil to enter without restriction.'[24] The report went on to observe: 'The Government generally cooperated with the UNHCR, the International Organization for Migration, and other humanitarian organizations in providing protection and assistance to IDPs, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern...'[25]. Although the source further explained that: '…effective systems to assist these individuals were not fully established by year's end ..' The USSD Report 2010 noted that the lack of such systems were with regard to supporting internally displaced persons (IDPs) as opposed to asylum seekers returning to Iraq.[26]

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STATISTICAL DATA ON RETURNS TO IRAQ FROM COUNTRIES OF ASYLUM

Returns from the United Kingdom

2.02 Figures published by the Home Office, Migration and Asylum – research statistics tables, Removals and voluntary departures by country of destination and type, updated 23

[22] UNHCR, UNHCR seeks common sense European approach towards those fleeing violence, 19 January 2011 http://reliefweb.int/node/381260
[23] Ibid
[24] US State Department's, 2010 Human Rights Report: Iraq, Section 2d, Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons, 8 April 2011 http://www.state.gov/j/drl/rls/hrrpt/2010/nea/154462.htm
[25] Ibid
[26] Ibid

February 2012 provided the following breakdown for asylum returns to Iraq between the period 2004 and 2011:

Year	Asylum cases: Enforced removals and notified voluntary departures	Asylum cases: Assisted Voluntary Returns	Asylum cases: Other voluntary departures	**Total number of asylum cases**
2004	6	432	[0]	**438**
2005	30	773	15	**818**
2006	58	1711	9	**1778**
2007	130	381	21	**532**
2008	372	430	72	**874**
2009	399	671	36	**1106**
2010	258	266	13	**537**
2011	86	239	7	**332**
Total	1339	4903	173	**6415**

[27]

2.03 The following table records enforced returns of failed asylum seekers (FAS) removed by the UK Border Agency to Iraq on charter flights and the number of returnees refused entry into Iraq by the Iraqi authorities between October 2009 and March 2011 (following which a High Court injunction blocked further removals using charter flights)

Month and Year	Number of FAS returned to Iraq	Number of FAS refused entry
October 2009	10	34
June 2010	24	0
September 2010	53	2
October 2010	25	2
March 2011	6	0
Total	118	38

[28]

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Returns from other countries of asylum

2.04 The COI Service bulletin – collation of IGC member states' responses on returns to Iraq, dated 16 April 2012, explained in its preface:

'In September 2011 the UKBA asked the secretariat of the Intergovernmental Consultations on Migration, Asylum and Refugees (IGC), an 'informal, non-decision

[27] Home Office, Migration and Asylum – research statistics tables, Removals and voluntary departures by country of destination and type (table rv.06, filtering Iraq), updated 23 February 2012, http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/immigration-asylum-research/immigration-tabs-q4-2011/removals-q4-2011-tabs

[28] Non-published internal data, UK Border Agency, February 2012

making forum for intergovernmental information exchange and policy debate on issues of relevance to the management of international migratory flows' to circulate a series of questions to its members on the subject of returns to Iraq. The IGC has 17 participating member states, these are: Australia, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Netherlands, New Zealand, Norway, Spain, Sweden, Switzerland, United Kingdom and United States of America.'[29]

2.05 The bulletin further stated: 'Disclosable responses were provided by eight countries: the United Kingdom, Canada, Finland, the Netherlands, Norway, Germany, Sweden and, partially, by the USA.'[30]

2.06 In response to the question, "Do you enforce returns of rejected (or failed) asylum seekers (FAS) to Baghdad, Iraq?", Finland, Netherland, Norway, Sweden and the United Kingdom stated that they carried out enforced returns of rejected (or failed) asylum seekers to Baghdad. The US asked that their response was not disclosed. Germany stated that they did not conduct enforced returns to Baghdad.[31] Canada stated that owing to the country situation, Iraq had been subject to a Temporary Suspension of Removal (TSR) since 2003. The Canadian response clarified:

' ... a TSR does not apply to foreign nationals who are inadmissible to Canada on security grounds, violating human or international rights, criminality, organized crime, or a person referred to under section F Article 1 of the Refugee Convention. Individuals who are subject to a TSR may also be removed if they voluntarily consent to their removal. All other foreign nationals, including failed refugee claimants, benefit from a stay of removal under the TSR.'[32]

2.07 Question two of the bulletin asked, 'If you enforce returns of FAS to Baghdad, how many were returned in 2009, 2010 and 2011?'. The following responses were received (it should be noted that some of the figures provided included voluntary returns, whilst other included both asylum and non-asylum returns):

'Finland: "2009: 28 persons were returned to Iraq of which 26 with the assistance of IOM. None were returned under escort...2010: 53 returned of which 49 with the assistance of IOM and 2 under escort...2011 (until September): 54 returned of which 29 with the assistance of IOM. 23 have been returned under escort...(Please note that these statistics include both failed asylum seekers and other applicants who have been ordered to be removed from the country. Unfortunately it is not possible to provide detailed statistics separating these or broken down by month.)"

'Germany: "No returns are enforced to Baghdad"

'Norway: "Number of persons returned to Baghdad and other destinations in Iraq during 2009, 2010 and 2011...[Provided statistics but requested that this information remained undisclosed]"

[29] COI Service, Iraq: Bulletin – collation of IGC member states' responses on returns to Iraq, 16 April 2012, Preface, http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/coi/iraq/
[30] Ibid, Preface
[31] Ibid, question 1
[32] Ibid, question 1

'Netherlands: "The Netherlands do not make a distinction between rejected asylum seekers and illegal aliens. (See table below)"

	Jan.	Feb.	March	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total
2009	<5	<5	About 10	About 15	About 5	About 10	About 10	About 5	<5	About 10	About 10	About 10	About 90
2010	<5	<5	About 40	0	<5	About 10	<5	About 5	About 40	<5	<5	<5	About 115
2011	<5	About 10	About 20	About 40	About 5	About 25	About 15	<5	-	-	-	-	About 130 (Jan-Aug)

'Sweden: 'See table below. The total number includes expulsions on account of criminal offences – 25 (of which 10 on charter flights) in 2009, 22 (14) in 2010 and 17 (11) in 2011 (up to October).'

	Jan.	Feb.	March	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total
2009	9	50	22	27	59	15	28	42	62	40	39	43	436
2010	45	50	71	33	57	57	33	26	73	75	25	33	578
2011	41	55	63	55	98	53	32	59	42				498

'USA: "U.S. Immigration and Customs Enforcement (ICE) is unable to derive information regarding Failed Asylum Seekers. ICE provided the total removals to Iraq for the three years as: 2009: 30, 2010: 65, 2011 (YTD) 31…To note: YTD is as of September 26, 2011, Removals include returns. Returns include voluntary returns, voluntary departures and withdrawals under Docket Control".

'Canada: "Between 2009-2011, Canada enforced 26 removals to Iraq involving foreign nationals whose applications for refugee protection were rejected, abandoned or withdrawn."

'United Kingdom: "Published Home Office figures on asylum cases do not differentiate between enforce removals and notified voluntary departures. The following table details returns to Iraq:'"

Year	**Asylum cases: Enforced removals and notified voluntary departures**
2009	399
2010	258
2011	86

[33]

2.08 Additionally question three asked: "Do you enforce FAS returns to Baghdad by charter flight? If so, how many were returned by charter flight in 2009, 2010 and 2011?" (Again, it would be helpful if this could be broken down by month. It would also be useful to know if there were any "unsuccessful" returns denied entry and returned to your country', the following disclosable responses were received:

[33] Ibid, question 2

‘Finland: “Yes. A total of 23 persons have been returned by charter flights. In the upcoming weeks eight persons will be returnned [sic] by charter flight. We do not have any information of unsuccesful [sic] returns.”

‘Germany: “No returns are enforced to Baghdad”

‘Netherland: “Yes, the Netherlands do enforce return of Iraqi nationals to Baghdad by Charter flight. (See table below) The Iraqi immigration authorities accepted all the Iraqi nationals who were enforced by charter flight.”

Date	Frontex	Organized by the Netherlands?	Total from the Netherlands
2009	--	--	--
2010			
17-March	No	No	<5
30-March	No	Yes	About 35
9-June	Yes	No	About 10
8-September	No	Yes	About 35
22-September	No	No	About 10
2011			
16-February	No	No	<5
9-March	Yes	No	About 5
7-April	No	Yes	About 40
17-June	No	Yes	About 25

‘Norway: “Yes, Norway enforced FAS returns to Baghdad by charter flights…[Provided statistics but requested that this information was not disclosed] All returns, to date, have been successful with no returns back to Norway.”

‘Sweden [see table below]

	Jan.	Feb.	March	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total
2009	-	43	2	2	46	-	-	21	43	24	25	24	230
2010	31	36	28	29	45	32	3	-	61	52	-	20	377
2011	22	32	28	31	76	30	-	41	28	-	-	-	288

‘“Returns to Sweden: 2009: 2, 2010: 2, 2011: 1; The total number of returns (both charter flights and scheduled flights) to Sweden was 2 in 2009, 4 in 2010 and 12 in 2011.”

‘USA: [Asked for response not to be disclosed]

‘Canada: “Charter flights are rarely employed and are only considered in exceptional circumstances where there are serious concerns about national security, criminality, uncooperative deportees or where removal using commercial airlines is not feasible. The CBSA [Canada Borders Services Agency] has no record with respect to the removal of failed asylum seekers to Iraq by charter flight.”’

‘United Kingdom: “Until June 2011 when the process was temporarily halted by a High

Court injunction, the UK enforced FAS returns to Baghdad by charter flight. Subject to improved closer working with the Iraqi authorities, enforced FAS returns to Baghdad by charter flight remain a very viable option for the UK."

'"Below are the FAS charter removals to Iraq from 2009 until the Court injunction. (The high number of entry refusals in October 2009 is the result of the Iraqi authorities not having given (they said) their consent at the time for Iraqis from the Kurdish region to be returned to Baghdad):"'

Month/Year	Number of FAS returned	Number of FAS refused entry
October 2009	10	34
June 2010	24	0
September 2010	53	2
October 2010	25	2
March 2011	6	0

[34]

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REPORTS OF MISTREATMENT DURING CHARTER FLIGHTS CONDUCTED IN 2010

2.09 An article published by the Guardian, dated 18 June 2010, stated:

'As many as 25 of 42 men deported from Heathrow on Wednesday evening [16 June 2010] were reportedly under detention at Baghdad airport yesterday, despite being screened in advance by Iraqi officials in the UK...Iraqi officials were alleged to have boarded when the flight touched down early on Thursday [17 June 2010] to help security staff employed by the UK Border Agency (UKBA) punch and drag reluctant failed asylum seekers off the plane…A spokesman [for UNHCR], Andrej Mahecic, said UNHCR staff in Baghdad had interviewed deportees. 'We are looking into the accounts these people are making. Fourteen of the 42 were interviewed by UNHCR UNHCR [sic] lawyers in Baghdad. The men claim they were beaten while being forced on to the plane. We met six of the men and saw fresh bruises that indicate mistreatment.'[35]

2.10 The same article, referring to an interview with one of the returnees explained:

'"During the flight I took my seat belt off," said Abdullah, a Kurd from north Iraq. "The officers jumped on me and grabbed me by the neck so I couldn't breathe…When we landed Iraqi officials came on to the plane and said that if anybody did not come out [voluntarily] 'we will kick you and beat you"…"Some were scared and went out. Then the [British security] officials and Iraqi officers started beating us, saying: "This is your country. Go back.". Abdullah, who only wanted to give his family name, spoke from a friend's house in north Iraq.' [36]

2.11 A report from the BBC entitled 'UN to probe "beating" of deported Iraqis by UK staff',

[34] Ibid, question 3
[35] The Guardian, Iraqi asylum seekers claim they were beaten on flight to Baghdad, 18 June 2010, http://www.guardian.co.uk/uk/2010/jun/18/iraq-asylum-seekers-beaten-deported?INTCMP=SRCH
[36] Ibid

dated 18 June 2010 explained that: 'The UN refugee agency is investigating allegations that deported Iraqi asylum seekers were beaten by UK Border Agency staff to get them on and off the plane ...It is believed 42 Iraqi men were flown back to Baghdad in a forced return.' [37] The source went onto refer to an interview conducted by the BBC with one of the returnees, a Kurd named Sherwan Abdullah, according to the article: 'Mr Abdullah...said that all his money had been stolen by the Iraqi police at the airport...This was strongly denied by Iraqi officials, and other deportees told UNHCR that they had been well treated at Baghdad airport.' [38]

2.12 A written submission provided by UNHCR to the Upper Tribunal for the country guidance case of HM (Iraq), undated, circa June/July 2010, reported on information provided by returnees who were interviewed by UNHCR and its implementing partners in Baghdad following their return to Iraq on the 16 June 2010 charter flight. The source explained: 'In addition to the information collated by UNHCR after the second flight (16 June [2010]), follow up interviews with deportees have been documented for five individuals. We include...relevant information relating to four of these individuals.'[39] In outlining the methodology used to interview the four returnees, the UNCHR submission noted: 'The information [provided] is based on interviews conducted at the airport as well as on follow up interviews, some of which were carried out by telephone. While some persons referenced their asylum claims in the UK and indicated that they had been unable to access an appeals process, UNHCR's primary concern in interviewing the individuals on the return flights was to assess and meet protection needs and assess the circumstances of return.' [40]

2.13 According to the four individual accounts provided in the submission, one of the persons interviewed 'made no claim of ill treatment during the deportation process...'[41]; a second stated that he had experienced 'no ill treatment, but stated that he witnessed the beating of others in his group...'[42] The same individual added that: 'Upon [his] return to Iraq he was held in detention at Baghdad International Airport.'[43] A third person interviewed, referred to as RJH, reported to UNHCR that:

'On June 17, when the plane landed in Baghdad International Airport, he stated that an Iraqi officer came on board and requested the deportees to step out from the plane. Allegedly, the deportees refused and were dragged out by force and one of the British security guards grabbed RJH by the neck and he believed they were about to suffocate him. RJH stated that he requested an interpreter, to speak to the Iraqi officer but he was denied this request and insulted.

'According to RJH, all the deportees were locked up at the Baghdad airport for eleven

[37] BBC News, UN to probe 'beating' of deported Iraqis by UK staff, 10 June 2010, http://www.bbc.co.uk/news/10352966
[38] Ibid
[39] UNHCR, Written submission provided to the Upper Tribunal, country guidance HM (Iraq) , Interested Party's response to further directions of the Upper Tribunal dated 21 June 2010, undated circa June/July 2010, para 11, Annex S
[40] Ibid, para 8.
[41] UNHCR, Written submission provided to the Upper Tribunal, HM case, Interested Party's response to further directions of the Upper Tribunal, dated 21 June 2010, undated circa June/July 2010, Individual accounts, Annex S
[42] Ibid
[43] Ibid

days under very difficult conditions where they had very limited access to the toilet and had only one meal a day. RJH claimed that an official requested [US]$200 per/head for releasing each of them. After release from detention, eleven deportees from Kurdistan, were taken to the airport and sent to Erbil. The deportees received by the official(s) at the airport in the KRG were then transferred to Security Prison inside Erbil town and stayed there for one night. The next day, all the deportees were released after provided necessary documentation proving their nationality.'[44]

2.14 The fourth interviewee referred to in the UNHCR written submission provided no information on their treatment or whether they were detained following their arrival at Baghdad International Airport (BIAP).[45]

2.15 The UN Assistance Mission for Iraq (UNAMI) Human Rights Office/Office for the High Commissioner of Human Rights (OHCHR), Baghdad, 2010 Report on Human Rights in Iraq, dated January 2011 observed: 'There have been reports of some deportees being arrested or ill-treated upon arrival, and others refused entry due to mistaken identity or nationality. Some deportees flown from the UK to Baghdad on 16 June [2010] reportedly showed signs of physical abuse to support their claims that they had been physically assaulted by British and Iraqi security guards on the plane transporting them.'[46]

2.16 A news report published by the Guardian, entitled 'Deported Iraqi asylum seekers say they were beaten and forced off plane', dated 9 September 2010 explained that a group of 'more than 60' failed asylum seekers, forcibly returned to Baghdad earlier in the month, September, had claimed that they were beaten by British security staff and Iraqi police.[47] According to the source: '... [t]he violence allegedly erupted when the refugees refused to leave a charter flight after it touched down in Baghdad on Tuesday morning [7 September 2010].'[48] Citing an interview with one of the returnees, the article reported:

'"When we arrived in Baghdad we refused to get off the plane," one of the failed asylum seekers, Sabar Saleh Saeed, said in a statement released by the IFIR [International Federation of Iraqi Refugees]. "One Iraqi policeman came on and said if we did not come down they would make us go down by force…"We stayed where we were but the security guards forced handcuffs on us and started to beat us when they were dragging us off the plane. They were swearing at us, beating us… "Four of them grabbed me to force me off the plane. They grabbed my neck and punched me. My eyes went dark. I could not see any light. I saw many other refugees with blood running down their faces. "When I was on the steps on the plane they were still boxing me. There were a lot of Iraqi police there. They took over from the guards when I had got off. Then the Iraqi police beat us with their sticks.' .. Another returned asylum seeker, Lokman Hama Amin, who sent pictures of his injuries, said: 'Four security guards grabbed me when we landed in Baghdad. They pushed me down to the floor of the plane. They handcuffed me...."I was shouting, asking them to let me go because they were breaking my hand but they carried on beating my

[44] Ibid
[45] Ibid
[46] UNAMI Human Rights Office/OHCHR, Baghdad, 2010 Report on Human Rights in Iraq, January 2011, p.46
[47] The Guardian, Deported Iraqi asylum seekers say they were beaten and forced off plane, 9 September 2010, http://www.guardian.co.uk/uk/2010/sep/09/deported-iraqi-asylum-seekers-beaten-plane-allegations
[48] Ibid

shoulder. Now I cannot move my arm: I have put it in a sling."'[49]

2.17 The same article also reported comments made by Matthew Coats, then head of the UK Border Agency's immigration group: '"We can confirm that 49 Iraqi nationals were removed on a chartered flight to Baghdad on 6 September [2010]. On arrival in Baghdad, approximately 35 returnees refused to disembark the aircraft assaulted escorting staff and attempted to damage the aircraft. Minimum force - which means control and restraint techniques by trained personnel - was used to effect disembarkation for this group."' [50]

See also: BBC News, Fresh Claims of Iraqi deportation 'beatings', 9 September 2010 and IFIR, Federation: Paper of the International Federation of Iraqi Refugees, Issue 12, 27 November 2010 (and articles entitled Iraqi refugees assaulted on mass deportation flight to Baghdad, 9 September 2010 and IFIR compliant letter to UNHCR)

2.18 A press release issued by Amnesty International entitled 'European states must stop forced return to Iraq', dated 10 November 2010 (AI index: EUR 01/028/2010) reported that: 'Some Iraqis forcibly removed from Europe have alleged that they were ill-treated during their removal; there have also been credible reports of Iraqis being detained on arrival at Baghdad airport, as well as complaints that people have been beaten, deprived of food and threatened by Iraqi security officials whilst in detention after their forcible removal to Iraq.'[51]

2.19 A report from the Guardian dated 10 November 2010 stated that:

'Two asylum seekers who were deported to Baghdad [in September 2010] and claim they were tortured on arrival by Iraqi officials have been returned to Britain because they were found not to be Iraqi…The confusion over the men's nationality and the allegations they have made are among admissions made by the Foreign Office in a letter to the European court of human rights (ECHR) arguing for a resumption of removals to Baghdad…The Foreign Office letter, seen by the Guardian, shows that the Office of the UN high commissioner for refugees (UNHCR) has repeatedly raised concerns about the alleged ill-treatment of unsuccessful asylum-seekers being transported to the Middle East.'[52]

2.20 An article published by the Guardian, dated 21 November 2010, entitled 'Iranian wrongly deported to Baghdad claims he was tortured', reported that: 'An Iranian who was mistakenly deported to Baghdad from the UK [on 6 September 2010] claims he endured beatings and starvation at the hands of Iraqi police officers…'[53] The source also noted that: '...[t]he office of the UN high commissioner for refugees (UNHCR) has also raised concerns about the conditions under which unsuccessful asylum seekers are forcibly returned to the Middle East.'[54] The source, referring to an interview with the returnee, named as Aland Salimi, observed:

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[49] Ibid
[50] Ibid
[51] Amnesty International, European states must stop forced return to Iraq, dated 10 November 2010, http://www.amnesty.org/en/library/asset/EUR01/028/2010/en/6044e775-b35e-4572-adfc-7a1835fbbac4/eur010282010en.pdf
[52] The Guardian, Two asylum seekers deported to Baghdad allegedly tortured were not Iraqi, 10 November 2010, http://www.guardian.co.uk/uk/2010/nov/10/asylum-seekers-deported-baghdad-torture?INTCMP=SRCH
[53] The Guardian, Iranian wrongly deported to Baghdad claims he was tortured, 21 November 2010, http://www.guardian.co.uk/uk/2010/nov/21/iranian-deported-baghdad-torture-allegations
[54] Ibid

'"When we arrived at Baghdad airport, the Kurdish people did not want to be taken off the plane," Salimi told the Guardian. "The Iraqi police came on and shouted. They beat us with sticks. I told them I was Iranian. They didn't listen to me…The Iraqi police took me in a car to a prison and they started beating me again...."They didn't give me food and they took the money in my pockets. I had no food or water for 24 hours. They said that Kurdish people 'make problems' and they would send me to Iran where Ahmadinejad [the Iranian president] would kill me. They were laughing. They also swore at me, shouted and threatened to hang me. They were Shia officers, while I'm Kurdish and a Sunni Muslim."'[55]

2.21 The source additionally noted:

'Dashty Jamal, of the International Federation of Iraqi Refugees, said the case showed that it was not safe to return failed asylum seekers to Baghdad. 'European governments want to send people back to a war zone,' he said…The Iraqi embassy in London did not respond to inquires about the case. The Foreign Office, which returned Salimi to the UK, said in a letter to the European court that he described his experience in Baghdad as "torture". A second man, also wrongly deported to Iraq on 6 September [2010] and flown back to Britain at the same time, is thought to have been a Palestinian.'[56]

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UNHCR MONITORING OF ENFORCED RETURNS

2.22 A report from IRIN News, dated 29 September 2010, entitled UNHCR concerned over Iraqi deportations, explained:

'The UN Refugee Agency (UNHCR) has expressed concern about the growing number of deportations of Iraqi asylum-seekers from Western Europe in the last two months… One of the UNHCR's complaints is that the information provided by those countries [returning asylum seekers to Iraq] is usually sketchy, varies from country to country and is given only very late in the process [to UNHCR]. In the case of last week's flight, Sweden told the UNHCR the names and dates of birth of those being sent home, but not their destinations. The UK provided details of where its rejected claimants were going but not their identities…No country told the UNHCR how many of the passengers being put on board the plane were going home voluntarily, and how many were being deported against their will, but reports from Baghdad say police had to be called to escort some of them off the plane.

'A spokesperson for the UNHCR, Sybella Wilkes, called for states sending home asylum-seekers to be more transparent. "We are aware when a flight is leaving," she told IRIN, " "but we don't know until the last minute who is on board or which countries they are coming from." ...The organization does not oppose people being sent back to Iraq in every case. "It's possible that some people on the plane were going back voluntarily," Wilkes said. "It's possible that some were going to areas where we don't have issues about security. But we don't know. Having full information would be in everybody's best interests." ...What they do know is that among the passengers leaving Sweden were two women and four children. The British government said all those it was sending last week were single adult males, but their destinations included Baghdad, Ninawa, Kirkuk and

[55] Ibid
[56] Ibid

Salah ad-Din - all areas the UNHCR considers unsafe.'[57]

2.23 A written submission provided by UNHCR to the Upper Tribunal in the case of HM, undated, circa June/July 2010, similarly explained that: 'It must be noted that monitoring of many returnees in Iraq and in particular those who have been forced to return is extremely complex due both to logistical and security concerns. It is further complicated by the concern of the individuals themselves to maintain a low profile.'[58]

2.24 The same source, commenting on investigations carried out by UNHCR and its implementing partners in Iraq, following the enforced return of Iraqi asylum seekers on the charter flights of 9 and 16 June 2010 observed:

'The majority of those screened have stated that they feel extremely unsafe and intend to depart from Iraq at the first opportunity. Some are in hiding and due both to their concerns and the short length of time available could only be interviewed by telephone. Thus UNHCR has not been able to follow normally appropriate procedures including obtaining the written consent of the concerned persons to be placed on record in the forthcoming or further Court proceedings, nor has it been possible to establish identity to the extent desirable.'[59]

2.25 A newsletter from UNHCR entitled, Iraq Monthly Highlights, dated October 2010, provided some details on the monitoring capabilities of UNHCR at that time:

'There were three deportation flights to Iraq from Europe in October. UNHCR Iraq was unable to have a monitoring presence at the airport as formal permission for airport access was still pending. On October 6, a flight from Sweden, with reportedly on board 46 deportees from Sweden, Norway and the UK, landed in Baghdad. Most deportees were single men and were believed to be from the Kurdistan region (KRG) while some were also from Baghdad.

'On 26 October, a flight arrived at BIAP [Baghdad International Airport] airport from the UK. UNHCR received reports that 31 Iraqi nationals were on board, all single males, mainly from the KRG. The third flight arrived on October 27 from Sweden with on board 29 persons, including two females and a Christian man.' [60]

2.26 However the same newsletter, dated October 2010, clarified that: 'At the end of October, UNHCR was finally granted permission to establish an office at the BIAP premises.' [61]A written submission provided by UNHCR Baghdad, dated 3 November 2011, entitled 'Response to inquiry regarding returnees/deportees: documentation, assistance and conditions at Baghdad airport' further explained UNHCR's role in monitoring enforced returns as follows: 'UNHCR and implementing partner staff have been monitoring the

[57] IRIN News, UNHCR concerned over Iraqi deportations, 29 September 2010, http://www.irinnews.org/Report/90616/REFUGEES-UNHCR-concerned-over-Iraqi-deportations
[58] UNHCR, written submission provided to the Upper Tribunal, HM case, Interested Party's response to further directions of the Upper Tribunal, dated 21 June 2010, undated circa June/July 2010, para 10, Annex S
[59] Ibid, para 10
[60] UNHCR, Iraq Monthly Highlights, October 2010 http://reliefweb.int/sites/reliefweb.int/files/resources/7F2BBC66D2776040C12577F3003DE5B0-Full_report.pdf
[61] Ibid

arrival of forced return flights at Baghdad International Airport (BIAP) since early 2010. In late October 2010, formal permission was granted by the Government of Iraq for access to BIAP by UNHCR and specified IP [International Protection] staff. This has greatly enhanced the agencies' ability to monitor and interview returnees, enabling the provision of legal advice, assistance and referrals.'[62]

2.27 Similarly the UNHCR website, Iraq country page, in setting out UNHCR Iraq's strategy and activities in 2012, noted: 'UNHCR will...closely monitor the ongoing deportation of Iraqi citizens from Europe or from countries neighbouring Iraq.'[63] However in the written submission provided by UNHCR Baghdad, dated 3 November 2011, entitled 'Response to inquiry regarding returnees / deportees: documentation, assistance and conditions at Baghdad airport', the source remarked, with regard general conditions at Baghdad International Airport, that UNHCR had been unable to confirm reports provided informally by returnees stating that facilities at Baghdad International Airport were not adequate and that, for example, large numbers of persons had been left waiting in small rooms or been provided with inadequate food provisions.[64]

2.28 The Report on Joint Finnish-Swiss Fact-Finding Mission to Amman and the Kurdish Regional Government (KRG) Area, May 10-22, 2011, dated 1 February 2012, referring to an interview conducted with UNHCR Erbil noted that: 'The UNHCR considers deportations to Baghdad to be potentially dangerous, as many deportees have no documents, and in some cases, these persons have been detained for days or even weeks after their arrival in Iraq. The commission [UNHCR] maintains that it is difficult to verify how deportees are treated in custody. Some returnees have claimed they were maltreated and forced to pay bribes to the authorities.' The report, documenting comments made by representatives of UNHCR Iraq in Amman, also noted:

'The UNHCR is concerned about deportations from several European countries to Iraq. The organization provides information for deportees at the Baghdad International Airport (BIAP) and has observed that most deportees are young men, although families with small children have also been deported. The UNHCR is also concerned about the deportation of people who originate from the five central governorates to which return is discouraged by the organization. UNHCR is concerned, for instance, about the deportation of Christians living in Mosul and Baghdad as well as LGBT individuals.' [65]

Information provided by UNHCR regarding mistreatment of returnees

2.29 A letter from the Foreign and Commonwealth Office's Second Secretary Migration (Migration Delivery Officer (MDO)), based at the British Embassy in Baghdad, dated 19 October 2011, outlined research being taken forward by the MDO to investigate alleged

[62] UNHCR Baghdad, Response to inquiry regarding returnees / deportees: documentation, assistance and conditions at Baghdad airport, Procedures and Conditions on arrival to BIAP, 3 November 2011, available at Annex R
[63] UNHCR website, Iraq Country Page, Strategy and Activities in 2012, undated, accessed 16 March 2012, http://www.unhcr.org/pages/49e486426.html
[64] UNHCR Baghdad, Response to inquiry regarding returnees / deportees: documentation, assistance and conditions at Baghdad airport, Procedures and Conditions on arrival to BIAP, 3 November 2011, section 2, General conditions at BIAP, Annex R
[65] Joint Swiss-Finnish FFM to Amman and the Kurdish Regional Government, May 2011, http://lifos.migrationsverket.se/dokument?documentSummaryId=26967, para 10.4 , p.64

mistreatment of returnees, including failed asylum seekers from the UK.[66] The letter explained that attempts to consult with UNHCR had not been possible: 'I first wrote, via email, to UNHCR seeking a meeting to discuss these issues [treatment of returnees] on 25 August [2011]. UNHCR colleagues replied, via e-mail on 3 September [2011] offering to help reply to my queries and provide information regarding the treatment of returnees. However, despite further correspondence, largely as a result of staff absences, it has yet not been possible to meet with UNHCR.'[67]

2.30 The MDO's letter additionally noted that both the International Committee of the Red Cross (ICRC) and the International Rescue Committee (IRC) (both declined to comment on the issue of mistreatment of returnees), recommended that the MDO consult with UNHCR on such matters. The letter stated:

'I approached a representative of the International Committee of the Red Cross (ICRC) on 28 August 2011 via email and was informed by ICRC via email on 29 August 2011 that they, only on rare occasions dealt with persons being held upon arrival to or departure from Iraq (returning Iraqis or other persons held). ICRC did not feel in a position to share findings on this work or respond to our enquiries. They advised that I approach UNHCR, IOM and the Iraqi Ministry of Human Rights. They were unable to offer any further assistance or suggestions on NGOs to meet... A further contact, the International Rescue Committee (IRC) who I wrote to via email on 23 August [2011], replied by email on 24 August [2011] to say that any information held by IRC on the treatment of returnees through BIAP, was reported directly to UNHCR. They also suggested that I contact officials at this organisation for a response.'[68]

For further information see next subsection, Enquiries made by the Foreign and Commonwealth Office, British Embassy, Baghdad

2.31 A written submission provided by UNHCR Baghdad, entitled 'Response to inquiry regarding returnees / deportees: documentation, assistance and conditions at Baghdad airport', dated 3 November 2011, explained that: 'Returnees interviewed by UNHCR / IPs have not reported specific ill-treatment by the authorities at BIAP.'[69] However, the Report on Joint Finnish-Swiss Fact-Finding Mission to Amman and the Kurdish Regional Government (KRG) Area, May 10-22, 2011, dated 1 February 2012 stated that UNHCR Erbil had explained: 'The UNHCR considers deportations to Baghdad to be potentially dangerous, as many deportees have no documents, and in some cases, these persons have been detained for days or even weeks after their arrival in Iraq. The commission maintains that it is difficult to verify how deportees are treated in custody. Some returnees have claimed they were maltreated and forced to pay bribes to the authorities.'[70]

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[66] Letter from Second Secretary Migration (Migration Delivery Officer (MDO)), British Embassy in Baghdad, dated 19 October 2011, Information regarding alleged mistreatment of failed asylum seekers/and or other Iraqi citizen's returning to Baghdad, available at Annex G
[67] Ibid
[68] Ibid
[69] UNHCR Baghdad, Response to inquiry regarding returnees / deportees: documentation, assistance and conditions at Baghdad airport, General conditions at BIAP, 3 November 2011, Annex R
[70] Joint Swiss-Finnish FFM to Amman and the Kurdish Regional Government, May 2011, http://lifos.migrationsverket.se/dokument?documentSummaryId=26967, para 10.4 , p.64

ENQUIRIES MADE BY THE BRITISH EMBASSY, BAGHDAD

2.32 A letter from the Foreign and Commonwealth Office's Second Secretary Migration (Migration Delivery Officer (MDO)), based at the British Embassy Baghdad, dated 19 October 2011, entitled 'Information regarding alleged mistreatment of failed asylum seekers/and or other Iraqi citizen's returning to Baghdad', explained:

'In August 2011, as Migration Delivery Officer at the British Embassy in Baghdad, I was approached by UKBA's Country of Origin Information Service (COIS), to help research information relating to allegations of mistreatment of returnees through Baghdad International Airport. Specifically, I was asked to research the following issues: ... Information on alleged mistreatment of failed asylum seekers and/or other returnees [;] ... Information on human rights monitoring of detainees in Iraq (and specifically on returnees) [and]...Procedures applied by the Government of Iraq at Baghdad International Airport regarding the processing of returnees.'[71]

2.33 According to the letter, the MDO approached a number of interlocutors in Baghdad for comment on the above identified issues. As outlined in Annex A of the letter these were, the Danish, Swedish, Dutch and US embassies; the United Nations High Commissioner for Refugees (UNHCR); International Rescue Committee (IRC); the International Organisation for Migration (IOM); the Iraqi Parliamentary Human Rights Committee; Iraqi Al-Amal Association (an NGO); the International Committee of the Red Cross (ICRC); the Ministry of Displacement and Migration (MoDM); the United Nations Assistance Mission for Iraq (UNAMI) and the Iraqi Ministry of Human Rights. From the interlocutors approached only four – the Danish Embassy; Iraqi Human Rights Parliamentary Human Rights Committee, Iraqi Al-Amal Association and the Iraqi Ministry of Human Rights – agreed to be interviewed by the MDO.[72]

2.34 The same embassy letter, dated 19 October 2011, explained reasons why the MDO was unable to meet with interlocutors. According to the letter, the Swedish and Dutch embassies in Baghdad were: '...not directly involved in the returns programme...'; similarly the US embassy declined to comment as: '...they...[did] not examine the treatment of Iraqi's being returned through BIAP [Baghdad International Airport]'.[73] In the case of the MoDM, the MDO letter explained that the MoDM representative declined to comment and stated that: '...questions [related to treatment of returnees and issues around human rights monitoring]... should be referred to the Minister [of the MoDM] for reply.'[74] In the case of UNAMI, the MDO letter dated 19 October 2011 explained that: 'Unfortunately, due to staff absences, it was not possible to meet with the Human Rights Office of the UN Assistance Mission for Iraq (UNAMI). However, this officer [in the Human Rights Office] has been sent copies of a list of questions relevant to human rights issues and the treatment of returnees. I have suggested that he contacts COIS [Country of Origin Information Service] direct with his replies.'[75] COIS at the time of writing had received no a response from UNAMI.

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[71] Letter from Second Secretary Migration (Migration Delivery Officer (MDO)), British Embassy in Baghdad, dated 19 October 2011, Information regarding alleged mistreatment of failed asylum seekers/and or other Iraqi citizen's returning to Baghdad , available at Annex G
[72] Ibid
[73] Ibid
[74] Ibid
[75] Ibid

2.35 In the case of IOM, the MDO letter explained that: 'IOM confirmed that as they no longer assisted voluntary returnees from the UK (as this contract had since been passed to Refugee Action), they were not sure how the returns process operated now.' In the case of ICRC and IRC, the MDO explained in his letter that both declined to comment [no explanation was provided why not]. Instead, ICRC recommended the MDO speak with UNHCR, IOM and the Iraqi Ministry of Human Rights, although in an email to the MDO, ICRC stated that they: 'Only on rare occasions dealt with persons being held upon arrival to or departure from Iraq (returning Iraqis or other persons held).'[76]

2.36 However the MDO's letter, dated 19 October 2011, also referred to an email from the IOM to the MDO dated 23 August 2011, noting '... they [IOM] had heard that returnees are having problems and are questioned for longer periods, especially if they do not have documents (for example if they have returned through Laissez Passer [travel documents]'. [77] The IRC explained that any information they held was referred to UNHCR.[78] With regard to approaches made by the MDO to UNHCR the letter explained: 'I first wrote, via email, to UNHCR seeking a meeting to discuss these issues on 25 August [2011]. UNHCR colleagues replied, via e-mail on 3 September [2011] offering to help reply to my queries and provide information regarding the treatment of returnees. However, despite further correspondence, largely as a result of staff absences, it has yet not been possible to meet with UNHCR.' [79]

For further information see subsection above, Information provided by UNHCR regarding mistreatment of returnees

Findings on treatment of returnees

2.37 A note produced by the Migration Delivery Officer (MDO) following an interview with Dr Saleem A Al-Jbori, from the Iraqi Parliamentary Human Rights Committee, dated 5 September 2011 noted:

'Dr Al-Jbori said that returnees through Baghdad International Airport would not face abuse or discrimination; only those accused of terrorism would be processed differently. Having said this, he conceded that the Committee did not have a strong focus on the treatment of those being returned and this was not something which was being monitored closely. However, Dr Al-Jbori added that, if there were allegations of returnees being abused, the Committee would be informed by NGO's who are able to operate at the airport.'[80]

2.38 Similarly, a note produced by the MDO, following an interview with the ambassador for Denmark, Gert Meinecke, dated 19 September 2011, observed: 'The Ambassador stated that he had no information regarding the alleged mistreatment of returnees through Baghdad International Airport. He added that the Danish Embassy in Baghdad does not

[76] Letter from Second Secretary Migration (Migration Delivery Officer (MDO)), British Embassy in Baghdad, dated 19 October 2011, Information regarding alleged mistreatment of failed asylum seekers/and or other Iraqi citizen's returning to Baghdad, Annex G
[77] Ibid
[78] Ibid
[79] Ibid
[80] Note of interview with Dr Saleem A Al-Jbori, Head of Iraqi Parliamentary Human Rights Committee, conducted by MDO, British Embassy Baghdad, 5 September 2011, available in Annex H

routinely monitor the arrival of returnees from Denmark. This process is handled by officers from the Danish Police Service.'[81] On the subject of human rights monitoring of detainees in Iraq more generally, the ambassador commented that in his view:

'...the level of human rights monitoring of detainees in Iraq had deteriorated over the last 12 months. However, he believed that a number of organisations, whether Iraqi (i.e. Ministry of Human Rights), or NGO (i.e. ICRC), had access to some detention facilities and were able to make their findings known. In addition, groups such as Amnesty International and Human Rights Watch were able to monitor human rights issues across the country.'[82]

2.39 Information provided in the MDO interview note with Mr Adel Almsody from the Ministry of Human Rights, which took place on 15 September 2011, stated: 'Mr Almsody confirmed that no reports of human rights infringements against returnees had been reported to him and he explained that law enforcement personnel received training on human rights and adhered to a code of conduct. Mr Almsody and his colleagues said that Iraqi citizens returning to Baghdad from neighbouring countries such as Syria and Jordan would not face difficulties.'[83]

2.40 However, the interview note additionally stated: 'Mr Almosdy's [sic] colleague said that a 2010 UNHCR report had alleged that some returnees into Baghdad International Airport (BIAP) were forced to wear hand-cuffs. UNHCR had urged the ministry to open an office at the airport but this had not been possible.'[84] The same source further added: 'The group said that no returnees have visited their offices to complain about treatment while in detention at BIAP. The group said that, in their opinion, it was unlikely that someone would visit the Ministry building to make such a complaint for fear of further interrogation about possible intelligence related issues. However, the group conceded that this may simply be because there had been no complaints.'[85]

2.41 A note produced by the MDO, following an interview with representatives from the NGO, Iraqi Al-Amal Association, which took place on 11 September 2011 noted:

'Iraqi Al-Amal explained that they were not aware of returnees facing mistreatment during detention at BIAP, but pointed out that there were a significant number of stories of detainees being abused while in detention in Iraq. Iraqi Al-Amal said that groups such as ICRC are able to monitor the treatment of detainees in the Iraqi prison system, but they did not believe that this extended to the police station at BIAP. I[t] was difficult therefore for an independent organisation to gain access to those being detained at the airport or to investigate possible allegations of mistreatment.'[86]

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[81] Note of interview with Gert Meinecke, ambassador, Danish embassy, Baghdad, conducted by MDO, British Embassy Baghdad, 19 September 2011, available in Annex I
[82] Ibid
[83] Note of interview with Mr Adel Almsody, Director General of International Relations and Cooperation Diectorate, Ministry of Human Rights, conducted by MDO, British Embassy Baghdad, 15 September 2011, available in Annex J
[84] Ibid
[85] Ibid
[86] Note of interview with Mr Noaman Muna, Chairman of the Trustees Committee; Hanaa Edwar, General Secretary; Jamal Al-Jawahiri, Member of the Trustees Committee and Finance Director, Iraqi Al-Amal Association (NGO), conducted by MDO, British Embassy Baghdad, 11 September 2011, available in Annex K

2.42 With regard to the returns process, the interview note from the meeting with Iraqi Al-Amal Association additionally stated that: 'Concern was also raised on the stories of the method of implementing the forced repatriation of Iraqis from Britain. Reports reaching Iraqi Al-Amal indicate that refugees are informed on Friday's [sic] of the decision to reject their asylum applications with 72 hours notice to appeal or leave the country. It is almost impossible for a foreign person to react to such a decision over the weekend.'[87]

Additionally for further information see – Detention of returnees, conditions in detention and reasons for detention.

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INFORMATION PROVIDED BY EUROPEAN STATES, CANADA AND USA

2.43 The COI Service 'Iraq: Bulletin – collation of IGC member states' responses on returns to Iraq', dated 16 April 2012, explained in its preface:

'In September 2011 the UKBA asked the secretariat of the Intergovernmental Consultations on Migration, Asylum and Refugees (IGC), an 'informal, non-decision making forum for intergovernmental information exchange and policy debate on issues of relevance to the management of international migratory flows' to circulate a series of questions to its members on the subject of returns to Iraq. The IGC has 17 participating member states, these are: Australia, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Netherlands, New Zealand, Norway, Spain, Sweden, Switzerland, United Kingdom and United States of America.'[88]

2.44 The bulletin further stated: 'Disclosable responses were provided by eight countries: the United Kingdom, Canada, Finland, the Netherlands, Norway, Germany, Sweden and, partially, by the USA.'[89]

2.45 In response to the question, 'Are you aware of any reports or allegations that voluntary or forced returnees (on scheduled or charter flights) have faced difficulties or been mistreated on return to Baghdad? If so, what was the nature of these difficulties or (alleged) mistreatment?' The following responses were provided:

'Finland: "We are not aware of any such reports or allegations" [;]...Germany: "No, we are not aware of any such information. There are no forced returns from Germany to central Iraq. No information is available on voluntary returns to central Iraq." [;]...Netherlands: "The Netherlands are not aware of any reports about mistreatment of failed asylum seekers or other returnees, who have returned from The Netherlands to Baghdad by the Iraqi Immigration at Baghdad International Airport (BIAP)." [;]...Norway: "None." [;] ...Sweden: "Answer. No." [;]...US: [Asked for response not to be disclosed] [;]...Canada: "The CBSA [Canada Border Services Agency] is aware of no such cases with respect to its removal cases" […and the] United Kingdom: "There have been allegations of ill-

[87] Ibid
[88] COI Service, Iraq: Bulletin – collation of IGC member states' responses on returns to Iraq, 16 April 2012, Preface, http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/coi/iraq/
[89] Ibid

treatment of returnees by Iraqi officials at the airport."' [90]

2.46 Responding to the question, "If there have been allegations of mistreatment, have these been substantiated with credible evidence?" the UK reply noted that: '…"[w]ithin the constraints of working in Iraq enquiries were made, but there was insufficient evidence to substantiate these allegations."' [91] See also the subsection: Enquiries made by the British Embassy, Baghdad.

2.47 From those countries which answered the above questions, Finland, the Netherlands, Norway, Sweden and the United Kingdom stated that they carried out enforced returns of rejected (or failed) asylum seekers to Baghdad. The US asked that their response was not disclosed. Germany stated that they did not conduct enforced returns to Baghdad.[92] Canada stated that owing to the country situation, Iraq had been subject to a Temporary Suspension of Removal (TSR) since 2003. The Canadian response clarified:

'...a TSR does not apply to foreign nationals who are inadmissible to Canada on security grounds, violating human or international rights, criminality, organized crime, or a person referred to under section F Article 1 of the Refugee Convention. Individuals who are subject to a TSR may also be removed if they voluntarily consent to their removal. All other foreign nationals, including failed refugee claimants, benefit from a stay of removal under the TSR.'[93]

2.48 An enquiry submitted by the Country of Origin Information Service on 30 August 2011 via the European Country of Origin Sponsorship (ECS) programme (a European Commission-funded project to facilitate the sharing of country information and research best practice between COI research units in EU member states) to COI researchers in the Swedish Migration Board and Landinfo, Norway, (ECS Iraq sponsors) included the following questions:

'Do you have any COI relating to the treatment of failed asylum seekers, returning from European member states, by the Iraqi authorities at Baghdad International Airport, or in detention facilities near/in the airport following arrival[?]' [94] and:

'Do you have any COI which indicates certain returning failed asylum seekers may be at particular increased risk (eg: ethnic groups – Sunni or Shia Arabs, Kurds, other minority groups; persons travelling on EU letter documents as opposed to regular travel documents; persons travelling on charter (as op-posed to scheduled flights); persons returning under escort; persons non-compliant during return procedure; persons with any other known risk factors – eg; from a particular geographical region, tribe, criminal record, or host country[?]'[95]

2.49 The response received from the ECS Iraq sponsors, dated 22 September 2011, stated:

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[90] Ibid, question 10
[91] Ibid
[92] Ibid, question 1
[93] Ibid, question 1
[94] European Country of Origin Sponsorship (ECS) programme, request for information submitted by UKBA's COI Service to the Iraq ECS experts team, dated 30 August 2011, completed 22 September 2011, available in Annex T
[95] Ibid

'We have no information indicating that certain Iraqi failed asylum seekers are at particular increased risk when arriving at BIAP. On a fact-finding mission (FFM) to Baghdad late October/early November 2010 we were told by various interlocutors that Iraqis returning from Europe face the same problems as the Iraqis returning from the neighbouring countries – irrespective of ethnicity or religion. But then we are talking about problems like security, housing and electricity. As for the treatment at BIAP, UNHCR cautioned that returnees without valid travel documents may be taken into custody and interrogated. Valid travel documents is [sic] a must. In order to avoid any problems on arrival it is advisable that the failed asylum seekers return by themselves, but chartered flights have worked, although with some critizism [sic] from the Iraqi authorities.'[96] [97]

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DETENTION OF RETURNEES: CONDITIONS IN DETENTION AND REASON FOR DETENTION

2.50 A report published by the Guardian, dated 18 June 2010, noted with regard to reports that returnees on the 16 June 2010 charter flight had been detained following their arrival in Iraq that: 'The International Federation of Iraqi Refugees monitors deportations and said it had a text message from some in custody: "We've been in Iraqi [sic] since 4.30am [Thursday] but we have been locked up since," one said. "Twenty-five people in one small cell – we can't breathe. Some are seriously ill because of the hunger and the heat."'[98]

2.51 A report from the BBC entitled 'UN to probe "beating" of deported Iraqis by UK staff', dated 18 June 2010, explained with regard to the charter flight which was conducted in June 2010 that: 'Sixteen [of the 42 returnees] are still being held at Baghdad airport where they arrived early on Thursday [17 June 2010]…The chief of security at Baghdad airport, Col Athir al-Musawi, told the BBC that 16 men were being detained while their identities and papers were verified…The other deportees were released after it was established that their papers were in order.'[99]

2.52 Another report from the BBC entitled Iraqi deported from UK talks about his struggle, dated 19 July 2010, referred to an interview conducted by the BBC with one of the returnees on the 16 June 2010 charter flight, named as Sherzad, who was interviewed whilst living in Suleimanyiah, in the Kurdistan Region of Iraq (KRI).[100] According to the source, Sherzad refused initially to disembark from the flight once it had landed in Baghdad, explaining: '"I said, I don't want to get off the aeroplane because I haven't got

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[96] Ibid
[97] NB: The Swedish Immigration Service and Landinfo fact finding report referred to in the ECS request is Delrapport fån utredningsresa till Irak – oktober/november 2010 (utsatta grupper – kristna), Migrationsverket 2010-12-09, Lifos 24184, http://lifos.migrationsverket.se/dokument?documentSummaryId=24184 (Swedish/Norwegian only)
[98] The Guardian, Iraqi asylum seekers claim they were beaten on flight to Baghdad, 18 June 2010, http://www.guardian.co.uk/uk/2010/jun/18/iraq-asylum-seekers-beaten-deported?INTCMP=SRCH
[99] BBC News, UN to probe 'beating' of deported Iraqis by UK staff, 10 June 2010, http://www.bbc.co.uk/news/10352966
[100] BBC News, Iraqi deported from UK talks about his struggle, 19 July 2010, http://www.bbc.co.uk/news/uk-10681563

no-one to turn [to], I haven't got no place to go,”....’ [101] The BBC article went on to explain that Sherzad was detained at the airport in Baghdad for 10 days, before he was flown to Erbil in KRI, along with other deportees.[102] As noted:

‘Sherzad says he had no identity documents with him when he was flown to Iraq, other than a photocopied piece of paper given to him by officials in the UK…Since Iraqi immigration officials could not verify his identity on arrival, he was held at the airport for 10 days along with 11 other deportees…On 27 June they were flown to Irbil, the capital of the autonomous Kurdish region…Sherzad is himself Kurdish. But he does not come from Kurdistan. He is from Khanaqin, a mixed Arab-Kurdish town in Diyala province, still one of Iraq's most dangerous areas.’[103]

2.53 A report from the BBC dated 26 June 2010 provided the following update on the continued detention of returnees at Baghdad International Airport following the 16 June 2010 charter flight. As noted:

‘More than 10 Iraqi asylum seekers deported from the UK more than a week ago are still in detention in Baghdad…The men were part of a group of more than 40 Iraqis forcibly removed on 16 June [2010] after their claims for political asylum were turned down. ... One of the deportees told the BBC by telephone that they were being held in a single room at Baghdad International Airport…He said they did not have access to proper washing facilities [;] had only two beds and one toilet between them…[and] were taking it in turns to sleep...’[104]

2.54 The source clarified: ‘Around 30 deportees have now been released, but at least 11 are still in detention, waiting for their identities to be verified and documents to be issued…A spokesman for the Iraqi interior ministry said he could not say when the men would be released…Journalists have not been allowed access to the men.’ [105]

2.55 Information provided by UNHCR in a written submission provided to the Upper Tribunal, in the HM country guidance case, undated, circa June/July 2010, reported that following the 17 June 2010 flight to Baghdad: ‘...[E]leven deportees from UK were reportedly held at Baghdad International Airport in one small room with two beds and one toilet for twelve persons. The eleven in question are from [the Kurdistan Region of Iraq, i.e.] Dohuk, Suli[emanyiah and], Erbil and several from Khanaqin [Diyala Governorate]. It was confirmed by the Iraqi authorities to UNHCR that all returnees were held for routine security and identity screening purposes.’[106]

2.56 More recently, a note of an interview by the Migration Delivery Officer (MDO), British Embassy Baghdad, with Mr Adel Almsody, Ministry of Human Rights on 15 September 2011, stated that:

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[101] Ibid
[102] Ibid
[103] Ibid
[104] BBC News, Iraqi asylum seekers deported from UK still detained, 26 June 2010, http://www.bbc.co.uk/news/10424047
[105] Ibid
[106] UNHCR, Written submission provided to the Upper Tribunal, HM case, Interested Party’s response to further directions of the Upper Tribunal, dated 21 June 2010, undated circa June/July 2010, para 7, available in Annex S

'A member of the Ministry had visited BIAP in early 2011. She said that some returnees faced being held in detention and were subject to interrogation and questioning around their motives for fleeing Iraq. The group felt that it would be helpful if returnees came back with a document setting out their asylum application and process and reason for refusal. In addition to police and intelligence officers, a magistrate was in place at BIAP to direct legal decisions on detention. The Ministry also clarified that the detention of any returnee occurred due to security and counter-terrorism precautions and that the Ministry was in close touch with the aviation authorities. Mr Almsody explained that ground teams from the Ministry of Human Rights had conducted many visits to facilitate completion of the process of handing over the returnee to their families after the security checks had been completed.

'However the Ministry said that despite the formation of a special committee made up of officials from the Ministry, MoDM and staff at BIAP, they had not been able to access the police station at the airport. While they had not received any direct allegations of abuse at this police station, they had not been able to visit the premises to carry out an independent inspection.'[107]

2.57 A note produced by the MDO, following an interview with representatives from the NGO, Iraqi Al-Amal Association, which took place on 11 September 2011, stated: 'Iraqi Al-Amal said that in their experience returnees to Iraq, provided they held Iraqi documentation, would not normally experience difficulties at Baghdad International airport (BIAP). These returnees, whether refugees returning from a neighbouring country or FAS [failed asylum seekers] being sent back from Europe, would not be treated differently from other passengers.'[108]

2.58 A letter from the MDO dated 19 October 2011 referring to entry procedures for Iraqi returnees coming from the UK explained:

'Returnees in possession of their original Iraqi ID documents will be free to return home [following immigration checks]. Occasionally, returnees with copies of ID documents are detained within the arrivals hall pending delivery of their original documents by family and friends. On some occasions, those arriving simply on the strength of a EU Letter (i.e. without copies of their Iraqi documents) are detained at BIAP police station until either family and friends produce evidence of identity, or the courts determine the nationality and identity of the individual. This was the case with a number of returnees from the UK on charter flights in 2010. [NB: A more recent letter from the British Embassy, dated 22 January 2012, stated that from October 2011 EU letters were no longer acceptable for enforced or voluntary returns to Baghdad, for further information see the subsection: Changes in re-documentation procedures for returnees from the UK]' [109]

2.59 The above-referenced MDO letter dated 19 October 2011 additionally commented that:

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[107] Note of interview with Mr Adel Almsody, Director General of International Relations and Cooperation Directorate, Ministry of Human Rights, conducted by MDO, British Embassy Baghdad, 15 September 2011, available in Annex J

[108] Note of interview with with Mr Noaman Muna, Chairman of the Trustees Committee; Hanaa Edwar, General Secretary; Jamal Al-Jawahiri, Member of the Trustees Committee and Finance Director, Iraqi Al-Amal Association (NGO), conducted by MDO, British Embassy Baghdad, 11 September 2011, available in Annex K

[109] Letter from Second Secretary Migration (Migration Delivery Officer), British Embassy in Baghdad, Entry Procedures for UK returnees, dated 19 October 2011, available in Annex L

'In general, the processing of all returnees to BIAP, whether from the UK or other European countries, has developed as increasing numbers of arrivals are dealt with. The current Head of Immigration at BIAP, appointed in March 2011, has introduced a more professional attitude amongst Immigration Officers. His staff are competent and efficient and treat returnees as they would normal passengers. Documented returnees are dealt with quickly and allowed to leave the airport to family and friends or to make their way home. Those without documents are allowed to contact family and friends to arrange delivery to BIAP or to provide proof of identity/nationality.'[110]

2.60 However the Report on Joint Finnish-Swiss Fact-Finding Mission to Amman and the Kurdish Regional Government (KRG) Area, May 10-22, 2011, dated 1 February 2012, referring to information provided by UNHCR Erbil stated: 'The UNHCR considers deportations to Baghdad to be potentially dangerous, as many deportees have no documents, and in some cases, these persons have been detained for days or even weeks after their arrival in Iraq. The commission maintains that it is difficult to verify how deportees are treated in custody.'[111]

2.61 The information provided by UNHCR Erbil to the Finnish Swiss fact finding delegation in May 2011 was similar to information provided by UNHCR in October/early November 2010 when they were consulted by a joint Swedish Immigration Service and Landinfo (Norwegian COI research centre) fact finding delegation, according to information included in a response from the Swedish Migration Board and Landinfo, (the Iraq country sponsors) under the European Country of Origin Sponsorship (ECS) programme, on 22 September 2011.[112] The ECS response was in reply to questions submitted by the UKBA's COI Service on 30 August 2011. The relevant questions posed were as follows:

'Do you have any COI relating to the treatment of failed asylum seekers, returning from European member states, by the Iraqi authorities at Baghdad International Airport, or in detention facilities near/in the airport following arrival[?]' [113] and:

'Do you have any COI which indicates certain returning failed asylum seekers may be at particular increased risk (eg: ethnic groups – Sunni or Shia Arabs, Kurds, other minority groups; persons travelling on EU letter documents as opposed to regular travel documents; persons travelling on charter (as op-posed to scheduled flights); persons returning under escort; persons non-compliant during return procedure; persons with any other known risk factors – eg; from a particular geographical region, tribe, criminal record, or host country[?]'[114]

2.62 The response received from the ECS country sponsors dated 22 September 2011 stated:

'...On a fact-finding mission (FFM) to Baghdad late October/early November 2010 we

[110] Letter from Second Secretary Migration (Migration Delivery Officer), British Embassy in Baghdad, Entry Procedures for UK returnees, dated 19 October 2011
[111] Joint Swiss-Finnish FFM to Amman and the Kurdish Regional Government, May 2011, http://lifos.migrationsverket.se/dokument?documentSummaryId=26967, para 10.4 , p.64
[112] European Country of Origin Sponsorship (ECS) programme, request for information submitted by UKBA's COI Service to the Iraq ECS experts team, dated 30 August 2011, completed 22 September 2011, available in Annex T
[113] Ibid
[114] Ibid

were told by various interlocutors that Iraqis returning from Europe face the same problems as the Iraqis returning from the neighbouring countries – irrespective of ethnicity or religion. But then we are talking about problems like security, housing and electricity. As for the treatment at BIAP, UNHCR cautioned that returnees without valid travel documents may be taken into custody and interrogated. Valid travel documents is [sic] a must. In order to avoid any problems on arrival it is advisable that the failed asylum seekers return by themselves, but chartered flights have worked, although with some critizism [sic] from the Iraqi authorities.'[115] [116]

2.63 A written submission provided by UNHCR Baghdad, entitled 'Response to inquiry regarding returnees / deportees: documentation, assistance and conditions at Baghdad airport', dated 3 November 2011 explained:

'Returnees interviewed by UNHCR / IPs [implementing partners] have not reported specific ill-treatment by the authorities at BIAP. However, planes frequently arrive into BIAP after midnight, and the late arrival and prolonged investigation procedures mean that returnees often have to spend the night in the airport. This is in particular the case of the returnees whose final destinations are in the Northern Governorates / KRG, and who are unwilling / unable to travel from Baghdad to such governorates at night due to insecurity of the roads and inside the cities.'[117]

2.64 On the subject of returning undocumented Iraqi nationals, the same source explained: 'Persons who enter BIAP with only a Laissez Passer or other travel document, will be held at the BIAP police station until their identity is established. If a person has no identification documents, and no family members who could bring documentation to the airport, presentation before a judge will be required.' [118] The same source added:

'On a number of occasions where flights have arrived prior to a weekend / public holiday, this has necessitated lengthy stays in detention until courts reopen. ... According to reports from returnees, families are not provided with any special assistance / treatment. Whilst waiting for their final clearance, returnees are provided with refreshments and a meal. Additional items can be purchased from the airport. Returnees report informally that the facilities are not adequate, for example, large numbers of persons waiting in small rooms, inadequate provision of food etc; however, UNHCR has not been able to confirm this information.'[119]

2.65 The UN Assistance Mission for Iraq (UNAMI) Human Rights Office/Office for the High Commissioner of Human Rights (OHCHR) Baghdad, 2010 Report on Human Rights in Iraq, dated January 2011 observed: 'On arrival to Baghdad, deportees undergo security

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[115] Ibid

[116] NB: The Swedish Immigration Service and Landinfo fact finding report referred to in the ECS request is entitled, Delrapport fån utredningsresa till Irak – oktober/november 2010 (utsatta grupper –kristna), Migrationsverket 2010-12-09, Lifos 24184, http://lifos.migrationsverket.se/dokument?documentSummaryId=24184 (Swedish/Norwegian only)

[117] UNHCR Baghdad, Response to inquiry regarding returnees / deportees: documentation, assistance and conditions at Baghdad airport, 2, General conditions at BIAP, 3 November 2011, available in Annex R

[118] Ibid, 1c, Documentation issued at Baghdad International Airport (BIAP) to a person who entered Iraq on a European Travel document to facilitate travel to Iraq?

[119] Ibid, 2, General conditions at BIAP

checks and those without documents are detained until their identity can be confirmed. Whilst the majority of deportees have been single adult males, women and children have also been amongst those deported.'[120]

2.66 The COI Service bulletin – collation of IGC member states' responses on returns to Iraq, dated 16 April 2012, detailed disclosable responses to a series of questions on returns to Iraq from the IGC member states of the United Kingdom, Canada, Finland, the Netherlands, Norway, Germany, Sweden and, partially, the USA[121]. In response to question 8, "What criteria do you apply to identify suitable persons for charter flights (e.g.: gender; health; families; in possession of certain documentation; of a particular ethnicity or religious affiliation (Sunni/Shia)?)", it was noted that several of the replies included reference to type documentation used to facilitate returns. As noted:

'Finland: 'The persons must have a valid travel document and be accepted by the transit country. An overall consideration is made regarding the person's suitability to be returned on a charter flight.' [;]...Norway: 'When identifying Iraqis to be sent home, Norway prioritises criminals first, then single men and then families. All persons that are sent out of Norway have had some kind of ID-documentation which has been verified by the Iraqi authorities and then accepted (or denied) for return by the same authorities.' [and] … United Kingdom: '…we do not currently charter to Iraq because of an ongoing legal challenge and because we do not currently have an effective re-documentation process with the Iraqi authorities. Previously we were able to rely on the Baghdad authorities visiting the UK to conduct nationality verification interviews but this has now changed. We are advised that all undocumented Iraqis require an emergency travel document from the Iraqi embassy in London.' [122]

2.67 The responses provided by Germany, Netherlands, Sweden and Canada provided no direct reference to the type of documents used to affect enforced returns. The US asked for their response not to be disclosed. [123]

See: Returns from other host countries of asylum for details on which of the above listed respondents carry out enforced returns to Baghdad. See also: Changes in re-documentation procedures for returnees

Nationality swapping

2.68 A report by the Guardian dated 21 November 2010, referring to the case of Aland Salimi, who alleged mistreatment by the Iraqi authorities following his deportation to Baghdad on 6 September 2010, made reference to the difficulties in identifying asylum seekers claiming to be from Iraq and risks associated with nationality swapping.[124] As noted:

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[120] UNAMI Human Rights Office/OHCHR, Baghdad, 2010 Report on Human Rights in Iraq, dated January 2011, p.46, http://www.uniraq.org/documents/UNAMI_HR%20Report_English_FINAL_1Aug11.pdf

[121] COI Service, Iraq: Bulletin – collation of IGC member states' responses on returns to Iraq, 16 April 2012, Preface, http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/coi/iraq/

[122] Ibid, question 8

[123] Ibid, question 8

[124] The Guardian, Iranian wrongly deported to Baghdad claims he was tortured, 21 November 2010, http://www.guardian.co.uk/uk/2010/nov/21/iranian-deported-baghdad-torture-allegations

'The case of Salimi, an Iranian Kurd who came to Britain in 2007, illustrates the difficulties facing the immigration services. The UKBA says he consistently described himself as Iraqi during his application for asylum in the UK, in the hope of strengthening his chances of being accepted…When Salimi was rejected and moves began to deport him to Baghdad, he started protesting that he was an Iranian...A letter was written to the immigration minister, Damian Green, pointing out his real nationality, but the fact that he had been through a screening interview by Iraqi officials in the UK and accepted by them to be Iraqi may have sealed his fate. On 6 September [2010] he was put on a flight with around 60 other failed asylum seekers.'[125]

2.69 The source additionally commented:

'Asked why Salimi, an Iranian, had been sent to Iraq, Matthew Coats, [then] head of [the] [I]mmigration [Group] at the UKBA, said: 'No documentary evidence has been submitted to the UK Border Agency to support his claim to be an Iranian national and an Iraqi ID card was submitted with his original claim.."Only at the point of his detention in order to facilitate his removal from the United Kingdom did [Salimi] claim to be an Iranian national. He had asserted from his first encounter with the UK Border Agency that he was Kurdish and originated from the Dukan area of Sulaymania in northern Iraq. He maintained his claim to be an Iraqi national throughout the appeal process, most recently at an appeal hearing before an immigration judge earlier this year, which was dismissed."'[126]

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PROCEDURES FOR RETURNEES ARRIVING AT BAGHDAD INTERNATIONAL AIRPORT

2.70 A letter from the Second Secretary Migration (Migration Delivery Officer), British Embassy in Baghdad, entitled Entry Procedures for UK returnees, dated 19 October 2011, explained that:

'UK returnees arrive at Baghdad International Airport (BIAP) on special flights chartered by the UK Border Agency or Frontex charter flights or individually on scheduled Royal Jordanian flights from the UK via Amman. Those returnees who are being escorted will be presented to a member of the Iraqi Immigration Service in the arrivals hall by the escorting officers. These officers will also provide the Iraqi Immigration staff with supporting Iraqi documentation relating to the returnee and the accompanying EU Letter. [however a later letter from the MDO, dated 22 January 2012, stated that from October 2011, EU letters were no longer acceptable for enforced or voluntary returns to Baghdad, see paragraph 2.76 below.] There is no specific list of documents required to secure entry at BIAP, but in the past, we have presented Iraqi ID cards, Jensiya (Nationality Certificate), military ID cards and driving licences. Copies of these documents are passed to this Embassy by UKBA and are subsequently presented to the Head of Immigration at BIAP when permission is sought to remove the individual to Iraq. Alternatively, some returnees may have been pre-cleared for removal to Baghdad on the basis of interviews carried out in the UK by officers from the Iraqi Immigration service.'[127]

2.71 Commenting on the screening of returnees carried out by Iraqi immigration staff at BIAP, the same source observed:

[125] Ibid
[126] Ibid
[127] Letter from Second Secretary Migration (Migration Delivery Officer), British Embassy in Baghdad, Entry Procedures for UK returnees, dated 19 October 2011, available in Annex L

'The Iraqi Immigration Service will carry out a short interview of the returnee, in a private room adjacent to the arrivals hall, with a view to confirming his identity and nationality. In accordance with the current UK/Iraq MoU [memorandum of understanding] on Migration, if the Iraqi Immigration Service are satisfied that the individual holds Iraqi nationality and has sufficient Iraqi documentation to allow it, he will be taken forward for further processing. If not, he will be returned to the UK. If the returnee is allowed to proceed, biometric details will be captured and compared with existing details held on the immigration and security service database. Provided these show no outstanding police warrants or alerts for possible terrorist related incidents, the returnees details will be logged and he will be allowed to depart from the arrivals hall and out of the airport terminal to meet family and friends...If biometric details reveal that a returnee has an outstanding warrant for his arrest or is wanted on terrorism charges, he will be passed to the Iraqi police at BIAP to be placed before a judge and entered into the Iraqi judicial system.'[128]

2.72 The MDO's letter additionally noted that returnees may be detained pending delivery of original documents by family or friends or in order for the courts to determine the nationality and identity of an individual.[129] For further information see – Detention of returnees, conditions in detention and reason for detention.

2.73 UNHCR Baghdad, in a written submission entitled 'Response to inquiry regarding returnees/deportees: documentation, assistance and conditions at Baghdad airport', dated 3 November 2011 explained with regard to entry procedures for returnees: 'On arrival to BIAP, the returnees' files are handed over by the security guards from the returning country (who accompany the returnees on the flight) to the Iraqi intelligence service. The files contain copies of the returnees' documents and the rejection of asylum document issued by the Immigration Office in the country of asylum (COA).'[130]

2.74 With regard to security screening procedures at BIAP, the written submission provided by UNHCR Baghdad, dated 3 November 2011, stated that following the handover of returnee files to the Iraqi government officials: 'Returnees are then obliged to undergo a series of individual investigations/interviews by a number of Government departments... [these are the] Immigration [Service], Ministry of Interior/Passport office;...Intelligence Service...[and] Airport Military Intelligence/Security.'[131] The source further noted that: 'On completion of each section, an official clearance letter is issued by each department.'[132]

2.75 However, the letter from the Second Secretary Migration (Migration Delivery Officer), British Embassy in Baghdad, entitled Entry Procedures for UK returnees, dated 19 October 2011, instead noted that:

'Until recently, and the introduction of biometric capture equipment (fingerprint scanners), a returnee would be interviewed by the Immigration service and processed for entry to Iraq. He would then be passed to the Iraqi Police for further questioning before being

[128] Ibid
[129] Ibid
[130] UNHCR Baghdad, Response to inquiry regarding returnees / deportees: documentation, assistance and conditions at Baghdad airport, 2, Procedures and Conditions on arrival to BIAP, 3 November 2011, available in Annex R
[131] Ibid
[132] Ibid

passed to the Iraqi Intelligence Service for questioning regarding possible terrorist links. Following an order from the Prime Minister's Office, the final two stages of this process are no longer practised unless biometric details require otherwise.' [133]

Full details on the screening procedures applied by each department, as outlined in the UNHCR Baghdad written submission, dated 3 November 2011, see Annex C.

Changes in re-documentation procedures for returnees from the UK

2.76 A letter provided by the British Embassy Baghdad, entitled 'Renewal Or Reissuance Of A Civil Status ID card And Provisions To Change Place Of Residence In Iraq', dated 22 January 2012 explained that: 'EU letters are currently not acceptable for enforced or voluntary returns to Baghdad. A valid passport, expired passport or laissez passer travel document is required which was introduced by the Iraqi Government in October 2011.'[134] Similarly the UK response included in the COI Service bulletin – collation of IGC member states' responses on returns to Iraq, dated 16 April 2012, noted: 'Previously we were able to rely on the Baghdad authorities visiting the UK to conduct nationality verification interviews but this has now changed. We are advised that all undocumented Iraqis require an emergency travel document from the Iraqi embassy in London.' [135]

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[133] Letter from Second Secretary Migration (Migration Delivery Officer), British Embassy in Baghdad, for UK returnees, dated 19 October 2011, available in Annex L
[134] Letter from the British Embassy Baghdad, Renewal Or Reissuance Of A Civil Status ID card And Provisions To Change Place Of Residence In Iraq, dated 22 January 2012, available in Annex M
[135] COI Service, Iraq: Bulletin – collation of IGC member states' responses on returns to Iraq, 16 April 2012, question 8
http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/coi/iraq/

The situation of Internally Displaced Persons (IDPs)

3. BACKGROUND, TRENDS AND CHANGING INTENTIONS OF IDP COMMUNITIES

INTRODUCTION

3.01 The report from the US Government Accountability Office (GAO), Displaced Iraqis: Integrated International Strategy Needed to Reintegrate Iraq's Internally Displaced and Returning Refugees, December 2010, provided a useful background to internal displacement in Iraq:

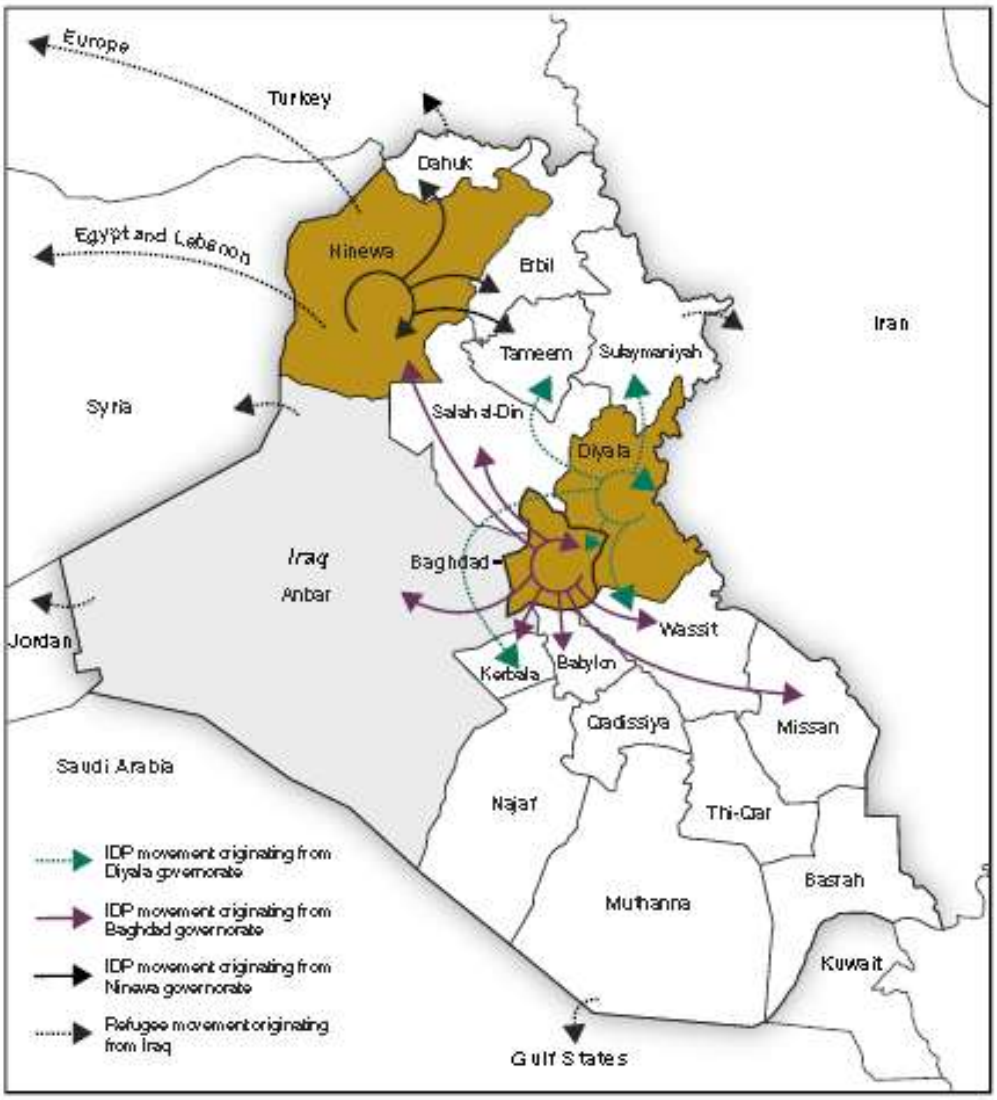
'Iraq has had a long history of displacement due to wars and the policies of the Saddam Hussein regime. That regime instituted 'Arabization' policies to force out many non-Arabs from Kirkuk and the surrounding areas and replace them with Arab citizens to strengthen the regime's political control over the areas' oil fields and fertile lands. Displacement occurred during the Iran-Iraq war in the 1980's; the campaign against the Kurds, which intensified after the war in 1988; the draining of the marshes in southern Iraq during the war and again after the first Gulf War in 1991; and the 2003 fall of the Saddam Hussein regime. UNHCR reported in December 2009 that an estimated 2.76 million individuals were displaced in Iraq, 1.2 million of which had been displaced prior to 2006. The latest wave of large-scale displacement occurred after the February 2006 bombing of the Al-Askari Mosque in Samarra, which triggered a rise in sectarian violence. According to State and UN reports, insurgents, death squads, militias, and terrorists increased their attacks against civilians in 2006. According to UNHCR and IOM, there was a sharp increase in the numbers of Iraqis abandoning their homes for other locations in Iraq and abroad as a result of the sectarian intimidation and violence that erupted during this period. IOM reported that the majority of the Iraqi displacement occurred in 2006 and 2007. According to IOM, as of September 2008, about 90 percent of the post-2006 IDPs in Iraq originated from Baghdad, Diyala, and Ninewa governorates'[136]

3.02 The same source explained:

'According to IOM, 4 years after the Al-Askari bombing, displaced families are returning and new displacement is rare; however, the number of those displaced who had returned (returnees) remains well below the estimated number of those who remain displaced. As of the end of 2009, UNHCR estimated that of those displaced before and after the Al-Askari bombing, 745,630 IDPs and 433,696 refugees had returned. IOM reported in February 2010, that of those who were displaced after the 2006 Al-Askari bombing, IOM returnee field monitors had identified an estimated 374,166 returnees. Additionally, the numbers of returnees varies by governorate, with Baghdad experiencing the largest share of IDP and refugee returns, according to UNHCR.'[137]

3.03 The GAO report additionally provided the following map, outlining key movements of displaced Iraqis from 2006 to September 2008:

[136] US Government Accountability Office, Displaced Iraqis: Integrated International Strategy Needed to Reintegrate Iraq's Internally Displaced and Returning Refugees, December 2010, http://www.gao.gov/new.items/d11124.pdf, p.6-7
[137] Ibid, p.7-8



Sources: GAO analysis of maps from UNHCR and OCHA; IOM (data); Map Resources (map).

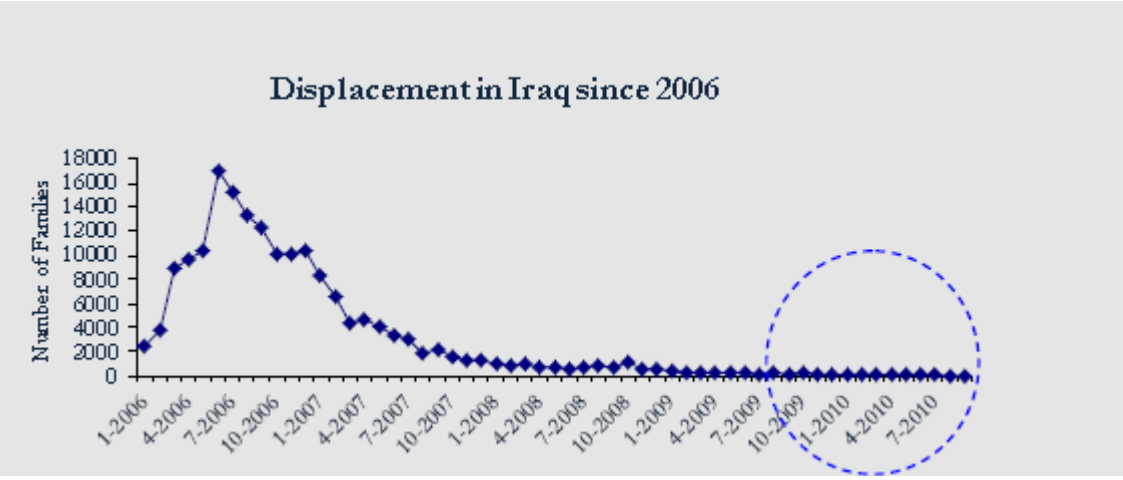
[138]

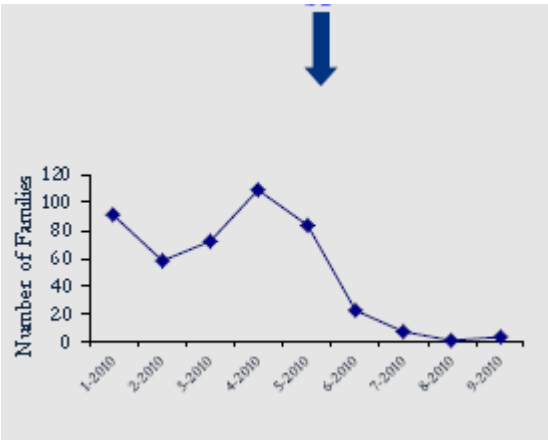
3.04 The report from the International Organisation for Migration (IOM), Review of Displacement and Return in Iraq: Five Years After the Samarra Bombing, February 2011 also explained with regard to recent levels of displacement in Iraq:

'The highest rate of displacement in Iraq occurred in June 2006 when 16,969 families fled their homes as a result of post-Samarra sectarian violence. Since that time, the rate of families being displaced has gradually decreased. In addition to the peak in June 2006, tens of thousands of IOM-assessed families were also displaced before 2006 due to the Iran-Iraq war, the drainage of the Marshlands, the Anfal campaign, or violence associated with the dissolution of the previous regime…Since 2006, an average of approximately 1,199 IOM-assessed families were displaced each month, with as few as 1 and 3 families displaced in August and September 2010. Despite the comparatively smaller rates of new displacement, displaced families are still in need of assistance in meeting their basic needs and finding an alternative to displacement, whether that be in the form of return, integration into their current location, or movement to a third location…Rates of displacement vary considerably and usually depend on the security

[138] Ibid, p.7

situation. Though the below chart indicates that displacement generally decreased between April and September 2010, there was an increase in the number of families displaced in the month of November and after, when over a thousand families fled their homes due to sectarian targeting after attacks on Baghdad's Saidat al-Najat church.'[139]





[140]

3.05 A Middle East Institute (MEI) paper entitled 'Displacement and National Institutions: Reflections on the Iraqi Experience', by Peter Van der Auweraert, dated 6 June 2011 highlighted that Iraq has experienced 'overlapping', highly regionalised displacement, across a number of phases. As noted:

'One of the complexities of internal displacement in Iraq is that the country is not dealing with 'one single displacement file' but instead needs to grapple with the consequences of at least three separate waves of displacement and return. These different waves of displacement and return occurred at different moments in time and have quite distinct political significance and meaning, but overlap in terms of problems and needs that need to be resolved or addressed.

'The first large-scale population movement took place in the period immediately after the US-led invasion caused the Baath Party regime to collapse, and involved the victims of

[139] IOM, Review of Displacement and Return in Iraq: Five Years After the Samarra Bombing, February 2011 http://www.iomiraq.net/Documents/Five%20Years%20of%20post-Samarra%20Displacement%20in%20Iraq,%20Feb%202011%20EN.pdf, p.3
[140] Ibid

the former regime's brutal social engineering policies. These policies forcibly displaced hundreds of thousands of Iraqis, as the regime sought to consolidate or strengthen its hold over Iraq and mete out punishments to communities suspected of being insufficiently loyal. It is estimated that from March 2003 until the end of 2005, around 500,000 of those displaced by the former regime returned to their places of origin, either from abroad or from elsewhere in Iraq. While as such a positive development, this sudden return of large numbers of people also created a set of problems and challenges that Iraqi State continues to struggle with today. Moreover, this return movement also lay at the basis of the second post-2003 population movement. This new movement was made up of those who either were forced to flee by the returnees and, in some cases, their armed backers or decided to flee out of fear for what would happen once those displaced by the former regime would be back. An estimated 200,000 people became displaced in the period 2003–2005.

'The third displacement crisis the 'new' Iraq has had to face was, by far, the largest and was, as already mentioned, triggered by the bombing of the Al-Askaria Mosque in Samarra in February 2006. This third wave of displacement started to subside in the second half of 2007, and today new displacement due to violence has become a rare occurrence. Being forced to leave is no longer a threat hanging above Iraqi families, with the possible exception of Iraq's small minorities, which remain vulnerable to targeted violence and forced displacement. According to UNHCR, an estimated 550,000 Iraqis have returned home since 2008, the majority of them internally displaced persons.

'While these three displacement crises are connected to events and dynamics in Iraqi history that go back several decades, they also differ from one another in ways that have a significant impact on the Iraqi state's response to each of them. Those differences are geographical, time-related, and political.

'Geographically, the subsequent waves of displacement and return affected different areas of Iraq with different degrees of intensity and with quite a distinct set of consequences…[O]ne of the key characteristics of the displacement file in Iraq is its regional diversity. The fact that displacement and return occurred in distinct waves after 2003, with more or less identifiable start and end dates, meant that different institutional responses were developed at different moments in time, and hence from the viewpoint of the whole displacement file in Iraq now look somewhat disjointed and messy. It is the principal explanation as to why currently the type of available state support or assistance available to returnees or displaced persons depends in part upon the period when displacement or return occurred.'[141]

Further background information on the IDPs is available on the following websites:

- UNHCR country profile – Iraq: http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486426
- International Displacement Monitoring Centre, Iraq: http://www.internal-displacement.org/8025708F004CE90B/(httpCountries)/718916EEB6743EEF802570A7004CB9B9?OpenDocument
- UN Assistance Mission to Iraq, Inter-Agency Information and Analysis Unit: http://www.iauiraq.org/search.asp?search=IDP

[141] Peter Van der Auweraert, Middle East Institute, Displacement and National Institutions: Reflections on the Iraqi Experience, dated 6 June 2011, http://www.refugeecooperation.org/publications/iraq/pdf/08_auweraert.pdf, p.6-7

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CURRENT DISPLACEMENT/RETURNEE FIGURES

3.06 According to recent figures published by the Ministry of Displacement and Migration and Bureau of Displacement and Migration (in the Kurdistan Region of Iraq), the total number of registered IDPs as of January 2012 was 1,332,382.[142] UNCHR's 'Monthly Statistical Update on Return – January 2012' (UNHCR Statistical Summary 2012), released March 2012, provided the following data tables for registered IDPs:

Gov	Sep-08[2] IND	Aug-09[3] IND	Jan-11[4] IND	Aug-11[5] IND	Jan-12[6] IND	% of the Decrease
Anbar	55,716	70,532	54,337	51,514	46,697	16%
Babylon	77,197	60,286	54,402	50,300	42,182	45%
Baghdad	550,099	572,783	358,457	303,394	328,347	40%
Basrah	35,509	35,226	36,709	35,058	35,477	0%
Diyala	136,891	121,001	124,611	114,423	118,348	14%
Dohuk	104,824	63,331	84,402	84,402	123,744	-18%
Erbil	52,007	37,584	42,296	42,296	58,746	-13%
Kerbala	70,709	48,038	50,311	50,310	48,156	32%
Kirkuk	43,623	52,041	49,208	46,695	44,042	-1%
Missan	46,523	42,525	39,818	38,130	35,597	23%
Muthanna	18,331	15,837	15,181	14,806	14,241	22%
Najaf	57,716	46,732	42,981	41,952	37,590	35%
Ninewa	106,623	174,475	178,162	178,314	188,201	-77%
Qadissyah	25,186	24,362	23,856	22,652	22,168	12%
Salah al-Din	45,614	56,449	45,136	45,672	45,672	0%
Sulaymaniyah	80,935	33,375	39,856	39,856	53,232	34%
Thi-Qar	47,423	44,188	49,742	48,253	41,005	14%
Wassit	75,457	53,238	54,103	50,907	48,937	35%
Total	**1,630,383**	**1,552,003**	**1,343,568**	**1,258,934**	**1,332,382**	**18%**

[143]

3.07 The same source additionally listed the number of IDP Returns for the period February 2011 to February 2012 as 212,490 across all governorates. [144]The UNHCR Statistical Summary 2012 also included the following table:

[142] 1,2) Source: IDP Working Group September 2008; 3) Source: MODM 9th report on IDPs August 2009,BDM figures; 4) Source: MODM 10th report on IDPs January 2011; 4) Source: MODM 10th report on IDPs
January 2011 BDM figures; 5) Source: MODM 13th report on IDPs August 2011,BDM figures; 6) Source: MODM, BDM figures as of January 2012. (UNCHR, Monthly Statistical Update on Return – January 2012, March 2012, http://reliefweb.int/sites/reliefweb.int/files/resources/Return%2520Update%2520IRAQ%2520JAN%25202012.pdf, p.1)
[143] Ibid
[144] UNCHR, Monthly Statistical Update on Return – January 2012, March 2012, http://reliefweb.int/sites/reliefweb.int/files/resources/Return%2520Update%2520IRAQ%2520JAN%25202012.pdf, p.6

IDP Returns February 2011 - January 2012 (Individuals)														
Governorate of Return	Feb-11	Mar-11	Apr-11	May-11	Jun-11	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Total February 2011 - January 2012	
Anbar	30	30	50	210	210	380	170	210	180	220	240	220	2,150	1%
Babylon	20	20	130	700	590	440	230	740	320	220	200	80	3,690	2%
Baghdad	1,760	2,870	6,790	12,950	13,310	10,830	13,600	14,790	16,360	15400	16,110	15,840	140,610	66%
Basrah	60	110	860	170	340	290	80	400	470	290	310	290	3,670	2%
Dahuk	0	0	0	0	0	0	0	0	0	0	0	0	0	0%
Diyala	1,010	1,180	1,710	1,850	1,100	1,440	18,340	7,120	7,840	3610	5,480	4,830	55,510	26%
Erbil	0	0	0	0	0	0	0	0	0	0	0	0	0	0%
Kerbala	0	0	0	30	0	0	0	0	0	0	0	0	30	0%
Kirkuk	0	0	10	50	40	70	50	80	90	140	0	20	550	0%
Missan	0	0	0	0	0	0	0	0	0	0	0	0	0	0%
Muthanna	0	0	0	0	0	0	0	0	0	0	0	0	0	0%
Najaf	0	0	0	0	0	0	0	0	0	0	0	0	0	0%
Ninewa	20	40	30	160	280	360	340	220	100	80	250	670	2,550	1%
Qadissyah	0	0	0	0	0	0	0	0	0	0	0	0	0	0%
Salah al-Din	10	40	90	200	240	400	290	80	320	150	330	260	2,410	1%
Sulaymaniyah	0	0	0	0	0	0	0	0	0	0	0	0	0	0%
Thi-Qar	0	0	0	0	30	0	0	0	10	0	0	0	40	0%
Wassit	0	10	150	500	260	150	30	20	80	30	20	30	1,280	1%
TOTAL	2,910	4,300	9,820	16,820	16,400	14,360	33,130	23,660	25,770	20,140	22,940	22,240	212,490	100%
IND %	1%	2%	5%	8%	8%	7%	16%	11%	12%	9%	11%	10%	100%	

'All data has been collected inside Iraq. All figures have been rounded to the nearest 10.'[145]

3.08 In considering data provided by the International Organisation for Migration (IOM), the 'Joint report of the Danish Immigration Service / UK Border Agency fact finding mission to Erbil and Dahuk, Kurdistan Region of Iraq (KRI) conducted 11 to 22 November 2011, Update (2) on entry procedures at Kurdistan Regional Government Checkpoints (KRG); residence procedures in Kurdistan Region of Iraq (KRI) and arrival procedures at Erbil and Suleimaniyah airports (for Iraqis travelling from non-KRI areas of Iraq)', dated March 2012 explained with regard to IOM's approach towards identifying IDPs:

'IOM Erbil explained that in order to develop programmes and services to support internally displaced persons (IDPs) in KRG [i.e. KRI], IOM Erbil used 55 monitoring field teams to collect data from local IDP communities. IOM Erbil clarified that monitoring field teams would recognise IDPs irrespective of whether they had formally registered as an 'IDP' with the Ministry of Displacement and Migration (MoDM) or Bureau of Migration and Displacement (BMD) in KRG [i.e KRI]. This approach, to recognise all internally displaced persons in Iraq was a central component to the work of IOM and allowed them to effectively support such communities and understand their needs.

'According to IOM Erbil, IDPs are identified by their field monitoring teams through local community links, such as the local Mukhtar, in order to gather a picture on their needs, who had been displaced and when; where they were residing in KRG [i.e. KRI] and what support they required. IOM Erbil also clarified that the assessment is carried out by field monitors in different areas of displacement. IOM Erbil considered these monitoring arrangements to be accurate in allowing their organisation to understand the profile and changing needs of internally displaced persons entering KRG.'[146]

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[145] MoDM, DDM, City Councils Baghdad, Diyala, accessed via UNCHR, Monthly Statistical Update on Return – January 2012, March 2012, http://reliefweb.int/sites/reliefweb.int/files/resources/Return%2520Update%2520IRAQ%2520JAN%25202012.pdf, p.6

[146] Joint report of the Danish Immigration Service/UK Border Agency fact finding mission to Erbil and Dahuk, Kurdistan Region of Iraq (KRI) conducted 11 to 22 November 2011, Update (2) on entry procedures at Kurdistan Regional Government Checkpoints (KRG); residence procedures in Kurdistan Region of Iraq (KRI) and arrival procedures at Erbil and Suleimaniyah airports (for Iraqis travelling from non-KRI areas of Iraq), dated March 2012, http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/coi/iraq/report-

3.09 The following table shows IOM assessed/identified IDP families (post-2006 IDP families) for the periods February 2006 to December 2008; January 2009 to October 2010 and November 2010 to September 2011:

Governorate	February 2006 – December 2008[147]	January 2009 – October 2010[148]	November 2010 – September 2011[149]
Anbar	9422	4159	1407
Babylon	10832	4181	1290
Baghdad	63876	50736	11520
Basrah	5154	3169	463
Dahuk	4143	5661	1947
Diyala	15189	23029	3520
Erbil	6691	6843	537
Kerbala	13404	7367	5534
Kirkuk	10882	16608	3806
Missan	7208	6845	3502
Muthanna	3160	3194	765
Najaf	6563	3889	4502
Ninewa	13180	14049	10496
Qadissiya	5128	4398	1094
Salah al-Din	16709	14372	5417
Sulaymaniyah	5814	5428	120
Thi-Qar	8935	9738	1164

danish.pdf?view=Binary, para 10.18-10.19

[147] Figures post-2006 IDP families (IOM, IOM Assessed IDP Families, February 2006 – December 2008, http://reliefweb.int/sites/reliefweb.int/files/resources/map_1074.pdf (accessed via Reliefweb))

[148] Figures post-2006 IDPs; data includes Christian families displaced in November 2010 – January 2011 collected using the same methodology, IOM, IOM Assessed IDP Families, February 2009 – October 2010, http://reliefweb.int/sites/reliefweb.int/files/resources/map_1075.pdf (accessed via Reliefweb)

[149] Figures post-2006 IDPs; Data collection is ongoing. Numbers of IDP families will be updated as more data is received. (IOM, IOM Identified IDP Families, November 2010 – September 2011, http://reliefweb.int/sites/reliefweb.int/files/resources/map_1076.pdf (accessed via Reliefweb)

Wassit	13349	5406	2988
Total	**219639**	**189072**	**60072**

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Data accuracy issues

3.10 The profile report from the Internal Displacement Monitoring Centre, entitled 'Iraq: Response still centred on return despite increasing demands for local integration – A profile of the internal displacement situation', dated 10 October 2011, citing a range of sources, observed with regard to IDP figures:

'The total numbers of IDPs are between 2,040,000 and 2,750,000. In November 2010, the International Organization for Migration (IOM) reported that 2,750,000 IDPs lived in Iraq, out of which 1,660,000 people had been displaced since 2006. This figure is 300,000 higher than the figures estimated by UNHCR for the same period and the figures reported by the MoDM and the KRG (IOM 2010 and 2011; UNHCR 2010).

'The difference may derive from various factors related to the registration process. Figures for post 2006 refer only to registered IDPs. Under-registration has taken place because IDP's registration after 2006 has been voluntary and contingent on documentation which IDPs often lacked. But multiple registrations have also taken place on some instances. Additionally, 'de-registration' is also voluntary. Some of the people who lived in displacement but who sustainably returned home - some 400,000 according to IOM and 840,000 according to UNHCR – have not deregistered while some IDPs who remain in displacement have done so to obtain return-packages (IRCS, 2008; IOM February 2011; UNHCR January 2011).

'People who were displaced before 2003 were not registered and estimates of displacement up to 2003 have been difficult to validate. While IOM reported that some 1,090,000 people were displaced before 2003. In the late 1990s, observers have suggested that figures on displaced populations in northern Iraq were manipulated to suit political parties' claims to disputed border territories. In southern Iraq, access restrictions during the 1990s made reliable calculations tricky, reflected in disparate estimations ranging from 40,000 to 1,000,000. It is still unclear whether the people who were displaced from the marshlands have integrated locally or whether they still live in a situation of displacement (IOM 2010; USCR 2000, 2001).'[150]

3.11 The Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, dated 16 February 2011 raised concerns relating to unregistered IDPs. As noted:

'IDPs have faced a number of difficulties with regard to IDP registration....Inconsistent implementation of registration procedures has also been reported, including because of restrictions on IDP entry and registration arising from security, economic or even demographic concerns in a number of governorates. However, some IDPs have also

[150] Internal Displacement Monitoring Centre (IDMC), Iraq: A profile of the internal displacement situation, 10 October 2011, http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/CCE717078C732F29C125792100523DC7/$file/Iraq-October-2011.pdf, p.34

been reluctant to register with authorities because of security concerns, bureaucratic delays or lack of documentation. During 2009, Government authorities stopped registration procedures, reopening them temporarily only for census purposes between April and June 2010. While there are no available figures on the number of unregistered IDPs in the country, they are presumed to be high.'[151]

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IDP INTENTIONS AND A SHIFT TOWARDS INTEGRATION INTO HOST COMMUNITIES

3.12 The Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, dated 16 February 2011 explained:

'Despite a Government displacement programme that has focused largely on returns, some of the current displacement appears likely to remain protracted or lead to alternative durable solutions. According to intention surveys, the percentage of IDPs wishing to locally integrate has increased in the last years, reaching an estimated 37 per cent of IDPs by mid-2010, while 42 per cent expressed the wish to return and 17 per cent to resettle elsewhere. Intentions vary considerably depending on the governorate, however, with local integration being more attractive to IDPs in central and southern governorates at 75 per cent, as compared to less than 15 per cent in Ninewa for example. Factors in this preference are often related to the security situation and access to basic services. Returnee populations are mostly located in Baghdad, but also Diyala, Anbar and Kirkuk.' [152]

3.13 Similarly the profile report from the Internal Displacement Monitoring Centre, entitled 'Iraq: Response still centred on return despite increasing demands for local integration – A profile of the internal displacement situation', dated 10 October 2011, observed:

'By mid-2010, return was the preferred option of only 42 per cent of IDPs, while 37 per cent preferred to integrate in their place of displacement and 17 per cent to resettle elsewhere. The percentage of IDPs wishing to integrate locally had increased from 30 per cent since 2006. In the uniformly Shi'a south, integration was the favoured settlement option. An IOM survey in February 2010 found that over 40 per cent of IDPs wished to integrate locally across the southern governorates, with peaks at 76 per cent in Basra and 61 per cent in Dhi-Qar. In Baghdad, an NRC camp monitoring assessment found that over 80 per cent of IDPs would prefer to integrate in the local area as it would be easier for them to access employment, social services, education, and have established themselves to some various degree after years of displacement…NGOs have repeatedly warned of the dangers of encouraging premature returns, and have drawn attention to the consequences of failing to consider local integration or settlement elsewhere in the

[151] UN Human Rights Council, The Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, dated 16 February 2011, Visit to Iraq, http://reliefweb.int/sites/reliefweb.int/files/resources/1BA67B4AD8BE40788525783F0057B8DB-Full_Report.pdf, para 51

[152] UN Human Rights Council, The Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, dated 16 February 2011, Visit to Iraq, http://reliefweb.int/sites/reliefweb.int/files/resources/1BA67B4AD8BE40788525783F0057B8DB-Full_Report.pdf, para 56

country. The US embassy in Baghdad reported in early 2011 that a pilot integration initiative in Diyala had successfully aided 500 families but had not resulted in a significant increase in IDP returns.' [153]

3.14 The report from the International Organisation for Migration (IOM), 'Review of Displacement and Return in Iraq: Five Years After the Samarra Bombing', February 2011 additionally noted:

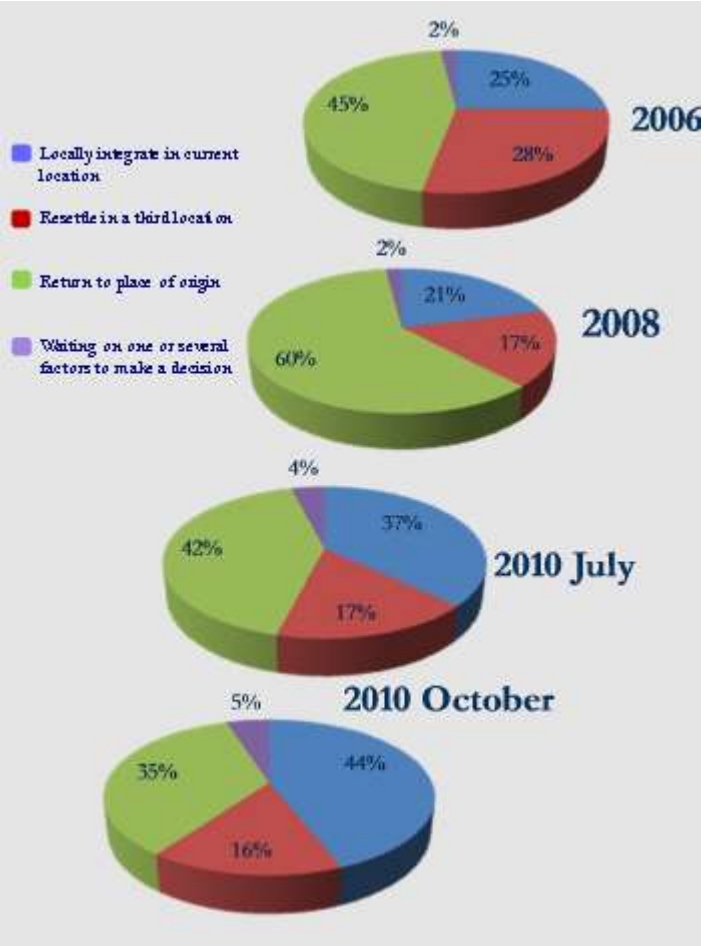
'Since 2006, the percentage of families expressing their desire to integrate into their current location has risen from 25% to 44%, implying that families have either successfully integrated into their communities or that their points of origin have not improved with regard to the availability of jobs or the security situation. For instance, the desire to integrate locally has increased in various governorates, most notably in Babylon (from 77% to 87%) and remains high in Basrah (77%), Najaf (70%), and Qadissiya (67%)….While the percentage of families who desire to resettle in a third location has decreased, the number of families who wish to return to their place of origin increased in 2008 from 45% to 60%, but has since decreased to 35% in October 2010. 5% of families continue to wait on several factors before making a concrete decision.

'Some families have returned home already, which accounts for some of the decline in those seeking to return, however families that have been displaced for extended periods of time are also more likely to express a desire to remain in their current locations. This is often because they have integrated into the current location or are unable to return to their homes due to ongoing violence. Their point of origin may have also permanently changed, as the migration of families has significantly altered the social makeup of many communities in Iraq.'[154]

3.15 The IOM report additionally included the following graphics to illustrate changing perceptions over time, between 2006 and October 2010:

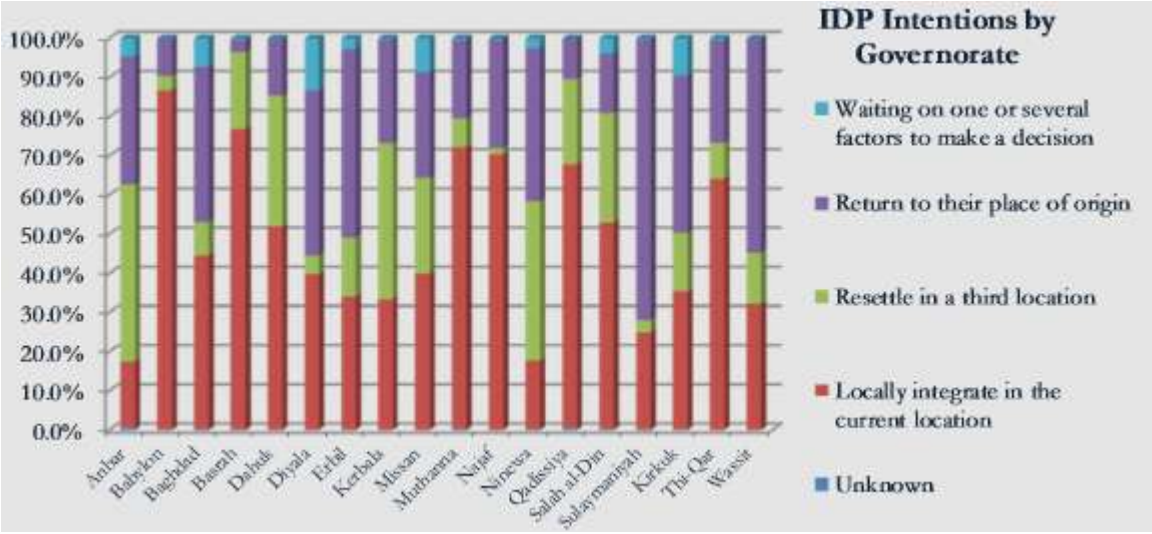
[153] Internal Displacement Monitoring Centre (IDMC), Iraq: A profile of the internal displacement situation, 10 October 2011, http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/CCE717078C732F29C125792100523DC7/$file/Iraq-October-2011.pdf, p.12

[154] IOM, Review of Displacement and Return in Iraq: Five Years After the Samarra Bombing, February 2011 http://www.iomiraq.net/Documents/Five%20Years%20of%20post-Samarra%20Displacement%20in%20Iraq,%20Feb%202011%20EN.pdf, p.18



155

3.16 Whilst the following chart detailed differing perceptions across governorates:



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155 Ibid
156 Ibid

Documentation, internal movement and access to services

In considering this part of the report, users are recommended to read the previous section on the situation of internally displaced persons, including information on patterns of internal displacement and changing intentions among IDP communities.

4. INTERNAL MOVEMENT AND CIVIL REGISTRATION REQUIREMENTS

4.01 The US State Department's, 2010 Human Rights Report: Iraq (USSD Report 2010), published 8 April 2011, stated that: 'The constitution provides for freedom of movement in all parts of the country and the right to travel abroad and return freely.' [157] The report went onto observe that '[t]he government generally respected these rights. There were some limitations in practice, particularly regarding travel into and residence in the Kurdistan region' [158] A letter from the British Embassy Baghdad entitled 'Freedom of Movement and requirements to transfer personal documents in order to relocate in Iraq' dated 27 July 2011, based on advice obtained from the British Embassy's legal advisor and replies to enquiries received from '...representatives of two organisations; staff working for the International Organisation for Migration (IOM), in Baghdad and Erbil in the Kurdistan Region (KR) of Northern Iraq, and the Director General of Planning and Follow-Up at the Iraqi Ministry of Displacement and Migration (MoDM)'[159], noted:

'Our interlocutors at IOM and MoDM told us that there are no laws restricting the freedom of movement for Iraqi nationals, neither are there laws which restrict Iraqi nationals from changing their permanent place of residence. In addition, there are no laws relating specifically to the freedom of movement of Internally Displaced Persons (IDPs). These rights of freedom of movement are enshrined in the Iraqi Constitution. That said, we were told that while there are no laws governing freedom of movement, there are certain 'regulations' which are required to be met, for instance the production of certain types of Iraqi documents and, in the presentation of personal information to the local council or police station.'[160]

4.02 Other sources also identified a need possess civil documentation in Iraq. A COI Service note of an interview following a meeting with Hassanain Hadi Fadhil, Second Secretary, Embassy of the Republic of Iraq, London, on 5 January 2012 reported that: '…[T]he Civil ID Card is required by law and that each Iraqi national, whether they were born inside or outside Iraq, is issued with an Iraqi Civil ID Card, this would be provided upon production of a birth certificate.'[161]

4.03 A report from UNHCR entitled 'Country of Origin Information, Iraq', dated October 2005, explained two of the most important documents used in Iraq were the Iraqi Nationality

[157] US State Department's, 2010 Human Rights Report: Iraq, Section 2d, Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons, 8 April 2011 http://www.state.gov/j/drl/rls/hrrpt/2010/nea/154462.htm
[158] Ibid
[159] British Embassy Baghdad, Freedom of Movement and requirements to transfer personal documentation in order to relocate in Iraq, 27 July 2011, available in Annex N
[160] Ibid
[161] COI Service, note of meeting with Hassanain Hadi Fadhil, Second Secretary, Embassy of the Republic of Iraq, London on 5 January 2012, available in Annex Q

Certificate and Iraqi Civil Status ID, these documents were the main identification documents and were required for '...any kind of interaction with the authorities, such as an application for a food ration card, school registration, and the issuance of death and birth certificates.' [162] Additionally the report observed that other documents used in Iraq were Residence Address Cards and food ration cards (also known as the Public Distribution Card (PDS)), as well as birth certificates and death certificates.[163]

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Legal framework

4.04 The Iraqi e-government website, undated, accessed 14 March 2012, which aimed to '… meet the general public needs for high-quality and accessible public services...',[164] noted under a section on Iraqi Citizenship Documents, the related Iraqi laws concerning Iraqi citizenship documents were as follows: The Nationality Law No.26 of 2006; Civil Status Law 65 of 1972 as amended; Passport Law No.32 of 1999 as amended; Residency law No 18 of 1978 as amended and the Organisation of Places and Residence law No. 95 of 1978 as amended.[165]

The Iraqi Constitution

4.05 Article 44(1) of the Iraqi Constitution states that: 'Each Iraqi has freedom of movement, travel, and residence inside and outside Iraq", whilst Article 44(2) sets out that: "No Iraqi may be exiled, displaced, or deprived from returning to the homeland.'[166]

Civil Status Act 65 of 1972 as amended

4.06 The Civil Status Act 65 of 1972 as amended (Civil Status Law) states under part 4, Internal Immigration, Article 39:

'(1).The Permanent Place of Abode of the Iraqi person is the place where his Civil Register is located. It shall be referred to as "The Place of Abode" for the purpose of this Act…(2)The Permanent Place of Abode of a married woman shall be the Place of Abode of her husband, if the husband and wife relationship still exist…(3) The Place of Abode of a Minor, after the death of his / her father shall be the home address of the father or the mother or anyone who by law acts on his behalf.'[167]

4.07 Article 40 of the Civil Status Law explains the procedures with regard internal immigration in Iraq as follows:

'The Head of the family, when changing his /her place of abode and the place of abode of his / her family from one Civil Status Department Area in a given Administrative Unit to

[162] UNHCR, Country of Origin Information, Iraq, October 2005, http://www.unhcr.org/4709f79a2.pdf, p.132
[163] Ibid
[164] Iraqi e-government website, Introduction, http://www.egov.gov.iq/egov-iraq/index.jsp?sid=1&id=242&pid=332, undated, accessed on 14 March 2012
[165] Ibid
[166] Iraqi Constitution, adopted on 15 October 2005 (accessed via UN Assistance Mission for Iraq website) http://www.uniraq.org/documents/iraqi_constitution.pdf, Article 44(1)
[167] Civil Status Act 65 of 1972, Article 39

another Civil Status Department Area in another Administrative Unit with the purpose of settling in it on a permanent basis, must go through the Internal Immigration Procedure and must have three copies of the paper work which contain the names of family members whose records are intended to be moved, the reason for such a move. These must be signed by the Mayor or the area Chief (Oumdeh) and two witnesses from the neighbourhood of the new place of residence, and must be signed, endorsed and certified by the Competent Administrative Officer. These copies shall then be presented to the Civil Status Department in the area where the person and his / her family want to move to.'[168]

4.08 The Civil Status Law defines a Civil ID Card or "Personal Identity Card", under Article 1(19a) as follows: 'A legal document to identify the person to whom it belongs. It is issued by the General Directorate or its Departments in accordance with the detailed records held on the person in the Civil Register or the Register of Iraqi Communities (abroad), in accordance with the format that it decides to use.'[169]

4.09 With regard to the registration of a Personal Identity Card, the Civil Status Law observes at Article 45(1): 'Every Iraqi must apply in writing to the Competent Civil Status Department in order for him to be provided with a Personal Identity Card, which shall be prepared in accordance with the details of his/her records in the Civil Register, and must bear the holder's photo and signed, endorsed and certified by the General Director or anyone he/she authorises to act on his/her behalf, in accordance with defined rules and regulatory procedures.'[170]

4.10 On the matter of obtaining a replacement personal identity card, Article 47(1) of the Civil Status Law states that:

'The General Director or anyone whom he / she authorises to act on his / her behalf shall decide to annul a Personal Identity Card following its withdrawal and safe-keep at their level and to issue another in one of the situations which are listed below as the case applies:...a. There had been a decision by a competent authority relating to the changes or corrections of any of the details it contains...b. Ten years has expired from its date of issue…c. When an error had occurred in preparing it whether this happened before covering and compressing it or after that.'[171]

4.11 Additionally Article 47(2) states:

'a. Anyone whose Personal Identity Card happens to be damaged shall be issued with a replacement upon written application by the person concerned or by any relevant person, provided that a stamp duty is affixed to it at the expense of the applicant.

'b. Anyone whose Personal Identity Card happens to be lost his / her Personal Identity Card shall be issued with a replacement upon written application by the person concerned or by any relevant person, once the Civil Status Department had established the manner it was lost and that is carried out by the holder or any relevant person giving a written statement in the presence of the competent officer of civil status, provided that a stamp duty to the value of five Dinars is affixed to it at the expense of the applicant on the

[168] Ibid, Article 40
[169] Ibid, Article 1
[170] Ibid, Article 45
[171] Ibid, Article 47

first occasion when such a loss is reported and ten Dinars if the loss occurs a second time and twenty Dinars if the loss occurs more than twice.'[172]

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Law No. (95) of 1978, Organization of Places of Domicile and Residence inside Iraq

4.12 Law No. (95) of 1978, Organization of Places of Domicile and Residence inside Iraq (Residence Law 95/1978) notes under Article 2(1): 'Every charged person[173] who is domiciling or residing in Iraq must fill in the form of domicile or the form of residence deposited to him under the provisions of this Law and to record all the information and statements set out therein supported by his signature during the period defined by the Minister.' [174] [According to Article 1(2): "The Charged - The Iraqi or Arab Citizen who is dwelling inside Iraq or the foreigner who is residing therein and has completed eighteen years of age.' While Article 1(4): 'The form of information concerning residence of the charged, is address, the other statements concerning him or his family members who are residing with him permanently or temporarily, also the form of information concerning the change of place of residence under samples defined by the Minister' (Law No. (95) of 1978, Organization of Places of Domicile and Residence inside Iraq)]

4.13 Article 2(2) states: 'a. Every Iraqi comes to Iraq and he has must recourse the bureau of information [175] in the district of his domicile for filling the form within a period of ten days from the date of his entry to Iraq....' According to Article 1(5): 'the bureau related to the police center of the place of residence of the charged that undertake keeping and coordinating the forms of domicile or residence deposited to him and to mark the change of place of the charged persons and to notify the bureau of information at the police center with the new place of residence under the provisions of this Law' (Law No. (95) of 1978, Organization of Places of Domicile and Residence inside Iraq). [176]

4.14 Article 5 of the Residence Law 95/1978 states: 'If the charged person wishes to change his permanent place of domicile or residence separately or with the members of his family or some of them, he must recourse the bureaus of information in the old and new place of his domicile or residence.'[177]

4.15 Whilst Article 9(1) stipulates:

'Without abuse to the punishments imposed by the other Laws a punishment shall be imposed with:

'a. Fine not exceeding one hundred Dinars and not less than fifty Dinars or with imprisonment for a period not exceeding thirty days and not less than fifteen days on any

[172] Ibid

[174] Law No. (95) of 1978, Organization of Places of Domicile and Residence inside Iraq, http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=search&docid=3ae6b4ec3c&skip=0&query=law%2095%201978, Article 2

[175]

[176] Law No. (95) of 1978, Organization of Places of Domicile and Residence inside Iraq, Article 2

[177] Ibid, Article 5

person who has delayed without reasonable excuse to present the forms or information provided for in this Law during a period of ten days. The punishment shall be imprisonment for a period not less than thirty days and not exceeding six months if the period of delay exceeding ten days. The police Officer who is appointed by the Minister shall be authorized with the jurisdiction of imposing the fine provided for in this para; the convicted with fine in accordance with the provisions of this para may object against the decision of judgement at the criminal judge within thirty days from the date of the decision. The criminal judge may certify, cancel the decision or abate the punishment.

'b. Imprisonment for a period not less than six months and not exceeding one year to whoever submit false information for the intention of misleading. The punishment shall be imprisonment for a period not less than one year and not exceeding five years if the information concerning an Arab or foreign person.'[178]

For further details refer directly to the English translation of Law No. (95) of 1978, Organization of Places of Domicile and Residence inside Iraq (Residence Law 95/1978), available via Refworld.

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Iraqi Nationality Law, Law 26 of 2006

4.16 Iraqi Nationality Law, Law 26 of 2006 notes under Article 2: 'Anyone who has acquired Iraqi nationality by virtue of the provisions of the repealed Iraqi Nationality Law No. 42 of 1924, the Iraqi Nationality Law No. 43 of 1963 and No. 5 of 1975 on granting Iraqi nationality to Arabs, and the decisions by the defunct Revolutionary Command Council granting Iraqi nationality shall be considered Iraqi.'[179]

4.17 Whilst Article 3 explains: 'A person shall be considered Iraqi if: a. he/ she is born to an Iraqi father or an Iraqi mother; b. he/ she is born in Iraq to unknown parents. A foundling found in Iraq shall, in the absence of proof to the contrary, be considered to have been born therein.'[180]

For further details refer directly to the English translation of the Iraqi Nationality Law, Law 26 of 2006, available from Refworld.

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5. LACK OF PERSONAL DOCUMENTATION AMONG IRAQIS

5.01 A paper by Giorgio Heinrich Neidhardt, published by the Middle East Institute (MEI), entitled 'Providing Fair Protection Processes and Documentation for Internally Displaced and Host Communities: The Experience of the Protection and Assistance Centers (PACs) in Southern Iraq', dated April 2011, noted: 'After the fall of the Ba'thist regime, displacement resulted in the loss or destruction of personal documentation and registries. Lack of documentation and other means to prove one's identity have had serious

[178] Ibid, Article 9
[179] Iraqi Nationality Law, Law 26 of 2006, http://www.unhcr.org/refworld/pdfid/4b1e364c2.pdf, Article 2
[180] Ibid, Article 3

consequences for individuals and communities, including restricted freedom of movement, limited access to life-saving assistance and services, exposure to harassment or arbitrary arrest and detention, and the risk of statelessness.' [181]

5.02 A report from the International Rescue Committee, dated February 2010, entitled 'A Tough Road Home, uprooted Iraqis in Jordan, Syria and Iraq', similarly stated that: 'IDPs are often likely to lack documentation because many were forced to flee quickly.' [182] Whilst the joint report of the Danish Immigration Service / UK Border Agency fact finding mission to Erbil and Dahuk, Kurdistan Region of Iraq (KRI) conducted 11 to 22 November 2011 entitled, Update (2) on entry procedures at Kurdistan Regional Government Checkpoints (KRG); residence procedures in Kurdistan Region of Iraq (KRI) and arrival procedures at Erbil and Suleimaniyah airports (for Iraqis travelling from non-KRI areas of Iraq), dated March 2012, referring to an interview with an international organisation (B) also noted:

'According to the international organization (B), there were many reasons why some persons do not have their original documents and are in possession of fake documents: conflict had caused many people to flee their homes without being in possession of their personal documents; some had lost personal documents under the Baath regime or had had them stolen. The international organization (B) was unaware if there were any procedures in Iraq for the re-issuance of lost documents to Iraqi citizens.

'Many Iraqis claimed to have lost their personal documents in 2006/07 and the total number of citizens without documents was considered to be quite high. The international organization (B) added that some had lost these documents when they were pushed out of their homes by one of the conflicting parties in Iraq, whereas others had had their documents taken by sectarian groups in order to push them out of their traditional home area.' [183]

5.03 An MEI paper entitled Displacement and National Institutions: Reflections on the Iraqi Experience, by Peter Van der Auweraert, dated 6 June 2011 observed that the large scale displacement of individuals in Iraq, following the fall of Saddam Hussein's regime led to increased pressures on the government infrastructure responsible for processing identity documents. As noted:

'The rapid, large-scale population movement also put pressure on government sectors not directly involved in the provision of basic services. Central and local authorities in

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[181] Giorgio Heinrich Neidhardt, Middle East Institute, Providing Fair Protection Processes and Documentation for Internally Displaced and Host Communities: The Experience of the Protection and Assistance Centers (PACs) in Southern Iraqdated, April 2011, http://www.refugeecooperation.org/publications/best_practices/pdf/02_intersos.pdf, p.2

[182] International Rescue Committee, A Tough Road Home, uprooted Iraqis in Jordan, Syria and Iraq, February 2010, http://www.rescue.org/sites/default/files/resource-file/IRC_Report_02_18_ToughRoad.pdf, p.6

[183] The joint report of the Danish Immigration Service /UK Border Agency fact finding mission to Erbil and Dahuk, Kurdistan Region of Iraq (KRI) conducted 11 to 22 November 2011, Update (2) on entry procedures at Kurdistan Regional Government Checkpoints (KRG); residence procedures in Kurdistan Region of Iraq (KRI) and arrival procedures at Erbil and Suleimaniyah airports (for Iraqis travelling from non-KRI areas of Iraq), March 2012, http://www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/coi/iraq/report-danish.pdf?view=Binary, para 10.01 – 10.02

charge of providing people with official documents such as personal ID cards, residence permits, property documents and the cards giving access to the public food distribution system were now required to provide those documents to people that were new to their area of operations and formally registered elsewhere.'[184]

5.04 The same source, whilst acknowledging that reports from the UN, IOM and a range of national and international NGOs appeared to be agreed on the conclusion that '... a significant proportion of the internally displaced population continues to suffer from a lack of access to basic services', and also noted that: 'This finding, however, needs to be understood in the wider context of Iraq today, where basic service delivery remains highly problematic also for the population as a whole.' [185] The same source clarified that: 'While a more in-depth study is required to do a full comparison, available information does appear to suggest that the internally displaced population is somewhat worse off than the average Iraqi citizen, at least when it comes to access to basic services including ... access to personal documents...'[186]

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UNHCR and IOM 'needs assessment' findings

5.05 A UNHCR Iraq Protection Monitoring Assessment Summary, dated October 2009, conducted by UNHCR's Protection and Assistance Centers provided 'needs assessment' data on Internally Displaced Persons (IDPs), IDP returnees and refugee returnees. According to the summary, the findings were based on 631 protection monitoring assessments conducted in 603 different locations throughout Iraq, on a total of 493,211 (94,565 families) persons of concern.[187] With regard to documentation needs among those assessed, the report noted: 'From January to March 2009, some 53%IDP, 15%IDP returnee and 40% refugee returnee families reported lacking most commonly PDS [Public Distribution System] ration cards (31% IDPs, 12% IDP returnees, 24% refugee returnees), civil ID (25% IDPs, 18% IDP returnees, 22% refugee returnees), nationality certificate (22% IDPs, 11% IDP returnees, 29% refugee returnees) and passport (21% IDPs, 9% IDP returnees, 15%refugee returnees).'[188]

5.06 Referring to IDPs assessed since April 2009, the same source commented: 'The communities assessed from April [2009] reported mainly lacking the key documents and having difficulties in renewing them.' [189] The source additionally included the following table which illustrated documents lacking among IDPs, IDP returnees and refugee returnees:

[184] Peter Van der Auweraert, Middle East Institute, Displacement and National Institutions: Reflections on the Iraqi Experience, dated 6 June 2011, http://www.refugeecooperation.org/publications/iraq/pdf/08_auweraert.pdf, p.2
[185] Ibid, p.3
[186] Ibid
[187] UNHCR Baghdad, Protection Monitoring Assessments Summary January -October 2009, October 2009, http://www.uniraq.org/documents/UNHCR%20Iraq%20Protection%20Monitoring%20%20Jan-Oct%202009.pdf, p.2
[188] Ibid, p.4
[189] Ibid

Document	IDPs	IDP returnees	Refugee returnees
Civil ID /Renewal	20%	45%	34%
Nationality certificate	15%	14%	11%
Social welfare	11%	20%	7%
PDS ration card	13.3%	4%	10%
Marriage/Divorce certificate	12%	8.5%	8%
Pension record	6%	28%	1%
Passport	11%	7%	3.5%
Birth certificate	6%	7%	16.5%
Death certificate	4%	8%	10%

[190]

5.07 A UNHCR report entitled Protection and Assistance Centres in Iraq, January – March 2010, undated, identified the main legal needs for persons of concern as follows:

'The top legal needs were: Refugee Returnees (documentations, inheritance, property recovery, government assistance and medical care), IDPs (PDS cards, civil status documentations, social welfare), IDP returnees (documentation, inheritance, medical care and social welfare),Refugee Returnees into displacement (PDS cards, housing and government assistance), refugees and asylum-seekers (employment and documentation), and community members with specific needs (documentation, inheritance, social welfare), deportees (documentation and social welfare), stateless (documentation).'[191]

5.08 A more recent report from International Organisation for Migration (IOM) entitled 'Review of Displacement and Return in Iraq: Five Years After the Samarra Bombing' dated February 2011, identified IDP priority needs as follows:

'According to IOM assessments, a large majority of IDP families cite access to work (75%) as their most pressing need, followed by shelter (48%) and food (47%). Often, the needs of families vary depending on the amount of time they have been in displacement, as a family that has spent an extended period of time away from their point of origin is more likely to have secured a means of providing food and other necessities for its dependents. According to IOM assessments, families that have recently been displaced are more likely to cite a greater need for food than families who have been displaced for five years or more.'[192]

5.09 With regard to the priority needs of returnees, the same source commented:

'IOM-assessed returnee families cite needs that vary slightly from those of displaced families. Families who have returned are sometimes able to access homes that they previously left behind or return to jobs they once held. As a result, access to work and

[190] Ibid
[191] UNHCR, Protection and Assistance Centres in Iraq, January – March 2010, http://reliefweb.int/sites/reliefweb.int/files/resources/ACD0DB99F9A2A42A492577130019AD3A-Full_Report.pdf
[192] IOM, Review of Displacement and Return in Iraq: Five Years After the Samarra Bombing, February 2011, http://www.iomiraq.net/Documents/Five%20Years%20of%20post-Samarra%20Displacement%20in%20Iraq,%20Feb%202011%20EN.pdf, p.7

shelter are of less importance to returnee families. In fact, a little over 50% of IOM-assessed returnees note that they own a home that is 'in good condition,' though 25% own a home 'in poor condition' and 15% rent a home. Returnee families assessed by IOM monitors cite food (67%), water (44%), and health (42%) as their top three priority needs. The need for food is often an indicator of high food prices in local markets and incomplete food rations. Poor water management and infrastructure, in addition to drought conditions during the past two years, are likely to have exacerbated the need for water, as the need for water has steadily risen in priority.'[193]

5.10 Although the IOM report gave no specific reference to lack of documentation being a specific need for either IDPs or returnees, a table included in the report listed 20 per cent of IDPs required "legal help", whilst 16 per cent of returnees listed "legal help" as an area of need.[194]

5.11 In considering the size sample group included in the above-referenced IOM study, the report noted:

'IOM monitors have up-to-date assessments of 188,045 families (estimated 1,129,270 individuals). In addition to displaced families, 70,063 returnee families (approximately 420,378 individuals) have been identified by IOM field monitors, 12,058 of which have been assessed. IOM field monitors go beyond identifying the locations and number of IDP and returnee families throughout Iraq; they also conduct in-depth interviews in order to determine the priority needs and future intentions of these families. This information is used to target emergency assistance and community development projects, help alleviate the hardships of displacement, and assist in safe and sustainable return.' [195]

5.12 A UNHCR survey report entitled 'UNHCR Iraq Refugee Returnee Monitoring: 2011 Mid Year Report', dated August 2011, explained the background to the survey as follows:

'Between January and July 2011, UNHCR Iraq Repatriation Assistants working at the Government of Iraq Returnee and Assistance Centres [RACs] (managed by International Medical Corps) in their two centres in Baghdad (Karkh and Resafa), have counselled and monitored Iraqi Refugee Returnees approaching the RACs concerning their motivations for returning, conditions of return, access to returnee assistance and needs for further assistance from the Iraqi Government, UNHCR and other UN and NGO partners…During this period, a total of 1895 Iraqi Refugee Returnee families (representing 9475 individuals) were monitored of whom 90% were monitored at the RAC offices in Karkh and Resafa and the remaining 10% by Returnee Telephone Monitoring. All monitoring was conducted by UNHCR Repatriation Assistants.'[196]

5.13 Commenting on the results from the survey, the report noted with regard to 'Income and specific needs of Iraqi Refugee Returnees to Baghdad Governorate':

'Regarding monitored Refugee Returnees claimed income sources...[the findings show]

[193] Ibid, p.8
[194] Ibid, p.7-8
[195] Ibid, p.4
[196] UNHCR, UNHCR Iraq Refugee Returnee Monitoring: 2011 Mid Year Report, dated August 2011, http://www.iauiraq.org/documents/1554/External%202011%20Mid%20Year%20Report%20UNHCR%20Iraq%20Refugee%20Returnee%20Monitoring%20report.pdf, p.8-9

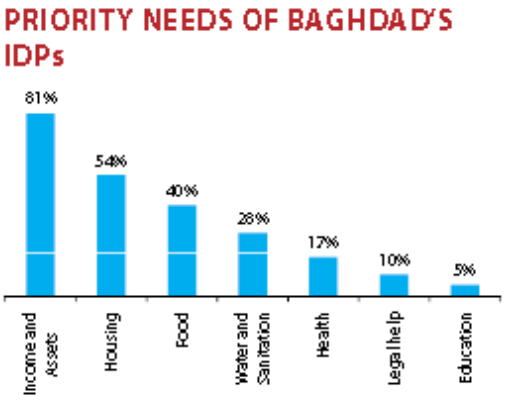
that 43% claim this is from work in Iraq carried out by them or the head of their household. 26% of Returnees monitored, however, stated that they had no current primary or secondary income source while 16% claim that their primary source of income is assistance from family and friends (mainly family). 17% of returnees monitored stated that they rely on Iraqi state pensions as their primary income source...Regarding non financial/ income/ lack of employment-related specific needs, 14% of Refugee Returnees monitored claimed to have other forms of specific needs. A significant majority of these Returnees (58%) claimed that they or someone within their household has a serious medical condition (other than a physical/ mental disability or trauma), while 10% of households claimed to contain elderly in need of care or elderly headed households. 18 % claimed to be disabled or have a disabled family member, 6% claimed to be a survivor of violence/ torture and 4% claimed to be female headed households or unaccompanied women.'[197]

5.14 The source made no reference to lack of documentation being an issue for refugee returnees to Baghdad governorate.[198] However, the website for UNHCR Iraq, 2012 UNHCR country operation profile – Iraq, observed that Iraqi returnees, both refugees and other returnees, were likely to face many challenges when they return home including '... a lack of basic services and documentation.'[199] The Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, dated 16 February 2011, also remarked that lack of documentation among IDPs remained a concern. As noted:

'IDPs also report difficulties in obtaining or renewing other key documents, including the civil status identification document, a key identity card necessary to access health care, education and many other services, and to obtaining other important documents such as a passport, PDS cards. As a result, IDPs often need specialized assistance to obtain or replace vital documents, to which they are entitled in accordance with principle 20 of the Guiding Principles.' [200]

5.15 A report from IOM, the Inter-Agency Information and Analysis Unit (IAU) and UN Habitat, entitled Urban Baghdad: Impact of Conflict on Daily Life, dated 1 June 2011 provided the following table outlining priority needs of Baghdad's IDPs, which listed legal help at 10 per cent, though there is no definition of what 'legal' assistance was. As noted:

[197] Ibid, p.14-16
[198] Ibid
[199] UNHCR website, 2012 UNHCR country operation profile – Iraq, undated, accessed 19 March 2012, http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486426
[200] UN Human Rights Council, The Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, dated 16 February 2011, Visit to Iraq, http://reliefweb.int/sites/reliefweb.int/files/resources/1BA67B4AD8BE40788525783F0057B8DB-Full_Report.pdf, para 53



[201]

5.16 The Joint report of the Danish Immigration Service/UK Border Agency fact finding mission to Erbil and Dahuk, Kurdistan Region of Iraq (KRI) conducted 11 to 22 November 2011 entitled, Update (2) on entry procedures at Kurdistan Regional Government Checkpoints (KRG); residence procedures in Kurdistan Region of Iraq (KRI) and arrival procedures at Erbil and Suleimaniyah airports (for Iraqis travelling from non-KRI areas of Iraq), dated March 2012, referring to interviews with representatives from the Protection and Assistance Centres in Erbil and Dahuk noted:

'[A]ccording to PAO [Public Aid Organisation, the UNHCR Protection Assistance Centre partner in Erbil], the issue of lack of documentation among IDPs was not a common occurrence now, compared to previous years, where persons fled violence immediately, and often without their documents. Today IDPs in KRI usually had their personal documentation...Harikar NGO [the UNHCR Protection Assistance Centre partner in Dahuk] added that most IDPs were in possession of their personal documents, therefore this was less of an issue now.'[202]

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Impact of lack of documentation on access to services and freedom of movement

5.17 A paper by Giorgio Heinrich Neidhardt, published by the Middle East Institute, entitled 'Providing Fair Protection Processes and Documentation for Internally Displaced and Host Communities: The Experience of the Protection and Assistance Centers (PACs) in Southern Iraq', dated April 2011 noted that:

'... [L]egislation and civil documentation were subject to considerable changes in the aftermath of the 2003 invasion. The Coalition Provisional Authority (CPA) and the subsequent formation of a new government led to the issuance of new identification

[201] IOM, IAU and UN Habitat, entitled Urban Baghdad: Impact of Conflict on Daily Life, dated 1 June 2011, http://reliefweb.int/sites/reliefweb.int/files/resources/Urban%20Baghdad-Impact%20of%20conflict%20on%20daily%20life-May%2022-Final.pdf, p.4

[202] The joint report of the Danish Immigration Service / UK Border Agency fact finding mission to Erbil and Dahuk, Kurdistan Region of Iraq (KRI) conducted 11 to 22 November 2011, Update (2) on entry procedures at Kurdistan Regional Government Checkpoints (KRG); residence procedures in Kurdistan Region of Iraq (KRI) and arrival procedures at Erbil and Suleimaniyah airports (for Iraqis travelling from non-KRI areas of Iraq), March 2012, http://www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/coi/iraq/report-danish.pdf?view=Binary, Para 10.03 – 10.04

cards, nationality cards, marriage and birth certificates, and other essential documents needed to exercise civil and political rights as well as socio-economic and cultural rights.'[203]

5.18 A report from UNHCR, dated September 2007, explained that the Civil ID Card and Nationality Certificate were two of the most important forms of Iraqi personal documentation, as noted: 'Nationality Certificate and Civil ID Card: These documents are the most essential forms of documentation as they are required in order to obtain most official documents such as passports, birth and death certificates, marriage certificates and food ration cards.'[204]

5.19 Another report from UNHCR, Country of Origin Information, Iraq, dated October 2005, explained that the Civil ID Card and Nationality Certificate, which were "widely common", were: '...the main identification documents and requested for any kind of interaction with the authorities, such as an application for a food ration card, school registration, and the issuance of death and birth certificates.'[205]

5.20 The latest profile report from the Internal Displacement Monitoring Centre, entitled 'Iraq: Response still centred on return despite increasing demands for local integration – A profile of the internal displacement situation', dated 10 October 2011, citing various sources, observed:

'Available documentation remains central to the exercise of rights. Among the most important legal documents are the civil status identification document and the Iraqi nationality certificate...These documents are mandatory to obtain passports, to access food assistance through the Public Distribution System (PDS), to access health care, employment, education, housing and other public services (UNHCR August 2008; UNHCR, December 2009). However, in 2009, many IDPs and returnees lacked documentation to access these services.'[206]

5.21 Similarly a field report by Refugees International entitled 'Iraq's Displaced: A stable region requires stable assistance', dated 16 February 2011 noted: 'Many IDPs have lost or no longer have access to crucial documents that are essential for enjoying certain rights and access to basic services...By transferring their documents to their new locations, IDPs will be able to exercise their full rights and access to all services and benefits and no longer face any form of discrimination as outsiders or non-residents.'[207]

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[203] Giorgio Heinrich Neidhardt, Middle East Institute, Providing Fair Protection Processes and Documentation for
Internally Displaced and Host Communities: The Experience of the Protection and Assistance Centers (PACs) in Southern Iraq dated, April 2011, http://www.refugeecooperation.org/publications/best_practices/pdf/02_intersos.pdf, p.2
[204] UNHCR, Governorate Assessment Report Dahuk Governorate, September 2007, http://www.unhcr.org/471efbe22.html, p.12
[205] UNHCR, Country of Origin Information, October 2005, http://www.unhcr.org/4709f79a2.pdf, p.132
[206] Internal Displacement Monitoring Centre (IDMC), Iraq: A profile of the internal displacement situation, 10 October 2011, http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/CCE717078C732F29C125792100523DC7/$file/Iraq-October-2011.pdf, p.35
[207] Refugees International, Iraq's Displaced: A stable region requires stable assistance, 16 February 2011,

5.22 A letter from the Foreign and Commonwealth Office, Migration Directorate, London, dated 7 June 2010 entitled Iraq – Internal travel, explained that:

'Travel around Iraq without some form of documentation is likely to be difficult...In order to relocate, an individual must be in possession of all the following documents:...The personal identification number which is issued by the General Directorate of Citizenship in accordance with Iraqi civil law number 65 (1972) [i.e. Civil ID Card];...Iraqi Nationality Certificate which shows that the holder is Iraqi;...A letter of confirmation from the Baladia Council (civil administrator) of the intended relocation town;...Letter from the police station of the intended area of relocation;...A declaration from the security services that the person is not involved in criminal activities.'[208]

5.23 The above information was consistent with material included in a letter from the 2nd Secretary Migration (MDO), British Embassy Baghdad, dated 9 May 2011, entitled 'Mixed Sunni/Shia marriages', based on consultations with: 'a senior advisor to the UK Police Advisory team currently serving in Baghdad, a[n] Intelligence Analyst from a commercial company working in Baghdad and a[n] Iraqi representative of an International NGO with offices across Iraq ...'[209] which noted: 'An individual's identity document may be requested for any number of reasons, including presentation to security officers/police at check-points, applying for a job, liaison with Government of Iraq departments etc. This documentation is also required as part of the broader process when an individual decides to relocate to a new area of Iraq.' [210] Specifically on the question on internal movement, the same source explained:

'In order to relocate, an individual must be in possession of the following documents: ... The personal identification number which is issued by the General Directorate of Citizenship in accordance with Iraqi Civil Law Number 65 (1972) [i.e. Civil ID Card]; ... Iraqi nationality certificate; ..Letter of confirmation from the Civil Administrator of the intended relocation address;...Letter from the police station in the intended area of relocation [and]...Declaration from the security services that the person is not involved in criminal activities.

'An individual seeking to relocate without these documents is likely to face difficulties in accessing basic food stuff as part of the ration programme. They may also face difficulties with police and security officials if their identity cannot be verified from centrally held records. An individual may not be given access to a particular area, i.e. with furniture/belongings without presenting identity documents. A Internally Displaced Person (IDP) who isn't able to buy or rent accommodation in their new location may also face difficulties when the authorities refuse to issue the required Housing Card which allows access to social services and schools etc.'[211]

5.24 Similarly a letter from the British Embassy Baghdad, entitled 'Freedom of Movement and requirements to transfer personal documents in order to relocate in Iraq', dated 27 July

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http://www.refugeesinternational.org/sites/default/files/021611_Iraq_stableregion_0.pdf, p.3

[208] Letter from Foreign & Commonwealth Office London, Migration Directorate, Iraq – Internal Travel, 7 June 2010, Annex P

[209] Letter from the 2nd Secretary Migration (MDO), British Embassy Baghdad, Mixed Sunni/Shia marriages, 9 May 2011, Annex N

[210] Ibid

[211] Ibid

2011, based advice sought from the British Embassy legal advisor and replies to enquiries received from '... representatives of two organisations; staff working for the International Organisation for Migration (IOM), in Baghdad and Erbil in the Kurdistan Region (KR) of Northern Iraq, and the Director General of Planning and Follow-Up at the Iraqi Ministry of Displacement and Migration (MoDM)'[212], observed: 'We were told that Iraqi nationals are issued with four documents, a Iraqi Nationality Document, a [Civil] ID card (Jensiya), a Residence Card and a PDS (or ration card). Iraqi nationals are required to present these documents when seeking to relocate, or for any number of other issues, such as buying a car, obtaining a passport, getting married etc.'[213]

5.25 The same source also explained that in order to pass through security checkpoints an individual would require identity documents. The embassy letter further explained: 'We were told that in order to relocate from one part of Iraq to another, it was necessary to provide the four documents mentioned above…All contacts said that without these documents it would not be possible to transit security checkpoints. It was accepted that all Iraqi's had these four documents. Anyone without these documents would face difficulties in moving around a city, let alone trying to relocate.' [214]

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Impact of security restrictions on freedom of movement

5.26 Although the US State Department's, '2010 Human Rights Report: Iraq', dated 8 April 2011 recognised that the Iraqi constitution provided freedom of movement in all parts of the country and such rights were generally respected by the government.[215] The same source also acknowledged that increased security precautions had led to some restrictions in practice. As noted:

'Under the state of emergency, the prime minister can restrict movement pursuant to a warrant, impose a curfew, cordon off and search an area, and take other necessary security and military measures (in the Kurdistan region, only in coordination with the KRG). In practice the security authorities have recourse to the same powers in response to security threats and attacks. The security forces tended not to abuse these powers since they were unpopular with residents.'[216]

5.27 Commenting specifically on the security environment in Baghdad, a report from IOM, the Inter-Agency Information and Analysis Unit (IAU) and UN Habitat, entitled Urban Baghdad: Impact of Conflict on Daily Life, dated 1 June 2011 explained:

'Since 2003, the establishment including the International Zone, has interrupted these main routes. As a security measure to control movements in and out of neighbourhoods experiencing sectarian violence, lengthy runs of T-wall and road blocks prevent access for vehicles from the secondary roads onto the main roads…All these barriers and diversions have created widespread congestion and made regular journeys longer in time and distance. Added to which, lengthy waits at road blocks and

[212] Letter from British Embassy Baghdad, Freedom of Movement and requirements to transfer personal documentation in order to relocate in Iraq, 27 July 2011, Annex N
[213] Ibid
[214] Ibid
[215] US State Department's, 2010 Human Rights Report: Iraq, 8 April 2011, http://www.state.gov/j/drl/rls/hrrpt/2010/nea/154462.htm
[216] Ibid

checkpoints and the removal of parking areas at destination points further discourage people, particularly during the summer months, from making unnecessary journeys.'[217]

5.28 Similarly a report from the Internal Displacement Monitoring Centre (IDMC), dated 10 October 2011, entitled, 'Iraq: Profile of the internal displacement situation', citing the report of the Representative of the UN Secretary-General on the human rights of internally displaced persons, Walter Kälin, dated 16 February 2011, noted: 'Today, the freedom of movement for IDPs [Internally Displaced Persons] in and around Baghdad continues to be impaired by a number of security measures, including frequent checkpoints and security fences or walls.'[218]

Travel from the airport to the place of origin/relocation for returnees arriving at Baghdad International Airport without documentation

5.29 A letter from the British embassy Baghdad, entitled Renewal Or Reissuance Of A Civil Status ID card And Provisions To Change Place Of Residence In Iraq, dated 22 January 2012 based on 'replies to our enquiries from representatives of four organisations; staff working for the Ministry of Displacement and Migration (MoDM) in Baghdad; Ministry of Interior in Baghdad; International Organisation for Migration (IOM), in Baghdad and Erbil in the Kurdistan Region of Iraq (KRI) of Northern Iraq, and the International Rescue Committee in Erbil (KRI) and Baghdad which included their Legal Advisor...'[219] explained:

'In the event of a refugee or failed asylum seeker returning to Iraq on their passport, expired passport or a laissez passer travel document without a Civil Identity card, they would be able to pass through the security checks on the road to their home/temporary hotel/relatives or friends presenting their passport. Subsequently they would need to submit an application for a Civil ID card upon their return. This was described as potentially being a quicker process by MOI and MoDM contacts than applying from overseas.'[220]

5.30 A written submission provided by UNHCR Baghdad, entitled Response to inquiry regarding returnees/deportees: documentation, assistance and conditions at Baghdad airport, dated 3 November 2011, explained:

'Persons who enter BIAP with only a Laissez Passer or other travel document, will be held at the BIAP police station until their identity is established. If a person has no identification documents, and no family members who could bring documentation to the airport, presentation before a judge will be required…No documentation would be issued at the airport but a letter would be issued to facilitate the individual's movement back to their place of origin/relocation.'[221]

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[217] IOM, IAU and UN Habitat, Urban Baghdad: Impact of Conflict on Daily Life, 1 June 2011, http://reliefweb.int/sites/reliefweb.int/files/resources/Urban%20Baghdad-Impact%20of%20conflict%20on%20daily%20life-May%2022-Final.pdf, p.6 -7

[218] Internal Displacement Monitoring Centre (IDMC), Iraq: A profile of the internal displacement situation, 10 October 2011, http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/CCE717078C732F29C125792100523DC7/$file/Iraq-October-2011.pdf, p38

[219] Letter from the British Embassy Baghdad, Renewal Or Reissuance Of A Civil Status ID card And Provisions To Change Place Of Residence In Iraq, dated 22 January 2012, Annex M

[220] Ibid

[221] UNHCR Baghdad, Response to inquiry regarding returnees / deportees: documentation,

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6. PROCEDURES FOR OBTAINING CIVIL IDENTITY CARDS AND NATIONALITY CERTIFICATES

Role of the Ministry of Interior

6.01 The website for the Republic of Iraq, Ministry of Interior, General Directorate for Nationality, under a section entitled, 'Duties and activities', undated, accessed 14 March 2012, explained that the General Directorate For Nationality was responsible for implementing the Citizenship Act No 26 of 2006; Civil Status Law No.65 of 1972 as amended; Passport Law No.32 of 1999, as amended and the Commercial Housing Regulatory Act No.95 of 1978, as amended.[222] For further background on these legislative requirements, refer to section 4: Internal Movement an civil registration requirements, legal framework.

6.02 The same source went onto explain the role of the General Directorate For Nationality as follows:

'[To g]rant Identity Card (ID Card) for the first time, replacement of lost or renewal [;] ... Issuance of administrative decisions relating to the correction of records such as cancellation, addition, and others [;]...Judicial decisions related to altering names, titles, and birth records [;]...Registration of birth and death events that occur inside and outside Iraq in the records of the Civil Status of year 1957 [;]...Registering Marriage, Divorce, and Annulment in the records of Civil Status of year 1957 [;]… Manage transactions such as Change of Residence, Internal Migration, and moving civil records between the civil registration services [;]...Implementation of the decisions issued by the specialized courts.' [223]

6.03 Additionally in the field of 'Organising Places of Residence', the website noted that the General Directorate of Nationality was responsible for: 'Issuance of Place of Residence Cards for the citizens [;]...Granting residence approvals for citizens [;]...Update the information found in the Information Card [and] ...Tracking citizen's internal migration between Baghdad and the provinces and vice versa.'[224]

6.04 An interview note from a meeting with Hassanain Hadi Fadhil, Second Secretary, Embassy of the Republic of Iraq, London on 5 January 2012, produced by COI Service, stated that:

'Civil ID Cards were issued by the Ministry of Interior, Iraqi Civil Card Directorate, i.e. General Directorate of Civil Status. Hassanain Hadi Fahil clarified that the issuance of the Iraqi Nationality Certificate, which was another key form of personal identification in Iraq,

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assistance and conditions at Baghdad airport, 3 November 2011, 1d) Documentation issued at Baghdad International Airport (BIAP) to a person who has entered Iraq on a European Travel document to facilitate travel in Iraq, Annex R

[222] The Republic of Iraq, Ministry of Interior, General Directorate for Nationality, Duties and Activities, undated, http://www.iraqinationality.gov.iq/activities_en.htm date accessed 14 March 2012

[223] Ibid

[224] Ibid

was overseen by the General Directorate of Nationality, which was also part of the Ministry of Interior. Hassanain Hadi Fadil added that these two departments although separate worked closely together, as both the Civil ID Card and the Nationality Certificate were required to issue an Iraqi citizen with an Iraqi passport.'[225]

6.05 It is further noted that the website of the Ministry of Interior, General Directorate For Nationality, provides a link to information on the Civil Status Affairs Directorate. According to the source:

'The General Nationality and Civil Status Directorate is responsible for all that relate to the registration of the civil status regarding Iraqi inside Iraq and out of it and keeping the records of the expatriates registration made in1957. This registration organized these documents in clear and detailed documents kept in special records in the offices. This directorate has the right and power to get the information required from any party to adjust the data related to its records, documents and surveys.

'One department or more in each administrative unit is to be established for the civil status registration of the population according to the regulations of this law.'[226]

See also: Legal assistance provided by the Ministry of Displacement and Migration (MoDM) to IDPs and returning refugees and Legal assistance provided by UNHCR's Protection and Assistance Centre (PAC) partners

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Re-acquiring documents for persons in Iraq

6.06 The joint report of the Danish Immigration Service/UK Border Agency fact finding mission to Erbil and Dahuk, Kurdistan Region of Iraq (KRI) conducted 11 to 22 November 2011 entitled, Update (2) on entry procedures at Kurdistan Regional Government Checkpoints (KRG); residence procedures in Kurdistan Region of Iraq (KRI) and arrival procedures at Erbil and Suleimaniyah airports (for Iraqis travelling from non-KRI areas of Iraq), dated March 2012, referring to an interviewed with international organisation (B) noted with regard to the transfer of personal documents in Iraq: '...that under normal circumstances one has to go back to one's place of origin in order to have such documents transferred, for instance to KRI [if that was where they originated from] or to have lost documents reissued.'[227]

6.07 The same source referring to an interview with the Public Aid Organisation (PAO) (the

[225] COI Service, note of meeting with Hassanain Hadi Fadhil, Second Secretary, Embassy of the Republic of Iraq, London on 5 January 2012, Annex Q
[226] The Republic of Iraq, Ministry of Interior, General Directorate for Nationality, Civil Status Affairs Directorate, undated http://www.iraqinationality.gov.iq/civil_status_en.htm
[227] The joint report of the Danish Immigration Service / UK Border Agency fact finding mission to Erbil and Dahuk, Kurdistan Region of Iraq (KRI) conducted 11 to 22 November 2011, Update (2) on entry procedures at Kurdistan Regional Government Checkpoints (KRG); residence procedures in Kurdistan Region of Iraq (KRI) and arrival procedures at Erbil and Suleimaniyah airports (for Iraqis travelling from non-KRI areas of Iraq), March 2012, http://www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/coi/iraq/report-danish.pdf?view=Binary, Para 10.05

Protection Assistance Centre (PAC) provider in Erbil), noted that, according to PAO, IDPs were now more inclined to return to their place of origin to reacquire documents in Iraq due to the improved security situation. [228]As noted:

'PAO...reported that due to the relative stabilisation in the security situation across Iraq, persons were more confident to return back to their place of origin for a short period of time to acquire documentation or would even pay for persons, such as taxi drivers, to return on their behalf and through a Power of Attorney, obtain documentation for them. PAO reported that in the majority of cases, IDPs would not be at risk of harm if they returned to their place of origin temporarily. It was only if such persons sought to return home permanently and reacquire lost property would they come to be at risk in the majority of cases. PAO reiterated that property rights and ownership was one of the most complex and challenging issues IDPs in Iraq.'[229]

6.08 Similarly an interview note from a meeting with Hassanain Hadi Fadhil, Second Secretary, Embassy of the Republic of Iraq, London on 5 January 2012, produced by UKBA's COI Service, noted:

'When asked whether there were any special arrangements in place for persons who feared returning back to a particular area of Iraq, for example due to fear of sectarian violence, Hassanain Hadi Fadhil stated that maybe up until 2007 there could be such cases, but now the security situation had improved significantly across all of Iraq and therefore individuals had no reason to fear returning to a particular part of Iraq to re-obtain their Civil ID Card.'[230]

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Procedures to re-acquire a Civil Identity Card

The following information should be read together with information under Legal framework, Civil Status Act 65 of 1972 as amended.

6.09 A written submission provided by UNHCR dated 3 November 2011 explained: 'The Civil Status ID card is issued by the Ministry of Interior (Director General for Travel and Nationality) through the Civil Status departments in the governorates.' [231] The source outlined the requirements and procedures for obtaining an Iraqi identification card as follows:

'- Application form, available from the Civil Status Directorate bookshop (5,000 Iraqi Dinars (IQD))
- Fiscal Stamp (IQD 750) available from the book shop of the Police Families' Martyrs
- Birth certificate or proof of birth in the case of a child, and a copy of the father's civil status ID.
- Housing card (or supporting letter from the local council to confirm the subject's residence),

[228] Ibid, Para 10.07
[229] Ibid
[230] COI Service, note of meeting with Hassanain Hadi Fadhil, Second Secretary, Embassy of the Republic of Iraq, London, 5 January 2012, Annex Q
[231] UNHCR Baghdad, Response to inquiry regarding returnees/deportees: documentation, assistance and conditions at Baghdad airport, 3 November 2011, Procedures for obtaining documentation: civil status identity card, nationality certificate, PDS card, Annex R

- PDS card,
- Two personal photographs of each applicant (4 in Kurdistan Region)
The completed application form (with fiscal stamp), together with the photographs and documents listed above, should be taken to the Civil Status Directorate. The card will be issued and laminated, for a cost of IQD 500. The procedure can be completed within one day.' [232]

6.10 An IOM Country Fact Sheet: Iraq, dated August 2011 similarly observed that in order to obtain an ID card it was necessary to: 'Present either of the following documents to the city council manager or the district commissioner:...family residency card [;]...food ration card [;]...nationality certificate or nationality certificate of the returnee's father [;]... ID card of the returnee's father [;]...To issue ID card for children, their birth certificate would be required [and]...previous ID Card (if renewal)'[233] The same source additionally listed several addresses for Affairs Directorates in Baghdad.[234]

6.11 A letter from the British embassy Baghdad, entitled 'Renewal Or Reissuance Of A Civil Status ID card And Provisions To Change Place Of Residence In Iraq', dated 22 January 2012 based on 'replies to our enquiries from representatives of four organisations; staff working for the Ministry of Displacement and Migration (MoDM) in Baghdad; Ministry of Interior in Baghdad; International Organisation for Migration (IOM), in Baghdad and Erbil in the Kurdistan Region of Iraq (KRI) of Northern Iraq, and the International Rescue Committee in Erbil (KRI) and Baghdad which included their Legal Advisor ...'[235] explained:

'Our interlocutors at IOM, IRC and MoDM told us that the legal requirements for Iraqi citizens under the Civil status law 65 of 1972 were as follows:...For new born children where one or both parents is an Iraqi citizen, to acquire an Iraqi civil ID the family must present a birth certificate, a valid civil housing card (police residence certificate), renewed civil IDs for one or both of the parents (the Iraqi Parent). One interlocutor (Lawyer) said that those whose parents are not Iraqi may apply for Iraqi Nationality however the law has many conditions and regulations…If the child is abroad, according to the Civil Status Law 65 of 1972 (amended) the parents must go to an Iraqi Consulate to obtain the civil status ID card.'[236]

6.12 The same source additionally noted:

'If an Iraqi citizen needed to renew their civil status ID card they would generally be required to visit the civil ID Office where his/her record is held. The applicant would be required to present a copy of their civil ID, copy of their Public Distribution System (PDS) 'food ration' card, copy of their nationality certificate and residence card from the local council and 2 coloured photos. It is possible however for close relatives from the Father's side to visit the civil ID Office or Directorate on behalf of the citizen to reissue an ID or a power of attorney can be granted to somebody to do it on behalf of the person.

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[232] Ibid
[233] IOM, IOM Country Fact Sheet, Iraq, August 2011 (accessible via the Swedish Immigration Service, Lifos website – document number 1111296), http://lifos.migrationsverket.se/dokument?documentSummaryId=26296, p.3
[234] Ibid, p.3
[235] Letter from the British Embassy Baghdad, Renewal Or Reissuance Of A Civil Status ID card And Provisions To Change Place Of Residence In Iraq, dated 22 January 2012, Annex M
[236] Ibid

'If the ID is lost, in addition to the above they would be required to produce a written statement declaring the circumstances around the loss which would be seen by an investigation court. In addition an announcement would need to be placed in a local newspaper. Whilst this may sound quite involved it was described by one of our interlocutors as being 'a simple and straightforward' process.' [237]

6.13 The embassy letter reiterated that: 'Generally speaking people are expected to return in person to the place of origin to reacquire their Civil Status ID card.'[238]

6.14 Similarly an interview conducted by COI Service on 5 January 2012 with Hassanain Hadi Fadhil, Second Secretary, Embassy of the Republic of Iraq, observed:

'Hassanain Hadi Fahil stated that Iraqi nationals residing in Iraq, who had lost their Civil ID Card and needed to obtain a replacement, would first be required to report the incident at a local police station where they would be given a police report recording that they had lost their Civil ID Card. The individual would then be required to return to the province, i.e. governorate which issued the card and visit a Civil Status office to get a new Civil ID Card issued. Hassanain Hadi Fadhil added that an individual would need to return in person to complete this process and that it was not possible to re-obtain a Civil ID Card for example through mail/correspondence or via family or friends. Hassanain Hadi Fadhil clarified that in each province, i.e. governorate there would be several Civil Status offices which could deal with such matters.'[239]

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Procedures to re-acquire a Nationality Certificate

The following information should be considered together with material listed under Legal framework, Iraqi Nationality Law.26 (2006)

6.15 A written submission provided by UNHCR Baghdad, 'Response to inquiry regarding returnees / deportees: documentation, assistance and conditions at Baghdad airport', dated 3 November 2011 explained that: 'Iraqi Nationality is governed by the Iraqi Nationality Law No. 26 (2006)... An Iraqi Nationality Certificate proves that a person is an Iraqi citizen, and is issued by the Ministry of Interior.'[240] The same source noted that:

'The following documents need to be submitted to the General Nationality Directorate in each governorate in person (powers of attorney are not accepted unless on behalf of minors):
- Completed Iraqi Nationality Certificate application form (with two 500 Iraqi Dinar stamps)
- Father's Nationality Certificate (original and copy); or in the event that this is lost, brother's, grandfather's or uncle's Nationality certificate will be accepted;
- Public Distribution Card (original and copy);

[237] Ibid
[238] Ibid
[239] COI Service, note of meeting with Hassanain Hadi Fadhil, Second Secretary, Embassy of the Republic of Iraq, London, 5 January 2012, Annex Q
[240] UNHCR Baghdad, Response to inquiry regarding returnees/deportees: documentation, assistance and conditions at Baghdad airport, 1a ii), Iraqi Nationality Certificate, 3 November 2011, Annex R

- Housing card (or supporting letter from the local council to confirm the applicants' residence)
- 2 personal photographs of the applicant (4 in KR)

In straightforward cases the Nationality Certificate should normally be issued within one day. In cases where a person does not have documentation to prove Iraqi citizenship, the process may have to be undertaken in Baghdad.'[241]

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Re-acquiring documents for persons outside Iraq

6.16 A UNHCR Tehran, Iran, 'Return Guide – For the Voluntary Repatriation of Iraqis', dated May 2011, noted that: 'One of the main problems many persons thinking of returning to Iraq face is lack of necessary documentation required for re-establishing their lives in Iraq...' [242] The same source went onto note that with regard to identity cards: 'National identity cards are issued only inside Iraq. However, the process can be initiated through an application to the Embassy of Iraq.' [243] This was similarly explained in the written submission provided by UNHCR Baghdad, entitled 'Response to inquiry regarding returnees / deportees: documentation, assistance and conditions at Baghdad airport', dated 3 November 2011 when referring to Civil Status Identity Cards.[244]

6.17 An interview note from a meeting with Hassanain Hadi Fadhil, Second Secretary, Embassy of the Republic of Iraq, London on 5 January 2012, produced by UKBA's COI Service, noted that:

'When asked what the procedures are to re-obtain a lost Civil ID Card when an Iraqi citizen was in another country, for example the UK. Hassanain Hadi Fadhil stated that such an individual can come to the embassy and provide a photocopy of their Civil ID Card or another form of identification, such as a passport. Alternatively if an individual did not have a copy of any identification, they can provide a copy of a relative's identification, such as a brother or father. The individual would also be required to fill out an application form and provide details about how they lost their Civil ID Card. The Iraqi embassy would then act as an intermediary and return the application to Iraq and the Ministry of Interior, who could carry out enquiries as to whether the individual was listed on their Civil Status records. If such a record did exist they would reissue a new Civil ID Card and send it to the embassy in the UK where the individual could collect it.'[245]

6.18 A letter from the British embassy Baghdad, entitled 'Renewal Or Reissuance Of A Civil Status ID card And Provisions To Change Place Of Residence In Iraq', dated 22 January 2012 based on 'replies to our enquiries from representatives of four organisations; staff working for the Ministry of Displacement and Migration (MoDM) in Baghdad; Ministry of Interior in Baghdad; International Organisation for Migration (IOM), in Baghdad and Erbil in the Kurdistan Region of Iraq (KRI) of Northern Iraq, and the International Rescue

[241] Ibid
[242] UNHCR Tehran, Iran, Return Guide – For the Voluntary Repatriation of Iraqis, dated May 2011, http://www.unic-ir.org/publication/eng/E-ReturnGuide.pdf, p.8
[243] Ibid
[244] UNHCR Baghdad, Response to inquiry regarding returnees / deportees: documentation, assistance and conditions at Baghdad airport, 3 November 2011, 1a i) Civil Status Identity Card
[245] COI Service, note of meeting with Hassanain Hadi Fadhil, Second Secretary, Embassy of the Republic of Iraq, London, 5 January 2012, Annex R

Committee in Erbil (KRI) and Baghdad which included their Legal Advisor ...' [246] noted that:

'Generally speaking people are expected to return in person to the place of origin to reacquire their Civil Status ID card. However there are exceptions:

'The citizen is abroad in which case one of the provisos under Civil Status Law 65 of 1972 is that Iraqi consulates abroad liaise with the Nationality Directorate to enable citizens living abroad to facilitate the issue of their civil status ID card on behalf of the citizen. Citizens can make an application by:

- Using an application form that is available at their Embassy they should submit an application to obtain a civil status ID card to replace one that has been lost or damaged.
- The form should be completed by any of the following: the head of the family (male of female), the applicant (record holder), or a guardian or lawyer with the power of attorney.
- The Consul is required to note down the applicants statement on an application form, stating the full name of the applicant who should also apply his/her thumb print placed onto the application. The statement should be signed by the Consul and sealed with a consular seal. If the request is for a lost ID a copy of the lost ID should be provided or that of a close relative such as his brother or Father or another relative. Our interlocutors further explained that an ID 'book page' record number of an Iraqi remains the same for their life and the pages are closely linked to their relatives, so if their own ID or a copy is not available it is usually straightforward to identify the citizen from other relatives records.'[247]

6.19 The source further explained:

'If the citizen is abroad and wants to obtain a civil status card for his/her children abroad the following procedure should be followed:

- The parents should have registered their marriage with the Civil Status Department. If the parents do not have a copy of the marriage certificate he or she can issue a power of attorney to anybody inside Iraq to obtain a copy of the certificate from the Civil Status Department.
- The newborn child should have been registered with the Civil Status Department but if they are abroad at the time of the birth the child should be registered with the Iraqi Embassy.
- Once the child has been registered, a request may be submitted to the Embassy to obtain a civil status ID card for the child.'[248]

6.20 The website for the Embassy of the Republic of Iraq in London, undated, accessed 19 March 2012, provided details on "Obtaining the identity of the Civil Status".[249] According to the webpage the following requirements existed:

[246] Letter from the British Embassy Baghdad, Renewal Or Reissuance Of A Civil Status ID card And Provisions To Change Place Of Residence In Iraq, dated 22 January 2012, Annex M
[247] Ibid
[248] Ibid
[249] Embassy of the Republic of Iraq in London, Obtaining the identity of the Civil Status, undated, accessed 19 March 2012
http://www.mofamission.gov.iq/grb/en/pagedisplay.aspx?sm=67

'1 - Applying to the embassy in which he mentions the reason the identity is needed.
2 - Fill in the form for requesting by the head of the family or by a guardian or attorney and signing it, with the address.
3 - Include with the request two colored photos.
4 - Include with the application an official document that supports the identity of the person submitting the request.'[250]

6.21 Additionally the same source noted:

'For the purpose of obtaining the identity of the civil status for Iraqi citizens abroad, the following actions are required: -

1 - The citizen who is the father of a child should mark his marriage in the Department of Civil Status.
2 - The citizen should mark the birth of the newborn to the Department of Civil Status of the father.
3 - When above conditions have been provided the citizen can submit a request to the embassy for the purpose of obtaining the identity of the civil status within the regulations of the embassy.'[251]

6.22 With regard procedures in place for Iraqis in the UK to obtain an Iraqi Nationality Certificate, the website Embassy of the Republic of Iraq in London, on a page entitled, Obtaining an Iraqi nationality certificate, undated, accessed 19 March 2012, explained the requirements as follows:

'1 - Applying to the embassy in which the person mentions his need of the certificate.
2 - Fills the permit of obtaining a nationality certificate.
3 - Attach (4) recent colored photo of each individual.
4 - A copy of the certificate of nationality of the father and mother and the identity of civil status should be attached to the application and the marriage contract of his father and mother and birth data certified by the consul.
5 - A copy of the passport of the applicant and his father and his mother, certified by the consul.
6 - The applicant father's or mother's statement enhanced by the testimony of two witnesses to link between the applicant and his father and his mother, signed and marked by the Consul.' [252]

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7. REGISTRATION OF ADDRESS AND ACCESS TO THE PUBLIC DISTRIBUTION SYSTEM

Registration of address and Residency Cards

The following information should be considered together with material listed under Legal framework, Law No. (95) of 1978, Organization of Places of Domicile and Residence inside Iraq.

[250] Ibid
[251] Ibid
[252] Embassy of the Republic of Iraq in London, Obtaining an Iraqi nationality certificate, undated http://www.mofamission.gov.iq/grb/en/pagedisplay.aspx?sm=69

7.01 A letter from the British Embassy Baghdad entitled 'Freedom of Movement and requirements to transfer personal documents in order to relocate in Iraq', dated 27 July 2011, based on advice sought from the British Embassy legal advisor and replies to enquiries received from '...representatives of two organisations; staff working for the International Organisation for Migration (IOM), in Baghdad and Erbil in the Kurdistan Region (KR) of Northern Iraq, and the Director General of Planning and Follow-Up at the Iraqi Ministry of Displacement and Migration (MoDM)',[253] observed:

'Our contacts at IOM and MoDM were not able to confirm whether there was a legal requirement for an individual to be registered at a particular address or home area, but the representative of the MoDM suggested that this was a 'regulation' passed down from the Ministry of the Interior. He explained that there are four areas of legislation flowing from the Iraqi Constitution, to Iraqi Law, to Ministerial Orders and finally Regulations. Regulations governed the specific requirements involved in a process. The British Embassy Legal Adviser confirmed that 'freedom of movement, travel and residence' is also one of the fundamental freedoms granted to all Iraqis (including returning migrants and displaced persons) under Article 44(1) of the Iraqi constitution.'[254]

7.02 However a letter from the British Embassy Baghdad entitled 'Renewal Or Reissuance Of A Civil Status ID card And Provisions To Change Place Of Residence In Iraq, dated 22 January 2012 based on 'replies to our enquiries from representatives of four organisations; staff working for the Ministry of Displacement and Migration (MoDM) in Baghdad; Ministry of Interior in Baghdad; International Organisation for Migration (IOM), in Baghdad and Erbil in the Kurdistan Region of Iraq (KRI) of Northern Iraq, and the International Rescue Committee in Erbil (KRI) and Baghdad which included their Legal Advisor ...' [255]clarified that: 'Our interlocutors explained that according to law No 95 of 1978 (amended) Iraqi's can temporarily reside for 30 days without notifying the authorities. Following this he or she must either return to their registered place of residence or notify the authorities and pay a daily penalty described as a 'small sum' for each day they exceed the 30 days.'[256]

7.03 An interview note from a meeting with Hassanain Hadi Fadhil, Second Secretary, Embassy of the Republic of Iraq, London on 5 January 2012, produced by UKBA's COI Service, noted that:

'Hassanain Hadi Fahil stated that there is a requirement in Iraq for the head of family to register their family's place of residence with the local council office, to prove that that family lives in a particular area. A residency card would also be issued to the head of family. Hassanain Hadi Fahil clarified that this registration of residency was overseen by the local government in each province, i.e. governorate and not by the Ministry of Interior. Hassanain Hadi Fahil further clarified that this procedure was separate from the practice in Iraq for each family to report their presence/address with the local neighbourhood Mukhtar. According to Hassanain Hadi Fahil, the Mukhtar was usually an older person who had lived in a local area/neighbourhood for a long time and knew all the residents in

[253] Letter from British Embassy Baghdad, Freedom of Movement and requirements to transfer personal documentation in order to relocate in Iraq, 27 July 2011, Annex N
[254] Ibid
[255] Letter from the British Embassy Baghdad, Renewal Or Reissuance Of A Civil Status ID card And Provisions To Change Place Of Residence In Iraq, dated 22 January 2012, Annex M
[256] Ibid

that small area. Hassanain Hadi Fahil added that the local Mukhtar would however liaise with the local council to provide information about persons residing in their area.'[257]

7.04 The joint report of the Danish Immigration Service / UK Border Agency fact finding mission to Erbil and Dahuk, Kurdistan Region of Iraq (KRI) conducted 11 to 22 November 2011 entitled, 'Update (2) on entry procedures at Kurdistan Regional Government Checkpoints (KRG); residence procedures in Kurdistan Region of Iraq (KRI) and arrival procedures at Erbil and Suleimaniyah airports (for Iraqis travelling from non-KRI areas of Iraq)', dated March 2012, referring to an interview with Brigadier General Abdulrahman Ismael Aziz, Erbil Civil Information Card General Director, Ministry of Interior, Residency Police, explained that in the Kurdistan Region of Iraq, since 4 December 2010, a new initiative had been introduced to issue a new Information Card to all Iraqi nationals residing in KRI.[258] According to the source, this was:

'...legislated under Law 95 of 1978 relating to the Organization of Places of Domicile and Residence inside Iraq. [...] Brigadier General Abdulrahman Ismael Aziz explained that the Information Card issued under Law 95/1978 was administered by the Ministry of Interior, General Directorate for Nationality in Baghdad. The aim of this process was to provide a reliable registration of residency of all Iraqis. Brigadier General Abdulrahman Ismael Aziz clarified that only one card was issued to the head of each family, therefore individuals would also still require their Civil ID Card.'[259]

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Issuance of a housing or Residency Card

7.05 A somewhat dated report from UNHCR, 'Country of Origin Information', dated October 2005, explained that aside from the Civil ID Card and Nationality Certificate: Another document used at times is the Residence Address Card, which certifies the holder's address (e.g. requested to buy real estate, car or mobile phone, submit a job application or in court cases).' [260] A UNHCR Tehran, Iran, Return Guide – For the Voluntary Repatriation of Iraqis, dated May 2011, explained the procedures for obtaining a housing card as follows:

'Obtained from Information Office, local police station of area (in case of issuing a new Housing Card) OR the Information Office at the place of residence (renewals). ... Documentation required:

- A letter from the city council, local council or Mukhtar confirming family's residency in the area.

[257] COI Service, note of meeting with Hassanain Hadi Fadhil, Second Secretary, Embassy of the Republic of Iraq, London, 5 January 2012, Annex Q
[258] Joint report of the Danish Immigration Service/UK Border Agency fact finding mission to Erbil and Dahuk, Kurdistan Region of Iraq (KRI) conducted 11 to 22 November 2011, Update (2) on entry procedures at Kurdistan Regional Government Checkpoints (KRG); residence procedures in Kurdistan Region of Iraq (KRI) and arrival procedures at Erbil and Suleimaniyah airports (for Iraqis travelling from non-KRI areas of Iraq), dated March 2012, http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/coi/iraq/report-danish.pdf?view=Binary, para 10.13
[259] Ibid
[260] UNHCR, Country of Origin Information, October 2005, http://www.unhcr.org/4709f79a2.pdf, p.132

- Public Distribution Card.
- Civil Status Ids.'[261]

7.06 The joint report of the Danish Immigration Service/UK Border Agency fact finding mission to Erbil and Dahuk, Kurdistan Region of Iraq (KRI) conducted 11 to 22 November 2011 entitled, 'Update (2) on entry procedures at Kurdistan Regional Government Checkpoints (KRG); residence procedures in Kurdistan Region of Iraq (KRI) and arrival procedures at Erbil and Suleimaniyah airports (for Iraqis travelling from non-KRI areas of Iraq)', dated March 2012, referring to an interview with Brigadier General Abdulrahman Ismael Aziz, Erbil Civil Information Card General Director, Ministry of Interior, Residency Police explained:

'[According to the Brigadier]...to apply for an Information Card issued under Law 95/1978, the head of the family must provide a range of documentation including all Civil ID Cards for each member of the family; Nationality Cards for the head of each family; PDS Cards; a letter from the local Mukhtar to confirm a person's place of residence; four passport photographs and finger prints. The head of the family would then be required to attend one of the 12 Information Card offices in Erbil city or one of 56 offices in Erbil Governorate. The length of time it took to be issued with a card varied between offices, due to population density, but this procedure could take between one or three weeks. Alternatively a person could visit the Residency Police registration office in Erbil, to have their application processed in around one hour.'[262]

7.07 The same report, citing an interview with representatives of Public Aid Organisation (PAO), the Protection and Assistance Centre in Erbil explained: 'PAO also clarified that the new Information Card issued under Law 95/1978 was for residents of KRI only and that for other persons only temporarily residing in KRI, for example IDPs, they would not apply for this new Information Card in KRI.'[263]

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Changing place of residence

7.08 A letter from the British Embassy Baghdad, entitled Freedom of Movement and requirements to transfer personal documents in order to relocate in Iraq, dated 27 July 2011, based on advice sought from the British Embassy legal advisor and replies to enquiries received from '...representatives of two organisations; staff working for the International Organisation for Migration (IOM), in Baghdad and Erbil in the Kurdistan Region (KR) of Northern Iraq, and the Director General of Planning and Follow-Up at the

[261] UNHCR Tehran, Iran, Return Guide – For the Voluntary Repatriation of Iraqis, dated May 2011, http://www.unic-ir.org/publication/eng/E-ReturnGuide.pdf, p.13

[262] Joint report of the Danish Immigration Service / UK Border Agency fact finding mission to Erbil and Dahuk, Kurdistan Region of Iraq (KRI) conducted 11 to 22 November 2011, Update (2) on entry procedures at Kurdistan Regional Government Checkpoints (KRG); residence procedures in Kurdistan Region of Iraq (KRI) and arrival procedures at Erbil and Suleimaniyah airports (for Iraqis travelling from non-KRI areas of Iraq), dated March 2012, http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/coi/iraq/report-danish.pdf?view=Binary, para 10.24

[263] Ibid

Iraqi Ministry of Displacement and Migration (MoDM)', [264] explained:

'We were told that in order to relocate from one part of Iraq to another, it was necessary to provide the four documents mentioned above [Iraqi Nationality Document; ID card; Residence Card and PDS card]. In addition, there was a requirement to obtain permission from the council or security office in the area someone intended to relocate to. It might also be necessary to provide proof of accommodation in a new area, for instance a rental agreement or house deeds to allow an individual to relocate furniture and belongings from one area to another.'[265]

7.09 An interview note from a meeting with Hassanain Hadi Fadhil, Second Secretary, Embassy of the Republic of Iraq, London on 5 January 2012, produced by UKBA's COI Service, stated that: 'In order to change a family's registered place of residence, for example when moving home, Hassanain Hadi Fahil explained that the head of family would need to seek approval from their current/former local council, verifying that they lived in that area. The head of family would also need approval from new local council the family intended to move to, to complete the registration process.' [266]

7.10 However, Hassanain Hadi Fahil also stated that: '…the Iraqi Embassy in London did not have much involvement with such matters, as most Iraqis would deal such administrative business when they returned to Iraq. Hassanain Hadi Fahil was unable to provide any further information on the issuance of residency cards to Iraqis as such cards were only used in Iraq and not abroad.'[267]

7.11 A letter from the British Embassy Baghdad, entitled 'Renewal Or Reissuance Of A Civil Status ID card And Provisions To Change Place Of Residence In Iraq', dated 22 January 2012 based on 'replies to our enquiries from representatives of four organisations; staff working for the Ministry of Displacement and Migration (MoDM) in Baghdad; Ministry of Interior in Baghdad; International Organisation for Migration (IOM), in Baghdad and Erbil in the Kurdistan Region of Iraq (KRI) of Northern Iraq, and the International Rescue Committee in Erbil (KRI) and Baghdad which included their Legal Advisor...' [268] further explained:

'"To apply for a change of Residence, if the person intends to move within the governorate they need to take the following steps:

- 'The person is required first to go to the 'new' place of residence and then return back to 'cancel' the previous place of residence by notifying the local police station (s) and informing the local council's representative in the area known as the 'al mukhtar'.
- In the new place of residence they would need to produce the deeds or the rental agreement.
- Obtain an approval letter to transfer furniture from one area to another issued by the city council is also required.

[264] Letter from British Embassy Baghdad, Freedom of Movement and requirements to transfer personal documentation in order to relocate in Iraq, 27 July 2011, Annex N
[265] Ibid
[266] COI Service, note of meeting with Hassanain Hadi Fadhil, Second Secretary, Embassy of the Republic of Iraq, London, 5 January 2012, Annex Q
[267] Ibid
[268] Letter from the British Embassy Baghdad, Renewal Or Reissuance Of A Civil Status ID card And Provisions To Change Place Of Residence In Iraq, dated 22 January 2012, Annex M

'If the person intends to move from one governorate to another, they are additionally required to notify the Internal Affairs Directorate within the General Directorate of Security and Internal Affairs of the Ministry of Interior, both in the original place of residence and the new residence. Our contacts explained that generally speaking a change in residence required the person to return in person to their original place of residence. However there were exceptions to this e.g. it may no longer be safe for them to do so....Our interlocutors explained that generally speaking unlike the civil status card, a change of residency must be done in person, nobody can typically do this on behalf of an Iraqi citizen returning from abroad.' [269]

7.12 The Embassy letter additionally explained that according to interlocutors consulted under Law No 95 of 1978 (amended) Iraqis can temporarily reside for 30 days without notifying the authorities. However following this period: '...he or she must either return to their registered place of residence or notify the authorities and pay a daily penalty described as a 'small sum' for each day they exceed the 30 days.'[270] The Embassy letter further explained that:

'... this is not rigorously enforced as one of our contacts said in practice up to 2 months was permitted whilst checks are conducted. It is not unknown for it to be longer with no daily penalty being imposed…Our contacts further explained that in practice checks are made after the individual approaches the police and local councillor saying he wants to move into the area. They check with the Army and police from the governorate he/she previously lived in…Whilst the law stipulates that a person exceeding his/her stay in a place that is not his/her usual residency is subject to a per daily penalty, there is no evidence of any person being deported or expelled from a region because they do not possess a residency card.'[271]

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The Public Distribution System (PDS)

7.13 A report from IRIN entitled Iraq: Government vows to improve food aid system, dated 21 February 2011 explained:

'Iraq's food rationing system, known as the Public Distribution System (PDS), was set up in 1995 as part of the UN's oil-for-food programme following Iraq's invasion of Kuwait in 1990. More than half of Iraq's 29 million people depend on it, according to the Trade Ministry. .. At the end of 2009, the monthly PDS parcels contained rice (3kg per person); sugar (2kg per person); cooking oil (1.25kg or one litre per person); flour (9kg per person); milk for adults (250g per person); tea (200g per person); beans (250g per person); children's milk (1.8kg per child); soap (250g per person); detergents (500g per person); and tomato paste (500g per person).

'In 2010, the government reduced the number of items to five: flour, rice, sugar, cooking oil and children's milk - in the same quantities. But recipients have been receiving two or three items at a time. Al-Maliki said they would now receive all the five.'[272]

[269] Ibid
[270] Ibid
[271] Ibid
[272] IRIN, Iraq: Government vows to improve food aid system, 21 February 2011,

7.14 The UN Country Planning Team, Iraq Partners Forum, Iraq Briefing Book, dated December 2010 also provided some background on the PDS:

'The Public Distribution System (PDS) is by far the largest safety net in Iraq today and has a major poverty reduction impact. The PDS reaches the vast majority of poor Iraqis with a large transfer, providing over half the dietary energy consumed by Iraqi households. This ratio increases up to two thirds among poor households. At the national level, the market value of the PDS food items consumed constitutes 15 per cent of the value of household expenditures and only 2 per cent at actual paid prices.'[273]

7.15 The same source, setting out some of the key issues impacting on the PDS, observed:

'The success of the PDS comes at an extremely high price: The PDS is allocated 7 per cent of the national budget; this is more than health and nearly as much as education expenditures. The system is highly inefficient in several ways. First, the PDS is inefficient due to inadequate procurement, financial management and logistics procedures, which not only result in enormous waste but make the system vulnerable to theft and corruption. Secondly, as a safety net, the PDS is inefficient as it is provided to the entire population, whether people need it or not. Moreover, while safety nets are important poverty reduction programmes, a large proportion of PDS resources would likely have a greater poverty reduction impact if spent on increasing the capacity of the population to earn income through work.

'The government has taken important steps toward reform of the PDS: In 2009 the CoM endorsed a five-year plan to reform the PDS, based largely upon the recommendations of the High-Level Committee for PDS Reform. The plan envisages the gradual reduction in the number of recipients of the PDS ration, the revision of the food basket provided to the recipients, as well as decentralization of the management of the PDS to the KRG and governorates that possess the necessary capacity. Efficiency improvements are important not only during the remaining years of the PDS, but in the longer term, given that a large part of the food supply chain will be transferred to the private sector, with the government maintaining its role in strategic grain reserves.'[274]

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Procedures to re-acquire a PDS ration card

7.16 A written submission provided by UNHCR Baghdad entitled 'Response to inquiry regarding returnees/deportees: documentation, assistance and conditions at Baghdad airport', dated 3 November 2011 explained with regard to the PDS card: 'The PDS card is prepared by the Ministry of Trade and is issued by the Planning and Supply Directorate, Supply Department. PDS cards are distributed by the branch supply centres which operate in all governorates.' [275] The same source explained that the following documents are required to obtain a PDS card:

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http://www.irinnews.org/Report/91983/IRAQ-Government-vows-to-improve-food-aid-system

[273] UNCT, Iraq Partners Forum, Iraq Briefing Book, December 2010, http://iq.one.un.org/documents/115/Briefing_Book_English2011.pdf, p.57

[274] Ibid, p.57-58

[275] UNHCR Baghdad, Response to inquiry regarding returnees / deportees: documentation, assistance and conditions at Baghdad airport, 3 November 2011, 1a iii) Public Distribution System (PDS) card, Annex R

'- Civil Status ID of all members of the family (original and copy),
- Personal Civil ID Record,
- Housing card (or supporting letter from the local council to proof area of residence),
- Written statement by the head of the family confirming the accuracy of the information and documents submitted.
- All members of the family must appear at the PDS office for verification.
The PDS card is issued to individuals or families free of charge. The process takes approximately one month (whether Baghdad or the governorates).'[276]

7.17 An IOM Country Fact Sheet: Iraq, dated August 2011 similarly observed that in order to obtain a food ration card it was necessary to present: '…the following documents to the food department linked to the Iraqi Ministry of Trade:...Official letter from the city council certifying your place of residence; ...family residency card;...ID cards of the returnee, ID card of his wife and his children; [and]...Marriage certificate."[277] The same source additionally listed the Registration Centre for the Ministry of Trade in Baghdad at Al Mansour district, in the build of the ex air force.[278]

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Difficulties in transferring PDS ration cards

7.18 The US State Department's, 2010 Human Rights Report: Iraq, dated 8 April 2011, observed that: '... some IDPs were unable to access the public distribution system in the governorate to which they were displaced. In some instances the World Food Program and the ICRC delivered food rations to these IDPs.'[279] Similarly the Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, dated 16 February 2011, explained:

'According to a needs assessment by IOM, access to work, food and shelter, in that order, have remained the priority needs of IDPs since 2006…In particular, access to food has increased as a priority in recent years as a result of droughts and rising food prices. Most IDPs, like many other Iraqis, have come to depend on the Public Distribution System (PDS), which has provided monthly food rations since its establishment in 1991. However, IDPs have experienced significant difficulties in accessing the system, with a third of IDPs reporting in late 2009 that they did not have a PDS card valid in their governorate of residence, while only 15 per cent reported receiving their full monthly entitlement.

'In addition, the Representative received reports that IDPs moving from one governorate to another are often unable to transfer their PDS food ration card registration to their new areas of displacement. IDPs thus often need legal assistance in order to obtain PDS cards and are considered amongst the most vulnerable to food insecurity,

[276] Ibid
[277] IOM, IOM Country Fact Sheet, Iraq, August 2011 (accessible via the Swedish Immigration Service, Lifos website – document number 1111296), http://lifos.migrationsverket.se/dokument?documentSummaryId=26296, p.4
[278] Ibid
[279] US State Department's, 2010 Human Rights Report: Iraq, dated 8 April 2011, http://www.state.gov/j/drl/rls/hrrpt/2010/nea/154462.htm, Section 2, d, Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

given their reliance on food assistance and difficulties in accessing work. In the Kurdistan Region more specifically, the Representative noted similar difficulties among the IDP population with regard to the transfer of food ration coupons...'[280]

7.19 A UNHCR Iraq 'Protection Monitoring Assessment Summary', dated October 2009, conducted by UNHCR's Protection and Assistance Centers, provided needs assessment data on Internally Displaced Persons (IDPs); IDP returnees and refugee returnees. According to the summary, the findings were based on 631 protection monitoring assessments conducted in 603 different locations throughout Iraq, on a total of 493,211 (94,565 families) persons of concern.[281] With regard to the transfer of PDS cards/rations of those assessed, the report noted:

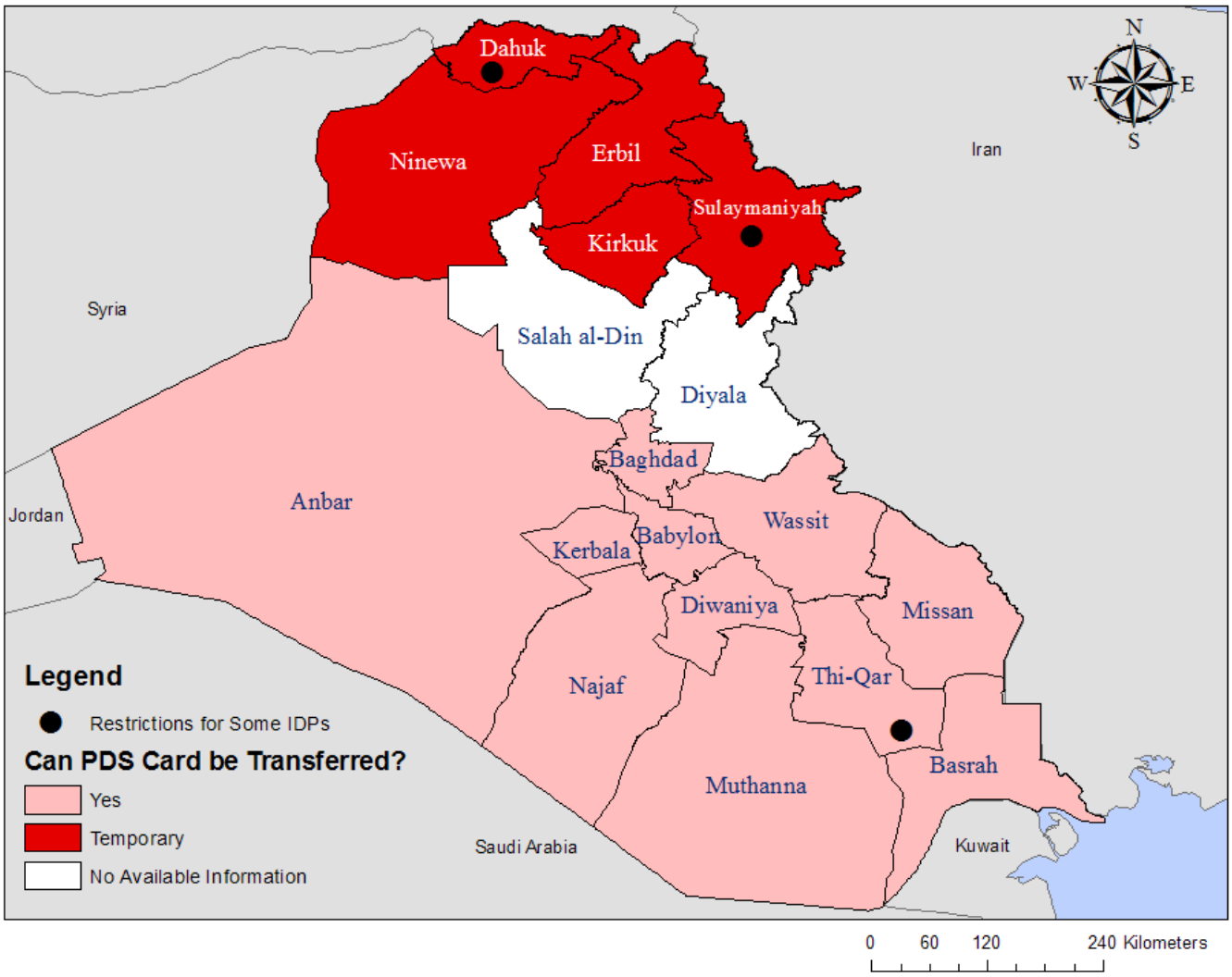
'[Of those assessed from January to March 2009] About 31% of IDPs, 12% of IDP returnees and 24% of refugee returnees reported that they did not have a valid PDS card and stated that this was due to their inability to transfer their PDS record due to Governorate restrictions (25% of IDPs, 17% of IDP returnees, 12% of refugee returnees) and missing documentation (21% of IDPs, 5% of IDP returnees, 13% of refugee returnees)…Since April, PDS food rations and market purchases represented the main sources of food of all communities assessed. Food distribution was more important for IDPs. Sixty per cent of IDPs and 80% of returnees had valid PDS cards. The main reasons for not having a PDS card were the inability to transfer it due to governorate restrictions (20% of IDPs) and the lack of necessary documents (21% of IDPs, 2% of IDP returnees and 10% of refugee returnees)..[282]

7.20 The following map provided by UNHCR, dated November 2007 detailed the Ability of IDPs to transfer PDS cards by Governorate:

[280] UN Human Rights Council, The Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, dated 16 February 2011, Visit to Iraq, http://reliefweb.int/sites/reliefweb.int/files/resources/1BA67B4AD8BE40788525783F0057B8DB-Full_Report.pdf, para 44-45

[281] UNHCR Baghdad, Protection Monitoring Assessments Summary January -October 2009, October 2009, http://www.uniraq.org/documents/UNHCR%20Iraq%20Protection%20Monitoring%20%20Jan-Oct%202009.pdf, p.2

[282] Ibid, p.5



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7.21 The US Government Accountability Office report, 'Displaced Iraqis: Integrated International Strategy Needed to Reintegrate Iraq's Internally Displaced and Returning Refugees', dated December 2010, remarked that: 'Many IDP families have had difficulties in obtaining the proper documents to register for the Public Distribution System in their new locations, which is required to obtain rations, according to UNHCR officials.'"[284] However the same report commented that: 'According to USAID officials, the reregistration of Public Distribution System cards was improving as of January 2010.'[285]

7.22 Commenting on the reasons why the PDS card proved difficult to transfer for IDPs, a paper by Kristele Younes and Nir Rosen, for Refugees International, dated 10 April 2007, entitled 'Iraq: Fix the Public Distribution System to Meet Needs of the Displaced', explained that following the fall of Saddam's Hussein's regime, the PDS was used for election registration purposes, which gave the PDS an added political dimension. As

[283] UNHCR, Iraq: Ability of IDPs to Transfer PDS cards by governorate, November 2007, http://reliefweb.int/sites/reliefweb.int/files/resources/66FCF120E02821B1C125739F0049D28D-unhcr_IDP_irq071121_c.pdf
[284] The US Government Accountability Office, Displaced Iraqis: Integrated International Strategy Needed to Reintegrate Iraq's Internally Displaced and Returning Refugees, December 2010, http://www.gao.gov/new.items/d11124.pdf, p.20
[285] Ibid

noted:

'Under the former regime of Saddam Hussein every Iraqi had the right to receive rations through the PDS system established during the sanctions period in the context of the Oil for Food program that began in 1995. Run by the Iraqi Ministry of Trade, the PDS was one of the most efficient institutions of the Iraqi state.

'...Following the American-led military coalition's overthrow of the former regime, the Oil for Food program was interrupted. The UN World Food Program (WFP) stepped in to fill the void, supporting the existing infrastructure. After the war, food rations became more important than ever. There were fewer jobs and no salaries.

'The new Iraqi government was able to resume running the PDS and its efficiency meant that in 2004, as the Iraqi elections were being organized for January 2005, the PDS rolls supplied the data used for voter registration. The quality of the data was remarkably accurate. Ninety percent of people found themselves on the list, though there was a 20 percent error rate in details such as date of birth and place of birth. Food was simply swapped for ballots. Thus the PDS cards acquired a new political significance, and this significance still lasts today, even though the cards are technically separated.'[286]

7.23 The profile report from the Internal Displacement Monitoring Centre, 'Iraq: Profile of the internal displacement situation', dated 10 October 2011, noted, referring to a UNHCR 2008 source:

'For people displaced between governorates, provincial authorities saw IDPs as a threat to the ethnic, sectarian, tribal, or political homogeneity of their area. They sometimes took measures to prevent 'unwanted' IDPs to access the PDS, effectively depriving them of rights and entitlements and further impoverishing them. Various restrictions were affecting Dahuk, Sulaymaniyah, Erbil, Kerbala, Najaf, Qadissiya, Wassit, Babylon, Thi-Qar, Basrah, and Muthanna governorates (UNHCR, August 2008).' [287]

7.24 However the same source also noted that:

'In 2011, IOM field assessments indicate that 67 per cent of returnee families regularly access PDS, 30 per cent receive rations on an irregular basis and three per cent receive none at all. This is a noticeable improvement from 2008 when only 47 per cent of the IDPs accessed PDS (Interagency Food Sub-Group). WFP's post-distribution monitoring indicated that IDPs experiencing food insecurity and poor diet decreased during 2008 from 38 percent to two percent as a result of WFP assistance.'[288]

7.25 The joint report of the Danish Immigration Service/UK Border Agency fact finding mission to Erbil and Dahuk, Kurdistan Region of Iraq (KRI) conducted 11 to 22 November 2011 entitled, 'Update (2) on entry procedures at Kurdistan Regional Government Checkpoints (KRG); residence procedures in Kurdistan Region of Iraq (KRI) and arrival procedures at

[286] Refugees International, Iraq: Fix the Public Distribution System to Meet Needs of the Displaced, 10 April 2007, http://www.refugeesinternational.org/node/2027
[287] Internal Displacement Monitoring Centre, Iraq: Profile of the internal displacement situation, dated 10 October 2011, http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/CCE717078C732F29C125792100523DC7/$file/Iraq-October-2011.pdf, p.38
[288] Ibid, p.45

Erbil and Suleimaniyah airports (for Iraqis travelling from non-KRI areas of Iraq)', dated March 2012, referring to an interview with representatives from Harikar NGO, the Protection and Assistance Centre partner in Dahuk, noted:

'Regarding transfer of personal documents from S/C Iraq and the disputed areas, Harikar NGO stated that transfer of PDS Cards is a complex matter. Transfer of PDS Cards is easy for Christians irrespective of their place of origin in Iraq. On the other hand Kurds from the disputed areas will find it very difficult to transfer their PDS Cards. This was related to political factors regarding the future of the disputed areas and whether they would become part of KRI. Harikar NGO was unsure however whether PDS Cards would be used for voter registration in the future. Arabs from S/C Iraq or the disputed areas will need a security clearance from the Asayish in order to have their PDS Cards transferred. This procedure is lengthy and it can take up to two months.' [289]

7.26 The same fact finding mission report noted that: 'According to Shokhr Yaseen Yaseen [Director of Bureau, Bureau of Migration & Displacement (BMD), Ministry of Interior, Erbil] the transfer of PDS Cards is a sensitive issue in Iraq, both politically and economically. Transfer of PDS Cards alters the demographic make-up of governorates and provinces, as the PDS Card functions as a registration card at elections.' [290]

7.27 Similarly, the UN Assistance Mission for Iraq (UNAMI) Human Rights Office/Office for the High Commissioner of Human Rights (OHCHR), Baghdad, '2010 Report on Human Rights in Iraq', dated January 2011 noted: 'In and around Kirkuk UNHCR received reports of harassment and detention of IDPs, allegedly in an attempt to engineer shifts of population and political power in this disputed area before the holding of a planned national census that was scheduled to take place in December but which has been postponed.'[291]

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8. LEGAL ASSISTANCE PROVIDED TO IDPS/RETURNEES BY THE MINISTRY OF DISPLACEMENT AND MIGRATION (MODM)

Background

8.01 The UN Assistance Mission for Iraq (UNAMI) Human Rights Office/Office for the High Commissioner of Human Rights (OHCHR), Baghdad, '2010 Report on Human Rights in Iraq', dated January 2011 explained:

[289] Joint report of the Danish Immigration Service / UK Border Agency fact finding mission to Erbil and Dahuk, Kurdistan Region of Iraq (KRI) conducted 11 to 22 November 2011, Update (2) on entry procedures at Kurdistan Regional Government Checkpoints (KRG); residence procedures in Kurdistan Region of Iraq (KRI) and arrival procedures at Erbil and Suleimaniyah airports (for Iraqis travelling from non-KRI areas of Iraq), dated March 2012, http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/coi/iraq/report-danish.pdf?view=Binary, para 10.10

[290] Ibid, para 10.11

[291] UNAMI Human Rights Office/OHCHR, Baghdad, 2010 Report on Human Rights in Iraq, January 2011 http://www.uniraq.org/documents/UNAMI_HR%20Report_English_FINAL_1Aug11.pdf, p.45

'The Government of Iraq has developed extensive measures to assist IDPs and to facilitate returns. This includes a long-term strategy to address the needs of displaced persons that is documented in the comprehensive 2008 National Policy on Displacement. Some decrees and other directives have been promulgated to support the government's strategy to address displacement in Iraq. For example, UNHCR has constructed 180 shelter units in Missan [governorate – south east Iraq] on land allocated by the government for returnees.'[292]

8.02 A paper by Peter Van der Auweraert for the Middle East Institute entitled Displacement and National Institutions: Reflections on the Iraqi Experience, dated 6 June 2011 additionally observed that the Iraqi government had adopted a number of measures to tackle internal displacement in Iraq:

'Examples include the establishment of the Property Claims Commission in 2004 to deal with land claims from displaced persons, covering the period from 1968 to March 2003, and the enactment of Decree 262 and Orders 58 and 101. Decree 262 and Order 101 establish administrative support mechanisms for displaced persons who want to return to Baghdad, while Order 58 does the same for the Diyala Governorate. A number of national policies with direct or indirect relevance for resolving internal displacement in Iraq have also been adopted by the former Government or the relevant line Ministries including the National Policy on Displacement; the Iraq National Housing Policy; and the Iraq National Development Plan for the years 2010–2014. In addition, the Ministry of Displacement and Migration is currently developing a national shelter strategy, focusing specifically on internally displaced persons and returnees.' [293]

8.03 The US Government Accountability Office report, 'Displaced Iraqis: Integrated International Strategy Needed to Reintegrate Iraq's Internally Displaced and Returning Refugees', dated December 2010, provided a table outlining key Iraqi government Decrees and Orders between 2008 and 2009 to facilitate certain returns and reintegration of displaced Iraqis. To refer to the table see Annex D.[294]

8.04 A written submission provided by UNHCR Baghdad, Response to inquiry regarding returnees/deportees: documentation, assistance and conditions at Baghdad airport, dated 3 November 2011, updated:

'Pursuant to Order 101/ 2008 (2 August 2008) the Government of Iraq initiated the process of facilitation and support to returnees…Broadly, returnees are entitled to the following:
- 4 Million Iraqi Dinar Returnee Grant (increased from 1.5 Million in mid 2011)
- Facilitation letter for possible exemption of electricity, water and telephone bills owed by the returnee in the property left behind during the period of displacement

[292] UNAMI Human Rights Office/OHCHR, Baghdad, 2010 Report on Human Rights in Iraq, January 2011 http://www.uniraq.org/documents/UNAMI_HR%20Report_English_FINAL_1Aug11.pdf, p.45
[293] Peter Van der Auweraert, Middle East Institute, Displacement and National Institutions: Reflections on the Iraqi Experience, dated 6 June 2011, http://www.refugeecooperation.org/publications/iraq/pdf/08_auweraert.pdf, p.3
[294] The US Government Accountability Office, Displaced Iraqis: Integrated International Strategy Needed to Reintegrate Iraq's Internally Displaced and Returning Refugees, December 2010, http://www.gao.gov/new.items/d11124.pdf, p.36

- Facilitation letters for possible regaining of public sector employment (there is additional assistance to highly skilled former public sector workers such as University professors, access to education, property restitution, obtaining missing documentation, passports and letters from the Municipal Council.'[295]

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Iraqi National Policy on Displacement and respect for freedom of movement and documentation needs among IDPs

8.05 The Brookings Institute, 'Project on Internal Displacement', provided a background summary, undated, on the Iraqi National Policy on Displacement, which noted the following:

'Purpose: The Iraqi National Policy on Displacement seeks to achieve durable solutions for those displaced inside Iraq and give effect to protection from displacement set forth in Article 44 of the 2005 Constitution. The Policy creates a framework that addresses the needs of displaced Iraqis before, during and after displacement, due to conflict or natural disaster. Furthermore, it serves as a means for the government to reconstruct the Iraqi state and create conditions for an end to displacement.

'Responsibilities: The government of Iraq acknowledges its own legal responsibility to protect both IDPs and returnees under the 2005 Iraqi Constitution and the Guiding Principles on Internal Displacement. Line ministries and institutions are responsible for the implementation of the National Policy. The Policy also obliges the international community to intervene and help support the Iraqi government in addressing the needs of IDPs.

'Content: The Iraqi policy embraces both protracted and recent IDPs, and elaborates a plan to address a wide scope of displacement. Displaced persons and host communities are encouraged to participate in the planning and designing of strategies and programs affecting their return, integration and/or resettlement. The government also promotes reconciliation through dialogue among IDPs, returnees and host communities in order to reduce tensions and minimize potential for violence.' [296]

8.06 The Iraqi National Policy on Displacement, from the Ministry of Displacement and Migration, dated July 2008 recognised the provision for IDPs to enjoy freedom of movement in Iraq under section 6.9 of the policy. As noted:

'The competent authorities have the responsibility to ensure that the IDPs enjoy the right to move freely and choose their place of residence. It also includes the right to return and rehabilitate themselves in their places of origin or habitual residence, local integration or resettlement in other places in Iraq.

'No person will be arbitrarily or unlawfully forced to remain within a certain territory, area

[295] UNHCR Baghdad, Response to inquiry regarding returnees/deportees: documentation, assistance and conditions at Baghdad airport, 3 November 2011, 1d, Assistance available at Ministry of Migration and Displacement (MoMD) Returnee Assistance Centres (RACS) and UNHCR Protection, Assistance and Reintegration Centres (PARCS), Annex R
[296] Brookings, National and Regional Laws and Policies on Internal Displacement IRAQ, http://www.brookings.edu/projects/idp/Laws-and-Policies/iraq.aspx

or region, nor shall he or she be made to leave a certain land, area or region. The Government ensures that a person's freedom of movement and choice of place of residence will not be subject to any restrictions save those maintained by the law as they are deemed necessary for reasons pertaining to national security, public order or health, morals or other people's rights and freedoms.

'The governorates and local authorities shall not prevent IDPs from residing in their areas, and they shall not create obstacles to that effect. The Government of Iraq realizes the consequences that resulted regionally from imposing internal obstacles on those who have been seeking safety."[297]

8.07 Whilst section 6.4 of the policy outlined the provision to provide necessary documentation by the government to IDPs:

'The Government of Iraq commits itself taking all official measures to facilitate the registration of the displaced persons whether they are in urban or rural areas or camps. The Government shall issue all necessary documentation to IDPs so that they can enjoy their legal rights; such documentation includes passports, personal IDs, birth, marriage and nationality certificates, and professional licenses.'[298]

Legal support provided through MoDM, Returnee Assistance Centres (RACs) and Bureau of Migration and Displacement in the Kurdistan Region of Iraq

8.08 A written submission provided by UNHCR Baghdad, entitled 'Response to inquiry regarding returnees/deportees: documentation, assistance and conditions at Baghdad airport', dated 3 November 2011, explained: 'There are currently 5 MoMD [sic – Ministry of Displacement and Migration] Returnee Assistance Centres (RACS) in Iraq (2 in Baghdad, 1 in Diyala, 1 in Basra, 1 in Ninewa), and branch offices in all governorates (incl Kirkuk), offering advice and assistance to returnees.' [299] Additionally the source noted: "Pursuant to Order 101/ 2008 (2 August 2008) the Government of Iraq initiated the process of facilitation and support to returnees…Broadly, returnees are entitled to ... [assistance]...obtaining missing documentation, passports and letters from the Municipal Council."[300] Similarly a report from UNHCR, entitled UNHCR Iraq Refugee Returnee Monitoring 2011 Mid Year Report, dated August 2011 observed: 'The Government of Iraq Ministry of Displacement and Migration (MoDM) offers the following assistance to eligible Refugee (and IDP) Returnees who register at its offices in their location of return in Iraq ...[this includes] obtaining missing documentation, passports and letters from the Municipal Council.'[301]

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[297] Ministry of Displacement and Migration, National Policy on Displacement, July 2008, http://www.brookings.edu/~/media/Files/Projects/IDP/Laws%20and%20Policies/Iraq_2008_National_Policy.pdf, section 6.9

[298] Ibid, section 6.4

[299] UNHCR Baghdad, Response to inquiry regarding returnees / deportees: documentation, assistance and conditions at Baghdad airport, 3 November 2011, 1d, Assistance available at Ministry of Migration and Displacement (MoMD) Returnee Assistance Centres (RACS) and UNHCR Protection, Assistance and Reintegration Centres (PARCS), Annex R

[300] Ibid

[301] UNHCR, UNHCR Iraq Refugee Returnee Monitoring 2011 Mid Year Report, dated August 2011, http://www.iauiraq.org/documents/1554/External%202011%20Mid%20Year%20Report%20UNHCR%20Iraq%20Refugee%20Returnee%20Monitoring%20report.pdf, p.7-8

8.09 A letter from the British Embassy Baghdad, entitled 'Freedom of Movement and requirements to transfer personal documents in order to relocate in Iraq', dated 27 July 2011, based advice sought from the British Embassy legal advisor and replies to enquiries received from '...representatives of two organisations; staff working for the International Organisation for Migration (IOM), in Baghdad and Erbil in the Kurdistan Region (KR) of Northern Iraq, and the Director General of Planning and Follow-Up at the Iraqi Ministry of Displacement and Migration (MoDM)',[302] observed:

'Contacts told us that the MoDM, have processes in place to help IDPs and returnees obtain any missing documentation. In the KR, the MoDM equivalent, the Bureau of Displacement and Migration (BMD), also provides support with documentation issues.

'The representative of the MoDM told us that it was not necessary for an individual to return to their registered place of residence to transfer documents to a new area of Iraq. The officer said that it is possible for instance to apply at a registration office in Baghdad, to have documents transferred from elsewhere in Iraq. He added that in practise this didn't happen as it was now safe enough for someone to return to their registered place of residence to arrange to transfer documents.

'Interlocutors said that processes and procedures were the same throughout governorates across south and central Iraq. However, all agreed that the Kurdistan Region had slightly different requirements. All agreed that procedures around relocation were the same for Iraqi nationals wishing to move home and registered IDPs…The officer from the MoDM told us that under an updated version of their 2008 policy on displacement, the ministry are helping IDPs to relocate where they can. But at the same time, MoDM are encouraging IDPs to return to their original areas. MoDM (supported by IOM) continue to help with documentation, legal advice on recovery of property and advice around employment etc.' [303]

8.10 More specifically, with regard to re-acquiring a Civil ID Card, a letter from the British embassy Baghdad entitled 'Renewal Or Reissuance Of A Civil Status ID card And Provisions To Change Place Of Residence In Iraq', dated 22 January 2012, based on 'replies to our enquiries from representatives of four organisations; staff working for the Ministry of Displacement and Migration (MoDM) in Baghdad; Ministry of Interior in Baghdad; International Organisation for Migration (IOM), in Baghdad and Erbil in the Kurdistan Region of Iraq (KRI) of Northern Iraq, and the International Rescue Committee in Erbil (KRI) and Baghdad which included their Legal Advisor ...' [304] further noted, that whilst generally speaking: '... people are expected to return in person to the place of origin to reacquire their Civil Status ID Card ... there are exceptions ...' [305] The source went onto note: 'If a person does not feel safe in which case they can report this to the Ministry of Displacement & Migration who will be able to support the transfer of the record to the area they wish to live in now ...'[306]

[302] Letter from British Embassy Baghdad, Freedom of Movement and requirements to transfer personal documentation in order to relocate in Iraq, 27 July 2011, Annex N
[303] Ibid
[304] Letter from the British Embassy Baghdad, Renewal Or Reissuance Of A Civil Status ID card And Provisions To Change Place Of Residence In Iraq, dated 22 January 2012, Annex M
[305] Ibid
[306] Ibid

8.11 Additionally with regard to the registration of one's address in Iraq, the same British Embassy letter explained that: '...generally speaking a change in residence required the person to return in person to their original place of residence. However there were exceptions to this e.g. it may no longer be safe for them to do so.' [307]The source continued:

'Our interlocutors explained that generally speaking unlike the civil status card, a change of residency must be done in person, nobody can typically do this on behalf of an Iraqi citizen returning from abroad. Where however they are fearful of the security situation, in exactly the same was [sic] as an Internally Displaced Person can request this, a returnee fearful of the security situation in their former residency can seek assistance via the Ministry of Displacement and Migration and local councillor ('al mukhtar')....In such circumstances the Ministry of Displacement and Migration and the local police would support them with the arrangements for the transfer. However our interlocutors added that the need for this was less and less as the security situation has improved considerably.'[308]

See also: Procedures for obtaining civil identity cards and nationality certificates

8.12 However, on the subject of legal support provided by the Bureau of Migration and Displacement (BMD) in the Kurdistan Region of Iraq, it is noted that the joint report of the Danish Immigration Service/UK Border Agency fact finding mission to Erbil and Dahuk, Kurdistan Region of Iraq (KRI) conducted 11 to 22 November 2011 entitled, 'Update (2) on entry procedures at Kurdistan Regional Government Checkpoints (KRG); residence procedures in Kurdistan Region of Iraq (KRI) and arrival procedures at Erbil and Suleimaniyah airports (for Iraqis travelling from non-KRI areas of Iraq)', dated March 2012, explained: 'When asked if the BMD provided any legal support to IDPs who have lost identity documents, such as their Civil ID Card, Shokhr Yaseen Yaseen [Director of Bureau, Bureau of Migration & Displacement (BMD), Ministry of Interior, Erbil] clarified that the BMD only provide official and logistic support to IDPs not legal support.' [309]

8.13 The same report, referring to an interview with representatives from an international organisation (B), noted:

'When asked if the BMD would be of any assistance to IDPs and other Iraqis in need of transferring his or her personal documents to KRI, the international organization (B) stated that the BMD is not known to be very active in assisting people in need of personal documents. This assistance is not very well organized by BMD. The international organization (B) concluded that it all boils down to weak state institutions and unresolved political issues between KRG and GoI.'[310]

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[307] Ibid
[308] Ibid
[309] Joint report of the Danish Immigration Service/UK Border Agency fact finding mission to Erbil and Dahuk, Kurdistan Region of Iraq (KRI) conducted 11 to 22 November 2011, Update (2) on entry procedures at Kurdistan Regional Government Checkpoints (KRG); residence procedures in Kurdistan Region of Iraq (KRI) and arrival procedures at Erbil and Suleimaniyah airports (for Iraqis travelling from non-KRI areas of Iraq), dated March 2012, http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/coi/iraq/report-danish.pdf?view=Binary, para 10.06
[310] Ibid, para 10.05

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Difficulties in registering with the MoDM and accessing support

8.14 The Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, dated 16 February 2011, visit report to Iraq explained:

'"...IDPs have faced a number of difficulties with regard to IDP registration, many of which were confirmed by the IDPs with whom the Representative met, including the lack of necessary documentation, inconsistent implementation of Government registration procedures and backlogs, and lack of awareness of certain requirements or of the resources to travel to registration points. Inconsistent implementation of registration procedures has also been reported, including because of restrictions on IDP entry and registration arising from security, economic or even demographic concerns in a number of governorates. However, some IDPs have also been reluctant to register with authorities because of security concerns, bureaucratic delays or lack of documentation. During 2009, Government authorities stopped registration procedures, reopening them temporarily only for census purposes between April and June 2010. While there are no available figures on the number of unregistered IDPs in the country, they are presumed to be high.

'In the context of Iraq, non-registration of IDPs (and returnees) remains a significant humanitarian concern, as it limits or precludes access to a number of rights including, access to basic services and Government assistance, the inability to transfer or gain recognition of certain documents and the inability to rent or purchase land, vote or obtain land titles. Therefore, the Representative was especially pleased to be informed during his visit of the Governments' expressed willingness and intention to reopen registration procedures for all IDPs.'"[311]

8.15 Similarly, a report from Geraldine Chatelard for the Middle East Institute entitled Iraqi Refugee and IDPs: From Humanitarian Intervention to Durable Solutions, dated 9 June 2011 observed:

'The Iraqi Ministry of Migration and Displacement (MoDM) is the main governmental body addressing internal displacement. Registered IDPs and returnees are entitled to a number of rights and benefits, such as renting or purchasing property, voting, obtaining land title, and accessing specific services in the governorate where they are registered. But the system is discriminatory. Only post-2006 IDPs are allowed to register, leaving out those who fled as a result of the April 2003 change of regime. Moreover, beginning in 2009, IDP registration at the governorate level was restricted and eventually stopped, although not all people displaced post-2006 had been able to register. There are several reasons why IDPs may not to want or be able to register. MoDM's offices at the governorate levels are staffed with members or clients of local political parties. Fearing sectarian, tribal, or political discrimination, IDPs prefer not to approach them. Lack of documentation is another reason preventing registration. Another bias in the system is

[311] UN Human Rights Council, The Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, dated 16 February 2011, Visit to Iraq, http://reliefweb.int/sites/reliefweb.int/files/resources/1BA67B4AD8BE40788525783F0057B8DB-Full_Report.pdf, para 51-52

that MoDM's benefits are geared towards enticing return and hence deregistration rather than adequately addressing local integration or resettlement in another area. This is why the figure of 1.3 million IDPs registered with MoDM in April 2011 has to be taken as a mere indication of the scale of the problem. IDPs live both in urban and rural areas but Baghdad hosts the largest number with some 358,457 currently registered.'[312]

8.16 A written submission provided by UNHCR Baghdad entitled 'Response to inquiry regarding returnees / deportees: documentation, assistance and conditions at Baghdad airport', dated 3 November 2011, additionally noted: 'Eligible returnees [able to access the support of RACs] are persons who:...Fled between 1/1/2006 to 1/1/2008, and were displaced for not less than eight months outside of Iraq;...Fled Iraq one year prior to 09/04/2003 and returned to Iraq after 09/04/2003; this group may also be eligible for additional returnee assistance from MoDM including allocation of land.'[313]

8.17 A letter from the British Embassy Baghdad entitled 'Freedom of Movement and requirements to transfer personal documents in order to relocate in Iraq', dated 27 July 2011, based advice sought from the British Embassy legal advisor and replies to enquiries received from '...representatives of two organisations; staff working for the International Organisation for Migration (IOM), in Baghdad and Erbil in the Kurdistan Region (KR) of Northern Iraq, and the Director General of Planning and Follow-Up at the Iraqi Ministry of Displacement and Migration (MoDM)', [314] noted that: 'Representatives of IOM, both in Baghdad and in the Kurdistan Region, said that IDPs returning to Iraq for the first time since 2003 would be registered with MoDM (or BMD). The officer from the MoDM said that registration of IDPs continued, especially with those Iraqi's returning from Syria, Iran, Egypt etc.'[315]

8.18 However a news article by the Institute for War & Peace Reporting (IWPR) entitled 'Hard Times for Iraqis Fleeing Unrest Elsewhere', dated 31 August 2011, provided several examples in which Iraqi returnees who had previously been living in neighbouring Arab countries had been unable to acquire the full assistance of the Ministry of Displacement and Migration. [316] As noted: 'Ali Hamid, an engineer who spent nine years working in Libya, is now back in Iraq with no job or home, after he [sic] getting out of Tripoli in March as the country descended into chaos…When he arrived in Baghdad, Hamid applied for assistance from Iraq's immigration ministry, and was told he was only eligible to receive a one-off payment of 250 dollars because he had left Iraq voluntarily.'[317] The article additionally noted:

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[312] G. Chatelard, Middle East Institute, Iraqi Refugee and IDPs: From Humanitarian Intervention to Durable Solutions, June 2011, http://www.refugeecooperation.org/publications/iraq/pdf/09_chatelard.pdf, p.11-12

[313] UNHCR Baghdad, Response to inquiry regarding returnees / deportees: documentation, assistance and conditions at Baghdad airport, 3 November 2011, 1d, Assistance available at Ministry of Migration and Displacement (MoMD) Returnee Assistance Centres (RACS) and UNHCR Protection, Assistance and Reintegration Centres (PARCS), Annex R

[314] Letter from British Embassy Baghdad, Freedom of Movement and requirements to transfer personal documentation in order to relocate in Iraq, 27 July 2011, Annex N

[315] Letter from British Embassy Baghdad, Freedom of Movement and requirements to transfer personal documentation in order to relocate in Iraq, 27 July 2011, Annex N

[316] Institute for War & Peace Reporting, Hard Times for Iraqis Fleeing Unrest Elsewhere, 31 August 2011, http://iwpr.net/report-news/hard-times-iraqis-fleeing-unrest-elsewhere

[317] Ibid

‘ ... Analysts say there are thousands of Iraqis in Hamid’s position, who have returned from Libya, Syria, Egypt, Yemen and Tunisia, and are urgently in need of help after losing everything they had…They are not covered by legislation passed in 2009 which offers benefits like housing, monthly payments, and public-sector jobs to people who left Iraq to escape rising violence after the fall of Saddam Hussein’s regime in 2003…The immigration ministry says those who left Iraq of their own accord either before or after 2003 can apply only for a single payment of 250 dollars…We are not responsible for all the Iraqis who have returned, since not all of them were forced to leave home. Some left to find better jobs or for other reasons,’ deputy immigration minister Asghar al-Mosawe told IWPR…Mosawe said there were no precise figures for the number of people returning and applying for government support, nor was there a plan to extend help to those who did not qualify under the 2009 law.’[318]

8.18 The IWPR article, referring to another case observed:

‘“Muwafak Abdul-Majid believes he should qualify for assistance because when he left Iraq prior to 2003, he was forced to rather than choosing to do so....‘I left Iraq in 2002, when the then regime shut every door in my face and I was unable to get a job because of my communist beliefs. My uncle was executed in the 1980s,’ he said. ‘Don't I deserve a chance to be hired like other Iraqis who left after 2003?’... Abdul-Majid, an Arabic teacher, left his job in the Yemeni capital Sanaa and came back to Baghdad to apply for a government job under the 2009 law, but was offered only the 250-dollar payment... Unable to support his family if they return to Iraq, he fears for their future in Yemen.’[319]

8.19 A report from UNHCR, entitled UNHCR Iraq Refugee Returnee Monitoring 2011 Mid Year Report, dated August 2011 observed:

‘From June – August 2011 23,507 Refugee Returnee families Iraq wide have been cleared by MoDM to receive Returnee Cash Assistance Grant of 4 million IQD in four separate tranches. UNHCR Iraq has been informed by MoDM that these monies have been or are in the process of being disbursed for collection either in cash at specified banks or through the ‘smart’ card mechanism…Results from UNHCR Iraq Refugee Returnee monitoring conducted in 2011 show that in Baghdad Governorate 97% of Refugee Returnees monitored who had registered with MoDM as a returnee and were eligible for the Returnee Cash Grant had received it within 3 months of applying for it.’ [320]

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9. LEGAL ASSISTANCE PROVIDED BY UNHCR’S PROTECTION AND ASSISTANCE CENTRE (PAC) PARTNERS

Background

9.01 A UNHCR Iraq Fact Sheet, June – July 2011, explained:

[318] Ibid
[319] Ibid
[320] UNHCR, UNHCR Iraq Refugee Returnee Monitoring 2011 Mid Year Report, dated August 2011, http://www.iauiraq.org/documents/1554/External%202011%20Mid%20Year%20Report%20UNHCR%20Iraq%20Refugee%20Returnee%20Monitoring%20report.pdf, p.8

'UNHCR has well-established Protection and Assistance Centres (PACs) as well as Return, Integration and Community Centres (RICCs). Both increase the outreach to the communities through provision of legal advice, protection monitoring, coordination, needs assessments, and social and information assistance. To improve service delivery and to ensure that persons of concern receive appropriate support, the PACs and RICCs are in the process of being merged and being renamed Protection Assistance and Reintegration Centres (PARCs).'[321]

9.02 The same source outlined the objectives of UNHCR Iraq as follows: 'In cooperation with international and national partners, UNHCR will continue to provide assistance to improve the protection environment and will ensure that protection procedures are strengthened through legal assistance, counselling and assistance in accessing documentation, as well as through improving status determination procedures.'[322]

9.03 A written submission provided by UNHCR Baghdad, entitled 'Response to inquiry regarding returnees/deportees: documentation, assistance and conditions at Baghdad airport', dated 3 November 2011, updated: 'Prior to 2011, UNHCR had separate Protection and Assistance Centres (PACS) and Return Integration and Community Centres (RICCS). The PARCs [Protection, Assistance and Reintegration Centres] are a merger of these two entities, with the aim of providing the full range of legal/humanitarian assistance in one structure. In Baghdad, separate PACs/RICCs continue to operate.' [323] The same source further noted:

'UNHCR has an extensive protection / assistance outreach across all eighteen governorates in Iraq. The network of PARCs, comprising fixed centres and mobile teams, provide legal counselling, assistance and referrals to appropriate service providers. PARC lawyers can provide legal representation in court and before administrative bodies, assist in the filing of complaints and in advocacy with local authorities. PARCs also provide advice and assistance on registration with MoMD, rights and entitlements.'[324]

9.04 The UNHCR website, Iraq country page, in setting out UNHCR Iraq's strategy and activities in 2012, noted: 'UNHCR will use the 18 Protection Assistance and Return Centres (PARCs), 40 mobile teams all over the country as well as six Return Integration and Community Centres (RICCs) in Baghdad to monitor protection, provide legal counselling and help people of concern to enjoy their fundamental rights.'"[325]

9.05 The UNHCR Tehran, Iran, Return Guide – For the Voluntary Repatriation of Iraqis, dated May 2011, provided address details for PACs operating across Iraq (although it is noted that this source lists only 17 of the 18 governorates covered). To refer to this list, see Annex E. A UNHCR Iraq, Fact Sheet, December 2010, observed that at that time, the PACs employed 125 staff (43 staff in the centre; 39 in the north and 43 in the south) [NB:

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[321] UNHCR Iraq, Fact Sheet, June – July 2011, http://www.iauiraq.org/documents/1462/FACT%20SHEET%20JUNE-JULY%202011.pdf
[322] Ibid
[323] UNHCR Baghdad, Response to inquiry regarding returnees / deportees: documentation, assistance and conditions at Baghdad airport, 3 November 2011, 1d, Assistance available at Ministry of Migration and Displacement (MoMD) Returnee Assistance Centres (RACS) and UNHCR Protection, Assistance and Reintegration Centres (PARCS), Annex R
[324] Ibid
[325] UNHCR website, Iraq Country Page, Strategy and Activities in 2012, undated, accessed 16 March 2012, http://www.unhcr.org/pages/49e486426.html

Users should be aware that the same source referred to PAC network comprising 15 PACs and 40 mobile teams. For the latest information on the coverage of the PARC network, refer to para 9.04].[326]

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Access to services

9.06 A paper by Giorgio Heinrich Neidhardt for the Middle East Institute, entitled 'Providing Fair Protection Processes and Documentation for Internally Displaced and Host Communities: The Experience of the Protection and Assistance Centers (PACs) in Southern Iraq', dated April 2011, explained, with reference to the work of INTERSOS PAC network operating in southern Iraq, that the PACs adopted a more inclusive approach towards identifying persons of concern. As noted:

'In 2010, INTERSOS PACs assisted 10,882 legal beneficiaries: 1,243 old IDPs, 4,875 newly IDPs, 2,649 refugee returnees, 16 refugee returnees into displacement, 2,056 vulnerable local community members, and 43 IDP returnees…The number of PoCs [Persons of Concern] assisted by INTERSOS PACs since their inception has steadily grown, reaching 24.6% of the targeted population in 2010...The majority of beneficiaries were IDPs. However, recognizing the importance of also providing assistance to other UNHCR's PoCs, including members of the host communities, INTERSOS adopted a more holistic approach to identifying beneficiaries, based on their vulnerability as well as their category.

'The decision to provide legal protection both to persons of concern and to a significant proportion of vulnerable host communities was also dictated by the risk of triggering friction between the host and displaced communities, as well by the risks associated with emphasizing internal displacement, which could result in the stigmatization of this group, if not in an element of negative discrimination.

'The creation of an 'IDP card' [by the Ministry of Displacement and Migration] based on IDP status has been an expedient for addressing emergency needs, but it also has created a rigid legal category that arbitrarily excluded other de facto IDPs in need of assistance — most notably, those displaced before 2006 as well as persons displaced by drought and forced into secondary displacement for a variety of reasons.…To address these challenges, in 2010 alone the PACs assisted 2,056 vulnerable host community members (amounting to almost 19% of the total target population) as well as a number of Iraqis who were displaced prior to the 2006 events...This approach facilitated the achievement of the objective of providing fair protection processes, based on the vulnerabilities of the beneficiaries.'[327]

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[326] UNHCR Iraq, Fact Sheet, December 2010, http://reliefweb.int/sites/reliefweb.int/files/resources/51862ABFB309D12E85257830006CF002-Full_Report.pdf

[327] Giorgio Heinrich Neidhardt, Middle East Institute, Providing Fair Protection Processes and Documentation for Internally Displaced and Host Communities: The Experience of the Protection and Assistance Centers (PACs) in Southern Iraq, April 2011, http://www.refugeecooperation.org/publications/best_practices/pdf/02_intersos.pdf, p.4

Support provided by PACs to re-obtain legal documents

9.07 A written submission provided by UNHCR Baghdad, entitled Response to inquiry regarding returnees/deportees: documentation, assistance and conditions at Baghdad airport, dated 3 November 2011, explained that the: 'Types of legal cases / issues with which the PARC lawyers assist include: Civil ID/Nationality, birth / death certificates, marriage, divorce/separation, inheritance, passport, PDS, education, moveable / immoveable property, compensation.' [328] The UNHCR website, Iraq country page, observed that one of the main objectives and targets for UNHCR Iraq in 2012 was to establish a favourable protection environment, ensuring '…people of concern gain improved access to legal assistance and remedies'. According to UNHCR its target was to provide '…some 20,000 people [with]...legal assistance.' [329]

9.08 A summary paper by UNHCR entitled Protection and Assistance Centres in Iraq January – March 2010 listed the achievements of the PAC network and observed with regard to legal assistance provided:

'• 2,284 individuals (of which 43% were women): benefited from PAC legal services: post-Samara IDPs (1,098), pre-Samara IDPs (255), refugee returnees (431), IDP returnees (109), refugee returnee into displacement (10), refugees (36) asylum-seekers (21), deportees (3) and community members with specific needs (321)...

'• 2,089 received cases related to Civil ID (231), marriage (248), PDS card (116), inheritance (371), utilities (7), health care (101), employment (21), social welfare (38), housing (14), citizenship (54), birth (152), death (18), and other personal status (10) certificates, immoveable (29) and moveable (5) property, MoDM registration (198), pension (12), divorce/separation (85), education (21), common criminal cases (5), other cases related to women (22) and children (10), government incentives for IDPs (46) and returnees (6), land allocations (3), detentions (9), and other legal issues (257).

'• The top legal needs were: Refugee Returnees (documentations, inheritance, property recovery, government assistance and medical care), IDPs (PDS cards, civil status documentations, social welfare), IDP returnees (documentation, inheritance, medical care and social welfare),Refugee Returnees into displacement (PDS cards, housing and government assistance), refugees and asylum-seekers (employment and documentation), and community members with specific needs (documentation, inheritance, social welfare), deportees (documentation and social welfare), stateless (documentation).

'• 2,969 cases were solved. PAC staff mainly helped beneficiaries to access services (717) and assistance (36), obtain documentation (2,213), and receive compensation (3).'[330]

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[328] UNHCR Baghdad, Response to inquiry regarding returnees / deportees: documentation, assistance and conditions at Baghdad airport, 3 November 2011, 1d, Assistance available at Ministry of Migration and Displacement (MoMD) Returnee Assistance Centres (RACS) and UNHCR Protection, Assistance and Reintegration Centres (PARCS), Annex R

[329] UNHCR website, Iraq Country Page, Strategy and Activities in 2012, undated, accessed 16 March 2012, http://www.unhcr.org/pages/49e486426.html

[330] UNHCR, Protection and Assistance Centres in Iraq January – March 2010, undated circa 2010,

9.09 The above information is based on a coverage of 15 centres and 40 mobile teams.[331] Since this summary was published, the PAC network has changed. For details on the current PAC network refer to the background section above and paragraph 9.04

9.10 A paper by Giorgio Heinrich Neidhardt for the Middle East Institute, entitled 'Providing Fair Protection Processes and Documentation for Internally Displaced and Host Communities: The Experience of the Protection and Assistance Centers (PACs) in Southern Iraq', dated April 2011, explained, with reference to the work of INTERSOS PAC network operating in southern Iraq:

'Throughout 2010, the five southern PACs assisted persons of concern in their main protection needs to obtain 1,163 IDs, of which 435 were for new IDPs; 853 birth certificates, 280 for new IDPs; 1,756 marriage contracts, of which 690 were for new IDPs; 736 PDS cards, of which 318 were for new IDPs; 293 divorce cases, of which 133 were for new IDPs; 82 SGBV cases, of which 60 were for new IDPs; 1,636 cases for heir deeds/inheritance, of which 772 cases were for new IDPs; 85 cases related to women, of which 22 were for new IDPs; 176 nationality cards, of which 54 were for new IDPs; 145 death certificates, of which 57 were for new IDPs; 1,760 medical care cases, of which 1,179 cases were for new IDPs; 53 cases related to children, of which 8 were for new IDPs; 141 personal status cases, of which 67 related to new IDPs; and 1,357 cases related to other legal issues, of which 514 cases were for new IDPs. This list, which is not exhaustive, aims at representing the major types of cases.' [332]

9.11 The International Rescue Committee's (IRC) Annual Report 2010 Iraq Country Program, dated March 2011 explained: 'Under its Protection program, the IRC manages protection assistance centers (PACs) which provide legal advice to IDPs and returnees to support access to entitlements.'[333] The same source further observed:

'The IRC runs Protection Assistance Centers (PACs) in Baghdad, Anbar, Babylon, and Salahdin. The centers, run in cooperation with UNHCR, provide legal services to returnees and IDPs and operate from mobile units to ensure maximum outreach to those most in need of assistance. Teams of lawyers and social workers provide legal assistance, disseminate information about rights and entitlements and collect data on the most urgent needs of Persons of Concern.'[334]

9.12 According to the source IRC's key achievements in 2010 included: '2,668 individuals provided with legal counselling and advice[;]...830 individuals seeking civil status documents represented before courts and administrative bodies [and]...80 advocacy

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http://reliefweb.int/sites/reliefweb.int/files/resources/ACD0DB99F9A2A42A492577130019AD3A-Full_Report.pdf

[331] Ibid

[332] Giorgio Heinrich Neidhardt, Middle East Institute, Providing Fair Protection Processes and Documentation for Internally Displaced and Host Communities: The Experience of the Protection and Assistance Centers (PACs) in Southern Iraq, April 2011, http://www.refugeecooperation.org/publications/best_practices/pdf/02_intersos.pdf, p.5, footnote 8

[333] International Rescue Committee's (IRC) Annual Report 2010 Iraq Country Program, March 2011, http://www.iauiraq.org/documents/1317/Repor.pdf, p.3

[334] Ibid, p.4

interventions on a range of issues including... access to basic services...[and] food distribution.'[335]

9.13 The joint report of the Danish Immigration Service/UK Border Agency fact finding mission to Erbil and Dahuk, Kurdistan Region of Iraq (KRI) conducted 11 to 22 November 2011 entitled, 'Update (2) on entry procedures at Kurdistan Regional Government Checkpoints (KRG); residence procedures in Kurdistan Region of Iraq (KRI) and arrival procedures at Erbil and Suleimaniyah airports (for Iraqis travelling from non-KRI areas of Iraq)', dated March 2012, referring to an interview with representatives of Public Aid Organisation (PAO), the PAC partner operating in Erbil governorate, explained:

'PAO explained their organisation would provide support to IDPs who needed to re-obtain missing documentation and PAO would deal with around three to five cases like this per month. PAO also clarified that often this role would involve facilitating discussions with the Asayish [Security forces in KRI] in cases where persons had experienced difficulties regularising their entry/stay in KRI. However according to PAO, the issue of lack of documentation among IDPs was not a common occurrence now, compared to previous years, where persons fled violence immediately, and often without their documents. Today IDPs in KRI usually had their personal documentation. PAO also reported that due to the relative stabilisation in the security situation across Iraq, persons were more confident to return back to their place of origin for a short period of time to acquire documentation or would even pay for persons, such as taxi drivers, to return on their behalf and through a Power of Attorney, obtain documentation for them. PAO reported that in the majority of cases, IDPs would not be at risk of harm if they returned to their place of origin temporarily. It was only if such persons sought to return home permanently and reacquire lost property would they come to be at risk in the majority of cases. PAO reiterated that property rights and ownership was one of the most complex and challenging issues IDPs in Iraq.' [336]

9.14 The same source, referring to an interview with Harikar NGO, the PAC partner in Dahuk observed:

'Harikar NGO explained as part of its role, it assists people to have their PDS [Public Distribution System] Cards and other personal documents transferred to KRI and reissued. Harikar NGO has a specific Legal Assistance Programme in order to assist with these transfers, and Harikar NGO added that it has a well functioning cooperation with the Asayish in order to facilitate the transfer of documents. Harikar NGO stated that transfer of PDS Cards and other personal documents takes place according to the law.

'Concerning transfer of personal documents, Harikar NGO explained that it is a problem when a person – for security reasons – is unable to return to his or her place of origin in order to have personal documents transferred to KRI. However, Harikar NGO stated that there are Legal Assistance Centre's similar to the one run by Harikar NGO in all Iraqi

[335] Ibid

[336] Joint report of the Danish Immigration Service / UK Border Agency fact finding mission to Erbil and Dahuk, Kurdistan Region of Iraq (KRI) conducted 11 to 22 November 2011, Update (2) on entry procedures at Kurdistan Regional Government Checkpoints (KRG); residence procedures in Kurdistan Region of Iraq (KRI) and arrival procedures at Erbil and Suleimaniyah airports (for Iraqis travelling from non-KRI areas of Iraq), dated March 2012, http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/coi/iraq/report-danish.pdf?view=Binary, para 10.07

governorates. All these centres including Harikar's are funded by UNHCR, and all centres can share information with one another. These centres are called PAC (Protection and Assistance Centre). Harikar NGO assists with cases involving transfer/reissuance of personal documents two to three times per month. It was added that Harikar NGO cooperates with the BMD [Bureau of Migration and Displacement in KRI] as well as with the Asayish in KRI in order to have documents transferred. However Harikar NGO added that most IDPs were in possession of their personal documents, therefore this was less of an issue now.'[337]

9.15 Some success stories provided by PACs operating in Iraq of individuals who have been supported in re-acquiring their personal documentation are included in Annex F.

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Limitations of PACs

9.16 A paper by Giorgio Heinrich Neidhardt for the Middle East Institute, entitled 'Providing Fair Protection Processes and Documentation for Internally Displaced and Host Communities: The Experience of the Protection and Assistance Centers (PACs) in Southern Iraq', dated April 2011, explained, with reference to the work of InterSOS' PAC network operating in southern Iraq, that regional procedures or instructions could impact on the ability of PACs to support persons of concern. As noted:

'Geographical consistency in the enforcement of the relevant legislation represents a major obstacle for the PACs. In particular, as provided by internal instructions issued by the Governmental Council in 2007 in Diwaniya, IDPs were prevented from entering this province and transfer their food ration cards unless the beneficiary civil record is already present in Diwaniya. In addition the persons subject to this decision must provide evidence from the tribe leader proving that they are not involved in any terrorist or armed groups and this evidence is difficult to obtain as the beneficiary must travel to his former place of residence in the hot areas.' [338]

9.17 A report from Geraldine Chatelard, also for the MEI, entitled 'Iraqi Refugee and IDPs: From Humanitarian Intervention to Durable Solutions', dated 9 June 2011, additionally cautioned that NGOs operating in Iraq may be susceptible to political influence or bias and that it was difficult to guarantee that UNHCR partners were completely unbiased. As noted:

'IOM and UNHCR, working through implementing partners, are the leading displacement response organizations and also help enhance MoDM's capacity. UNHCR has also sought to build the capacity of over a hundred national NGOs. However, among the thousands of NGOs established after 2003, a vast majority are too politicized to be considered impartial, and there is little guarantee that all of UNHCR's partners are completely unbiased.'[339]

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[337] Ibid, para 10.08-10.09

[338] Giorgio Heinrich Neidhardt, Middle East Institute, Providing Fair Protection Processes and Documentation for Internally Displaced and Host Communities: The Experience of the Protection and Assistance Centers (PACs) in Southern Iraq, April 2011, http://www.refugeecooperation.org/publications/best_practices/pdf/02_intersos.pdf, p.5-6

[339] G. Chatelard, Middle East Institute, Iraqi Refugee and IDPs: From Humanitarian Intervention

Civil society organisations

9.18 More generally, a report by the NGO Coordination Committee for Iraq (NCCI), entitled Iraq's Civil Society in Perspective, dated April 2011 observed with regard to Iraqi Civil Society Post-2003 invasion:

'It is estimated that somewhere between 8,000 and 12,000 such organizations were registered within the years following the invasion. The Coalition Provisional Authority (CPA) soon formed a Committee for Civil Society Organizations in an attempt to institutionalize state support for these new bodies...The emergence of civil society as an active participant in Iraq's recovery and development became a highly popular theme amongst key actors. While the manifestation of an extensive civil society is generally considered a progressive step in development, Iraq's civil society has been a highly contentious and controversial issue post-2003. Many NGOs were formed as a reaction against the former regime, as proxies for political parties in power, or as opportunistic ventures aimed at gaining access to the massive amount of humanitarian aid that was pouring into the country. This reality poses questions about the degree of independence, efficacy, capacity, and professionalism of these organizations.

'...Politically-affiliated LNGOs [Local NGOs] (either officially or unofficially) frequently claim to be independent and impartial. However, their sources of funding and political support remain non-transparent. Each LNGO's mission and agenda includes clues and details that often indicate its affiliation, and thus the Iraqi is generally aware of and acknowledges the connections between LNGOs and particular political parties or groups of influence. With a long tradition of relying on the state and its network of social organizations, the Iraqi public does not object to these connections, as long as NGOs effectively perform their service delivery roles.'[340]

9.19 The same source further observed on the subject of independence of local NGOs (LNGOs):

'A limited number of LNGOs in Iraq can be described as truly independent from the state, or from ethnic or religious constituencies, and as having a broad base of acceptance and support within the Iraqi population as a whole. Out of the 8,000 NGOs estimated by the Norwegian Refugee Council (NRC) to be active in the country, NCCI considers only a small fraction to be impartial, non-religious, and non-political groups.

'A large number of LNGOs retain political affiliations with some acting as the charitable arms of politicians or political parties that are represented in the government. Many other LNGOs, even without political affiliation, are strongly linked to sectarian ethnic and/or religious groups. This affects the geographical distribution of the organizations and of their programs in relation to the demographic make-up of the country. It can also limit their beneficiaries to specific, targeted sub-groups within the population.'[341]

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to Durable Solutions, June 2011, http://www.refugeecooperation.org/publications/iraq/pdf/09_chatelard.pdf, p.11-12

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Annex A

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Annex B

MAP OF IRAQ

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[342] Congressional Research Service, Iraq: Post-Saddam Governance and Security, 28 October 2009, p.54, http://www.fas.org/sgp/crs/mideast/RL31339.pdf

Annex C

SECURITY PROCEDURES FOR RETURNEES ACCORDING TO INFORMATION PROVIDED BY UNHCR

UNHCR Baghdad, in a written submission entitled, Response to inquiry regarding returnees / deportees: documentation, assistance and conditions at Baghdad airport, dated 3 November 2011 observed on arrival at Baghdad International Airport, returnees were obliged to undergo a series of individual investigations / interviews by a number of Government departments. The procedures in each department are as follows:

'Immigration Service, Ministry of Interior/Passport Office:
-Returnees' documents are reviewed and checked against the Central Iraqi criminal database to verify whether the deportee is wanted for any crime
-Returnee is photographed and an entry stamp is entered on his/her Laissez Passer or Passport, if available.

'In the Intelligence Service:
-Each returnee goes through an investigation by specialized officers (nature of the questions are unknown).
-After completing the investigation, the returnee is referred to the Airport Security Department.
-At this stage, the returnees are allowed to bring their luggage, buy food and use the toilet under the supervision of the Iraqi Security.
-This process can take up to 8 – 10 hours

'In the Airport Military Intelligence/Security Department:
-Each returnee is called for another investigation by the Security Officers, and then referred for another investigation by the Information Office.
-The Security Office then sends a confidential letter to the Central Database of the Iraqi Ministry of Interior and other security entities to check if the returnee is wanted for a crime inside Iraq.
-The returnees then wait in the same security office until they receive the final decision from the relevant security authorities. This process can take five hours or more.
-If the result of the investigation showed that the returnee is wanted, he/she will be referred to concerned authorities by whom he/she is wanted, and then go through legal procedures.
-If the result of the investigation clears the returnee, he/she is then allowed to leave the airport. Some of the returnees wait in the waiting area for their families, relatives or friends to fetch them.'[343]

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[343] UNHCR Baghdad, Response to inquiry regarding returnees / deportees: documentation, assistance and conditions at Baghdad airport, 3 November 2011, 2) Procedures and Conditions on arrival at BIAP, Annex R

Annex D

KEY IRAQI GOVERNMENT DECREE AND ORDERS TO ASSIST IDPS (2008-2009)

Table 5: Summary of the Key Iraqi Government Decree and Orders to Facilitate Certain Returns and Reintegration of Displaced Iraqis, 2008-2009

Decree/order/date	Summary actions
Council of Ministers Decree 262 July 17, 2008	• Continues to grant 150,000 Iraqi dinars (about $126) per month, for 3 consecutive months to each IDP family (about 120,000 families) that was displaced as of January 1, 2008. • Grants a total of 1 million Iraqi dinars (about $838) per family for returning IDPs, Iraqi refugees who have stayed in host countries for 8 to 12 months, and returnees from the Kurdish Region (about 35,000 families), provided that they are no longer recorded as displaced. • Grants rental assistance of 300,000 Iraqi dinars (about $252) per month for 6 months to displaced families squatting in Baghdad houses to return these houses to returning displaced families.
Cabinet Order 101/S August 3, 2008	• Activates prior Order 83/S that provides that anyone displacing someone from their home will be punished according to Iraq's Anti-terrorism Law, and provides that anyone who occupies a house belonging to a displaced person will be considered as a participant in the displacement and be held responsible for the property and its contents, which should be left to the legal owner. • Provides 1 month, as of August 1, 2008, for squatters occupying homes of displaced Iraqis to leave them with all their contents to their legal owners. • Orders MODM branches to establish centers to receive, register, and take the necessary information from displaced persons who should show legal proof of their ownership and legal residence. • Orders MODM, Ministry of Justice, Reconciliation Committee, Baghdad governorate, and Baghdad Operation Command to undertake their responsibilities and nominate representatives in MODM branches, discussed above, each one according to its jurisdiction. • Orders Baghdad Operation Command to issue the necessary instructions to facilitate implementation of this order; and Governorate Operations Commands to undertake the same mechanism to facilitate return of IDPs to their original places in each governorate.
Cabinet Order 54/S July 16, 2009	Establishes committee in Diyala governorate, under the chairmanship of the Head of the Implementation and Follow-up Committee for National Reconciliation, that is responsible for the following: • Activating Cabinet Order 101/S of 2008 concerning the return of displaced persons in the Diyala governorate. • Following up on the implementation of the projects of Basha'ir Al-Khair Commission for Diyala Reconstruction. • Following up on the compensation grant for damaged houses in the Diyala governorate. • Following up on the issue of water shortages in the governorate and improving the agricultural situation there. • Coordinating between the ministries concerned, the service departments, and the security committee regarding security, services, and displacement. • Coordinating with international organizations willing to provide services to the Diyala governorate within the legal framework.

Source: GAO summary based on U.S. government translations of Iraqi government documents.

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[344] The US Government Accountability Office, Displaced Iraqis: Integrated International Strategy Needed to Reintegrate Iraq's Internally Displaced and Returning Refugees, December 2010, http://www.gao.gov/new.items/d11124.pdf, p.36

[345] NB: Users should note that according to written submissions provided by UNHCR Baghdad in November 2011, returnees are entitled to 4 million Iraqi Dinar Returnee Grant, increased from 1.5 million in mid 2011 (UNHCR Baghdad, Response to inquiry regarding returnees / deportees: documentation, assistance and conditions at Baghdad airport, 3 November 2011, 1d, Assistance available at Ministry of Migration and Displacement (MoMD) Returnee Assistance Centres (RACS) and UNHCR Protection, Assistance and Reintegration Centres (PARCS)), Annex R

Annex E

PROTECTION AND ASSISTANCE CENTRES (PAC) EXTERNAL CONTACT DETAILS

Officials should be aware that the above table refers to the old Protection and Assistance Centres (PACs). UNHCR has since integrated PACs and Return Integration and Community Centres (RICCs) to form Protection, Assistance and Reintegration Centres (PARCs). UNHCR has an extensive protection/assistance outreach across all 18 governorates. (UNHCR Baghdad, Response to inquiry regarding returnees / deportees: documentation, assistance and conditions at Baghdad airport, 3 November 2011, 1d, Assistance available at Ministry of Migration and Displacement (MoMD) Returnee Assistance Centres (RACS) and UNHCR Protection, Assistance and Reintegration Centres (PARCS))

GOVERNORATE	CONTACT NUMBER	E-mail
ANBAR	+ 964 78 13901245 (Falluja) + 964 78 13901243 (Ramadi) + 964 78 13901257 (Haditha)	Anbar.pac@gmail.com
BABYLON	+ 964 78 13901244 + 964 78 13901254	Babylon.pac@gmail.com
BAGHDAD	+ 96 4 78 13901240 + 96 4 78 13901241 + 96 4 78 13901242	Baghdad.pac@gmail.com
BASRAH	+96 47811300525	basrahlegaloffice@yahoo.com
DAHUK	+964 750 4576771	pacharikar@yahoo.com
QADISSYA	+964 7801707125	diwlegal@yahoo.com
DIYALA	+964 7801952501	husseinm@unhcr.org
ERBIL	+96 4 750 4777566	mahdipac@gmail.com
KERBALA	+ 962 -6- 5665864	issam.zayed@drciraq.dk
KIRKUK	+ 964 77 01358555	fuadpacricc@yahoo.com
MISSAN	+ 962 -6- 5665864	ssam.zayed@drciraq.dk
MUTHANNA	+964 781902526	equalright@yahoo.com
NAJAF	+964 7808130383	najaflegal@yahoo.com
NINEWA	+964 7481714355	pac@acdiq.org
SALAH ALDIN	+964 7712312329 +964 7712291629	Salahadeen.pac@gmail.com
SULAYMANIYA	+964 7707707565	pac_cdo@yahoo.com
Thi-QAR	+964 7801905303 (Nasiriya) +964 7801839905 (Chibayish)	naslegaloffice@yahoo.com chibayish_legal@yahoo.com

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[346] UNHCR Tehran, Iran, Return Guide – For the Voluntary Repatriation of Iraqis, dated May

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Annex F

SUCCESS STORIES FROM PACS IN PROVIDING LEGAL ASSISTANCE

International Rescue Committee PAC

'In 2005 Fatuma fled the Jamela District in Baghdad with her husband and five children to escape sectarian violence. They moved to Baquba District in Diyala Governorate. Soon after, her husband, who had been a member of the former Iraqi Army, was killed by Al Qaeda in a drive-by shooting that killed several others. He had taken his car to a service station to be repaired with his son when the drive-by shooting occurred. Her husband was shot in the leg and the stomach and killed. Her son, who survived, had a bullet graze his forehead. Fatuma said that she does not think the injuries her husband sustained were fatal. She believes that the hospital where he was taken was under the control of the Madhi Army, a militia, and that he was deliberately killed by them while he was being treated.

'After the death of her husband, Fatuma returned to Baghdad with her children. She settled in Al-Khadraa, a Sunni area of West Baghdad. She currently works preparing and selling food and is living in rental accommodation.

'Fatuma is registered with the government as an IDP but has not received any support. The process is very bureaucratic, slow and complicated. The IRC Protection and Assistance Center assisted her in getting civil ID cards for herself and her children. They are working on getting a residential card for her and are following up with Ministry of Displacement and Migration to help her receive her entitled financial incentive of $800. She will not return to her former home because she feels safer where she currently lives and also wants to stay where she has a job." (IRC, A Tough Road Home: Uprooted Iraqis in Jordan, Syria and Iraq, February 2010).[347]

InterSOS PAC

'Najia is one of the stateless people who came to Iraq after invasion of Iraq to Kuwait in 1990. She settled with her husband and 7 children in Basra in a simple built house. They were issued the necessary documents at that time. After few months, Najia suffered from domestic violence by her husband who become addicted to alcohol and drugs and was involved in a terrorist group. She, her family and relatives did their best to make him give up these bad things to take care of their children, but these efforts were vain. Accordingly, she decided to flee with her children and she came to Nassiriyah where her parents and some of her relatives live. A day, her husband came to her and asked for forgiveness for all awful things he did and he promised his family to compensate them for these horrible days. The wife and children believed him and went with him to their house. Unfortunately, after few days of their return back to their house, he stole their documents and dismissed them. They had no choice but to return to where they were, to Nassiriyah. Finally, Najia resorted to Nassiriyah PAC with a great hope that it will help her solving the

2011, http://www.unic-ir.org/publication/eng/E-ReturnGuide.pdf, p.14

[347] IRC, A Tough Road Home: Uprooted Iraqis in Jordan, Syria and Iraq, February 2010, http://www.rescue.org/sites/default/files/resource-file/IRC_Report_02_18_ToughRoad.pdf, p.4

documents problem. The lawyer of the PAC contacted Basrah PAC to help this family in issuing their documents. Basrah PAC lawyer promised to spare no efforts to issue all the necessary documents for this family. (InterSOS, Stories from the Protection and Assistance Centers of Iraq, From Nassiriya: a family against drugs, 25 January 2011).'[348]

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[348] InterSOS, Stories from the Protection and Assistance Centers of Iraq, From Nassiriya: a family against drugs, 25 January 2011, http://www.intersos.org/en/evidences/stories-protection-and-assistance-centers-iraq#docs

Annex G

LETTER FROM BRITISH EMBASSY, BAGHDAD 'INFORMATION REGARDING ALLEGED MISTREATMENT OF FAILED ASYLUM SEEKERS/AND OR OTHER IRAQI CITIZEN'S RETURNING TO BAGHDAD', 19 OCTOBER 2011

British Embassy Baghdad
International Zone,
Baghdad,
Republic of Iraq

Foreign & Commonwealth Office

Country of Origin Information Service
UK Border Agency

19 October 2011

Dear Colleagues,

Re: Information regarding alleged mistreatment of failed asylum seekers/and or other Iraqi citizen's returning to Baghdad

In August 2011, as Migration Delivery Officer at the British Embassy in Baghdad, I was approached by UKBA's Country of Origin Information Service (COIS), to help research information relating to allegations of mistreatment of returnees through Baghdad International Airport. Specifically, I was asked to research the following issues:

- Information on alleged mistreatment of failed asylum seekers and/or other returnees
- Information on human rights monitoring of detainees in Iraq (and specifically on returnees)
- Procedures applied by the Government of Iraq at Baghdad International Airport regarding the processing of returnees.

In taking this research forward, with the support of colleagues in COIS, I identified a number of interlocutors who I believed would have the best expertise and insight to the above questions. The list of interlocutors included representatives of the Government of Iraq, local and international NGO's and colleagues from a number EU Embassies with similar migration programmes to that of the UK (see separate list of contacts at Annex A). I agreed with colleagues in COIS that they would make similar enquiries of EU partners in their respective capitals and also consider the possibility of meeting NGO's who provide significant reporting on

human rights issues in Iraq but who do not maintain representation here.

Several possible interlocutors declined to comment on these issues. In the interests of transparency and to illustrate the limitations in my research, I have included information I received from these interlocutors, together with reasons why I was unable to meet with them or obtain further information.

I approached a representative of the International Committee of the Red Cross (ICRC) on 28 August 2011 via email and was informed by ICRC via email on 29 August 2011 that they, only on rare occasions dealt with persons being held upon arrival to or departure from Iraq (returning Iraqis or other persons held). ICRC did not feel in a position to share findings on this work or respond to our enquiries. They advised that I approach UNHCR, IOM and the Iraqi Ministry of Human Rights. They were unable to offer any further assistance or suggestions on NGOs to meet. I responded via email on 30 August 2011 and asked if they could instead provide only information on human rights monitoring in Iraq, which, I explained, would help provide background context. I received no reply to my enquiry.

A further contact, the International Rescue Committee (IRC) who I wrote to via email on 23 August, replied by email on 24 August to say that any information held by IRC on the treatment of returnees through BIAP, was reported directly to UNHCR. They also suggested that I contact officials at this organisation for a response. I first wrote, via email, to UNHCR seeking a meeting to discuss these issues on 25 August. UNHCR colleagues replied, via e-mail on 3 September offering to help reply to my queries and provide information regarding the treatment of returnees. However, despite further correspondence, largely as a result of staff absences, it has yet not been possible to meet with UNHCR.

The International Organisation for Migration (IOM) who I wrote to via email on 23 August 2011, responded on 23 August 2011. IOM declined to meet, but explained that when IOM were responsible for the Assisted Voluntary Returns and Reintegration process from the UK, they assisted returnees upon arrival and that, in their opinion, the process was carried out smoothly. IOM considered that their staff presence and contacts with local authorities were important factors in facilitating the returns process and that consequently returnees rarely had any problems. IOM confirmed that as they no longer assisted voluntary returnees from the UK (as this contract had since been passed to Refugee Action), they were not sure how the returns process operated now. However they did comment in their email to me dated 23 August, that they had heard that returnees are having problems and are questioned for longer periods, especially if they do not have documents (for example if they have returned through Laissez Passer).

I met with a representative of the Ministry of Displacement and Migration (MoDM) on 21 September 2011 however my source declined to comment on questions relating to the treatment of returnees and issues around human rights monitoring. The MoDM representative instead suggested such questions should be referred to the Minister for reply.

Colleagues from EU missions in Baghdad, namely the Swedish and Netherlands Embassies declined to comment explaining that their countries returns programmes are operated from Stockholm and The Hague respectively. Staff in Baghdad are not directly involved in the returns programme so did not feel able to comment.

I met with colleagues from the Human Rights section of the US Embassy in Baghdad. These officers confirmed that the US authorities work closely with Iraqi Government and International NGO to monitor human rights issues in Iraq. They conceded that they do not examine the

treatment of Iraqi's being returned through BIAP.

Unfortunately, due to staff absences, it was not possible to meet with the Human Rights Office of the UN Assistance Mission for Iraq (UNAMI). However, this officer has been sent copies of a list of questions relevant to human rights issues and the treatment of returnees. I have suggested that he contacts COIS direct with his replies.

In total, I was able to hold four face to face interviews with the following:

Mr Gert Meinecke, Danish Ambassador to Iraq
Dr Al-Jbori, Head, Iraqi Parliamentary Human Rights Committee
Mr Jamal Al-Jawahiri, Iraqi Al-Amal Association
Mr Adel Almsody, Director General, Iraqi Ministry of Human Rights

Details of these interviews and the individuals I spoke to can be found in the attached documents. The notes of my meetings are not verbatim accounts of our discussions. However, I believe that they reflect accurately the information provided by the source. All notes were disclosed in full to the source interviewed and agreed on the date documented on each interview note. Where no response was received to my request to approve draft notes, the source was made aware that the note would be treated as de facto approved unless I received information to the contrary by the date specified. Where notes have been de facto, as opposed to positively approved by a source, it is made clear on the interview note. The interviewees agreed to being referenced in the documents. Background information is provided either by the interviewee themselves or from publicly available information, i.e. websites.

2nd Secretary Migration (Migration Delivery Officer)
British Embassy
Baghdad

Annex A

Organisation	Met with MDO and able to comment
Danish Embassy, Baghdad	Yes
Swedish Embassy, Baghdad	No
Netherlands Embassy, Baghdad	No
US Embassy	No
UNHCR	Outstanding
IRC	No
IOM	No
Iraqi Parliamentary Human Rights Committee	Yes
Iraqi Al-Amal Association	Yes
ICRC	No
Iraqi Ministry of Displacement and Migration	No
UNAMI	Outstanding
Iraqi Ministry of Human Rights	Yes

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Annex H

NOTE OF INTERVIEW WITH DR SALEEM A AL-JBORI, HEAD OF IRAQI PARLIAMENTARY HUMAN RIGHTS COMMITTEE, CONDUCTED BY MDO, BRITISH EMBASSY BAGHDAD, 5 SEPTEMBER 2011

Interviewee/source: Dr Saleem A Al-Jbori
Role/title: Head
Organisation: Iraqi Parliamentary Human Rights Committee
Date of interview(s): 5 September 2011
Interviewer(s)/author(s): Migration Delivery Officer, British Embassy, Baghdad

The following note is based on information provided from the above named source during the above specified interview(s). The note is based on discussions on the identified themes set out below. This note is not a verbatim account of the interview but the author(s) considers it reflects accurately the information provided.
The note has been shared with the source for approval by them. The identified interviewee/source is aware that the information provided may be used in the refugee status determination process in the United Kingdom, and is content for this note to be placed in the public domain and used as a source of Country of Origin Information (COI).

Information on human rights monitoring of detainees in Iraq (and specifically on returnees)

1. Dr Al-Jbori said that the Parliamentary Human Rights Committee, in partnership with the Iraqi Ministry for Human Rights and national and international NGO's is charged with monitoring human rights including the treatment of detainees across Iraq. In pursuing these objectives, Dr Al-Jbori said that the Committee visits detention centres to investigate reports or allegations of mistreatment of detainees. The Committee also monitor a broad range of human rights issues, including freedom of speech and the rights of elders and minors.

2. Dr Al-Jbori explained that the Committee is made up of 16 Members of Parliament with all political parties represented. The Committee is served by 7 members of staff and a further 4 counsellors are being contracted. The Committee's current focus was on legislation and they had a proposed programme of work for the forthcoming legislative period of the Iraqi Parliament which included the following items as priority areas of concern:

    a. Minorities
    b. Detained persons
    c. Freedom of speech and the right to peaceful demonstration
    d. Low income families, the handicapped, orphans and the retired
    e. Women and families
    f. Environmental issues

3. Dr Al-Jbori said that in his opinion, the Human Rights Committee was effective. He stressed however that challenges still remain. One member of the Committee had been

killed in a terrorist attack in 2009. All Parliamentarians faced significant security threats. Nevertheless, Dr Al-Jbori considered that the Committee had made real progress – though much remained to be done and challenges remained.

Information on the alleged mistreatment of failed asylum seekers and/or other returnees

4. Dr Al-Jbori explained that, in addition to the Ministry of Displacement and Migration (MoDM), there is also a Parliamentary Committee on Displacement with responsibility for ensuring those returning to Iraq do not face discrimination and are given support to re-integrate into society. Many of those returning faced problems, not least around the security environment which continues to impact on the lives of all Iraqi's, but also issues around livelihoods and living conditions. The Government of Iraq, through MoDM and its national and international partners was working hard to improve the conditions for those returning.

5. Dr Al-Jbori said that returnees through Baghdad International Airport would not face abuse or discrimination; only those accused of terrorism would be processed differently. Having said this, he conceded that the Committee did not have a strong focus on the treatment of those being returned and this was not something which was being monitored closely. However, Dr Al-Jbori added that, if there were allegations of returnees being abused, the Committee would be informed by NGO's who are able to operate at the airport.

6. The Migration Delivery Officer thanked Dr Al-Jbori for his help and assistance.

Date record was agreed: Draft sent to Dr Al-Jbory on 6 September 2011 and again on 18 October 2011. No response received. Considered as approved on 24 October 2011.

Background on interviewee:

Dr Al-Jbori is the Head of the Iraqi Parliamentary Human Rights group, charged with monitoring developments in Human Rights and also the performance of the Human Rights Ministry. In September 2011, Dr Al-Jbori headed a delegation of Iraqi parliamentarians to visit the UK for meetings with HMG officials, UK parliamentarians and NGO's.

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Annex I

NOTE OF INTERVIEW WITH GERT MEINECKE, AMBASSADOR, DANISH EMBASSY, BAGHDAD, CONDUCTED BY MDO, BRITISH EMBASSY BAGHDAD, 19 SEPTEMBER 2011

Interviewee/source: Gert Meinecke
Role/title: Ambassador
Organisation: Danish Embassy, Baghdad
Date of interview(s): 19 September 2011
Interviewer(s)/author(s): MDO Baghdad

The following note is based on information provided from the above named source during the above specified interview(s). The note is based on discussions on the identified themes set out below. This note is not a verbatim account of the interview but the author(s) considers it reflects accurately the information provided.
The note has been shared with the source and approved by them. The identified interviewee/source is aware that the information provided may be used in the refugee status determination process in the United Kingdom, and is content for this note to be placed in the public domain and used as a source of Country of Origin Information (COI).

1. **Information on the alleged mistreatment of failed asylum seekers and/or other returnees.**

The Ambassador stated that he had no information regarding the alleged mistreatment of returnees through Baghdad International Airport. He added that the Danish Embassy in Baghdad does not routinely monitor the arrival of returnees from Denmark. This process is handled by officers from the Danish Police Service.

2. **Information on human rights monitoring of detainees in Iraq (and specifically on returnees)**

The Ambassador said that in his view, the level of human rights monitoring of detainees in Iraq had deteriorated over the last 12 months. However, he believed that a number of organisations, whether Iraqi (i.e. Ministry of Human Rights), or NGO (i.e. ICRC), had access to some detention facilities and were able to make their findings known. In addition, groups such as Amnesty International and Human Rights Watch were able to monitor human rights issues across the country. The Ambassador had no knowledge of specific human rights monitoring of returnees who may have been detained.

3. **Procedures applied by the Government of Iraq at Baghdad airport, regarding the processing of returnees**.

See 1. above, the Ambassador repeated that the Danish Embassy in Baghdad does not monitor the processing of returnees from Copenhagen. He was therefore unable to comment on the systems in place.

Date record was agreed: 20 September 2011

Background on interviewee:

Curriculum Vitae for Ambassador Gert Meinecke

Born on 3rd March 1953
1979: Master of Arts
1990: Development Cooperation Officer in the Ministry of Foreign Affairs
1991: Head of Section, Ministry of Foreign Affairs
1993: First Secretary, Danish Embassy in Pretoria
1993: Counsellor, Danish Embassy in Pretoria
1996: Head of Section, Ministry of Foreign Affairs
2001: Chargé d'affaires e.p., Danish Embassy in Kathmandu
2007: Ambassador, Danish Embassy in Cotonou
2010: Ambassador, Danish Embassy in Baghdad (1. September)

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Annex J

NOTE OF INTERVIEW WITH MR ADEL ALMSODY, DIRECTOR GENERAL OF INTERNATIONAL RELATIONS AND COOPERATION DIRECTORATE, MINISTRY OF HUMAN RIGHTS, CONDUCTED BY MDO, BRITISH EMBASSY BAGHDAD, 15 SEPTEMBER 2011

Interviewee/source: Mr Adel Almsody
Role/title: Director General of International Relations & Cooperation Directorate
Organisation: Ministry of Human Rights
Date of interview(s): 15 September 2011 and amended following additional comments received on 20 October 2011

Interviewer(s)/author(s): Migration Delivery Officer, British Embassy, Baghdad

The following note is based on information provided from the above named source during the above specified interview(s). The note is based on discussions on the identified themes set out below. This note is not a verbatim account of the interview but the author(s) considers it reflects accurately the information provided.
The note has been shared with the source and approved by them. The identified interviewee/source is aware that the information provided may be used in the refugee status determination process in the United Kingdom, and is content for this note to be placed in the public domain and used as a source of Country of Origin Information (COI).

1. Human Rights monitoring of detainees in Iraq

Mr Almsody and his colleagues explained that all divisions of the Human Rights Ministry had had the opportunity to contribute to, and in some cases correct, a report published by UNAMI in August 2011 which suggested that human rights in Iraq remain fragile. The Human Rights Ministry had provided updated statistics which had been published by the UN. The report can be found at: http://www.uniraq.org/documents/UNAMI_HR%20Report_English_FINAL_1Aug11.pdf
The Director General and his colleagues explained that the Ministry had created a mechanism of visits to prisons and detention centres. Under this, teams of professionally trained officers carried out unannounced visits to monitor the well-being of detainees and to investigate allegations of mistreatment. The group were able to meet with inmates in private and would report their findings either to the prison officials or, in more serious cases, to the police and judiciary for further investigation or action.

In order to create a greater understanding of human rights issues, staff in the police, army and prison system, as well as officials from the Ministry of Justice, Ministry of Interior and other Iraqi ministries had received training from a German institute. This had moved on to a 'train the trainers' programme which allowed Iraqi staff to provide additional instruction.
A further mechanism allowed the families of alleged victims to lodge complaints directly to officers at the ministry.

2. Monitoring the Human Rights of returnees

Mr Almsody confirmed that no reports of human rights infringements against returnees had been reported to him and he explained that law enforcement personnel received training on human rights and adhered to a code of conduct. Mr Almsody and his colleagues said that Iraqi citizens returning to Baghdad from neighbouring countries such as Syria and Jordan would not face difficulties. This particular group would receive support from the Ministry of Displacement and

Migration (MoDM). Equally, IDP's who had relocated across Iraq were being encouraged and supported by MoDM to return to their original homes. Since 2007 a large number of Iraqi professionals (doctors, professors, engineers etc) had left the country. A scheme had been created to persuade them to return. But questions remained around forced removals to Iraq and the Director General and his staff felt that this was an issue on which a solution was required. Mr Almosdy's colleague said that a 2010 UNHCR report had alleged that some returnees into Baghdad International Airport (BIAP) were forced to wear hand-cuffs. UNHCR had urged the ministry to open an office at the airport but this had not been possible. The group felt that those who didn't respect the law in a third country should expect to be removed, but there was a feeling that those living and working overseas should be treated differently.

A member of the Ministry had visited BIAP in early 2011. She said that some returnees faced being held in detention and were subject to interrogation and questioning around their motives for fleeing Iraq. The group felt that it would be helpful if returnees came back with a document setting out their asylum application and process and reason for refusal. In addition to police and intelligence officers, a magistrate was in place at BIAP to direct legal decisions on detention. The Ministry also clarified that the detention of any returnee occurred due to security and counter-terrorism precautions and that the Ministry was in close touch with the aviation authorities. Mr Almsody explained that ground teams from the Ministry of Human Rights had conducted many visits to facilitate completion of the process of handing over the returnee to their families after the security checks had been completed.

However the Ministry said that despite the formation of a special committee made up of officials from the Ministry, MoDM and staff at BIAP, they had not been able to access the police station at the airport. While they had not received any direct allegations of abuse at this police station, they had not been able to visit the premises to carry out an independent inspection.
The group said that no returnees have visited their offices to complain about treatment while in detention at BIAP. The group said that, in their opinion, it was unlikely that someone would visit the Ministry building to make such a complaint for fear of further interrogation about possible intelligence related issues. However, the group conceded that this may simply be because there had been no complaints.

Date record was agreed: Draft document was submitted to the DG Human Rights on 15 September. Further comments were received on 20 October. The above notes were approved on 24 October.

Background on interviewee:
Director General Adel Almsody has been a senior member of the Ministry for Human Rights for several years. He is currently serving under his second Minister. He has previously studied (Engineering) in the UK.

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Annex K

NOTE OF INTERVIEW WITH MR NOAMAN MUNA, CHAIRMAN OF THE TRUSTEES COMMITTEE; HANAA EDWAR, GENERAL SECRETARY; JAMAL AL-JAWAHIRI, MEMBER OF THE TRUSTEES COMMITTEE AND FINANCE DIRECTOR, IRAQI AL-AMAL ASSOCIATION (NGO), CONDUCTED BY MDO, BRITISH EMBASSY BAGHDAD, 11 SEPTEMBER 2011

Interviewee/source: Mr Noaman Muna
Role/title: Chairman of the Trustees Committee
Hanaa Edwar – General Secretary
Jamal Al-Jawahiri – Member of the Trustees Committee and Finance Director
Organisation: Iraqi Al-Amal Association
Date of interview(s): 11 September 2011
Interviewer(s)/author(s): Steve Askham, MDO, British Embassy, Baghdad

The following note is based on information provided from the above named source during the above specified interview(s). The note is based on discussions on the identified themes set out below. This note is not a verbatim account of the interview but the author(s) considers it reflects accurately the information provided.
The note has been shared with the source and approved by them. The identified interviewee/source is aware that the information provided may be used in the refugee status determination process in the United Kingdom, and is content for this note to be placed in the public domain and used as a source of Country of Origin Information (COI).

1. **Information on the state of human rights in Iraq.**

Representatives of Iraqi Al-Amal said that in their opinion, human rights issues in Iraq had deteriorated over the last twelve months. They said that this was evident in increasing restrictions on freedom, including the right to free speech and freedom of association. They claimed that worsening human rights could be blamed on a lack of leadership by the current coalition government which faced daily disagreements over policy direction. This in turn was leading to corruption, a weak economy, poor living standards (limited electricity, access to water) as well as an increasingly fragile security environment. Iraqi Al-Amal gave examples of a number of draft laws which could, if implemented, restrict the rights of individual's to express their views openly and without fear of punishment. One such law, "Crimes of Information", sought to control the use of social media and IT.

Iraqi Al-Amal noted that government of Iraq employees had recently been told to sign declarations to the effect that they would not join anti-government demonstrations. It was felt that pressure from employers would oblige civil servants to sign such a declaration for fear of losing their jobs.

Another area of concern for Iraqi Al-Amal, was the formation of the Iraqi Human Rights Commission. While an Expert Committee had been established to identify suitable independent members of the Commission, the work of sifting over 3,000 potential applicants was slow. There was also some evidence that political blocs were seeking to put pressure on the Expert Committee to appoint individuals affiliated with particular parties.

Iraqi Al-Amal also identified the rights of women as an area where human rights required significant improvements. Currently, there are only 2 women in senior positions in 46 Iraqi

Ministries. Furthermore, the draft law on domestic violence was yet to be agreed and implemented. By contrast, the Kurdistan Regional Government had recently implemented its own domestic violence legislation.
Iraqi Al-Amal felt that the continued deterioration of conditions in Iraq could ultimately affect the democratic building process adversely.

2. The role of NGOs

Iraqi Al-Amal said that NGOs had had some success in promoting a greater acceptance of the need to acknowledge human rights. The group held workshops with parliamentarians to promote human rights issues. However there was still a long way to go before these issues were fully understood and addressed. In another positive development, NGO's had challenged a draft law on the formation of NGOs and had put forward their own 'counter-draft' which had been agreed and adopted. Furthermore, in June 2010, over 800 NGOs had formed The Civil Initiative to Preserve the Constitution (CIPC) to challenge the failure of the Iraqi Parliament to appoint key members, including a Speaker and two deputies (as required by the Iraqi Constitution). Al-Amal believe that NGOs will continue to find Iraq a challenging environment in which to operate, but that the CIPC represents a significant step in shaping the role of civil society in Iraq.

3. Monitoring of Returnees

Iraqi Al-Amal said that in their experience returnees to Iraq, provided they held Iraqi documentation, would not normally experience difficulties at Baghdad International airport (BIAP). These returnees, whether refugees returning from a neighbouring country or FAS being sent back from Europe, would not be treated differently from other passengers.
Iraqi Al-Amal explained that they were not aware of returnees facing mistreatment during detention at BIAP, but pointed out that there were a significant number of stories of detainees being abused while in detention in Iraq. Iraqi Al-Amal said that groups such as ICRC are able to monitor the treatment of detainees in the Iraqi prison system, but they did not believe that this extended to the police station at BIAP. I was difficult therefore for an independent organisation to gain access to those being detained at the airport or to investigate possible allegations of mistreatment.

One area where returnees might face discrimination, was in the payment of benefits to returnees by the Ministry of Displacement and Migration (MoDM). There were claims that returnees were not always able to access the benefits which were promised to them by the MoDM and that opportunities to seek redress were limited.

Concern was also raised on the stories of the method of implementing the forced repatriation of Iraqis from Britain. Reports reaching Iraqi Al-Amal indicate that refugees are informed on Friday's of the decision to reject their asylum applications with 72 hours notice to appeal or leave the country. It is almost impossible for a foreign person to react to such a decision over the weekend

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Date record was agreed: 15 September 2011

Background on interviewee:

Iraqi Al-Amal Association
Iraqi Al-Amal Association is a non-political, non-sectarian and non profit association of volunteers actively engaged in projects for the benefit and well being of the Iraqi population regardless of race, gender and political or religious affiliation.

Al-Amal was established in 1992. It started its work in Iraqi Kurdistan where many programmes and projects were executed.

In May 2003, the head office of Al-Amal was opened in Baghdad. Its activities and services are now provided throughout Iraq with the aim of rehabilitating the people and influencing the social consciousness towards the creation of a modern civil society. The programmes are aimed at combating all forms of violence and discrimination, the promotion of the culture of human rights, human security, gender and social peace, the carrying-out of income-generating projects as well as providing psychosocial and legal assistance and training courses for a variety of sectors of women, children and youth so that they can participate efficiently in public life. Al-Amal also advocates law reform, along with the rehabilitation of workers in police and judicial fields, with the aim of securing the supremacy of law and justice in society.

All projects are based on needs assessment studies and, although initially financed by funding organisations, the projects are continued on self-financing basis wherever possible.

Al-Amal has established a multi-layer control and monitoring procedure in order to maintain a proper accountability and transparency at all levels of management.

Al-Amal is registered at the Office of Assisting Non-Government Organisations under registration No. 1Z687. It is also registered at the Ministry of Interior, the Regional Government of Kurdistan in Arbil (Registration No. 1151 on 17/7/1994).

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Annex L

LETTER FROM BRITISH EMBASSY IN BAGHDAD, 'ENTRY PROCEDURES FOR UK RETURNEES', 19 OCTOBER 2011

Foreign & Commonwealth Office

British Embassy Baghdad
International Zone,
Baghdad,
Republic of Iraq

Country of Origin Information Service
UK Border Agency

19 October 2011

Dear Colleagues,

Entry Procedures for UK Returnees

UK returnees arrive at Baghdad International Airport (BIAP) on special flights chartered by the UK Border Agency or Frontex charter flights or individually on scheduled Royal Jordanian flights from the UK via Amman. Those returnees who are being escorted will be presented to a member of the Iraqi Immigration Service in the arrivals hall by the escorting officers. These officers will also provide the Iraqi Immigration staff with supporting Iraqi documentation relating to the returnee and the accompanying EU Letter. There is no specific list of documents required to secure entry at BIAP, but in the past, we have presented Iraqi ID cards, Jensiya (Nationality Certificate), military ID cards and driving licences. Copies of these documents are passed to this Embassy by UKBA and are subsequently presented to the Head of Immigration at BIAP when permission is sought to remove the individual to Iraq. Alternatively, some returnees may have been pre-cleared for removal to Baghdad on the basis of interviews carried out in the UK by officers from the Iraqi Immigration service.

The Iraqi Immigration Service will carry out a short interview of the returnee, in a private room adjacent to the arrivals hall, with a view to confirming his identity and nationality. In accordance with the current UK/Iraq MoU on Migration, if the Iraqi Immigration Service are satisfied that the individual holds Iraqi nationality and has sufficient Iraqi documentation to allow it, he will be taken forward for further processing. If not, he will be returned to the UK. If the returnee is allowed to proceed, biometric details will be captured and compared with existing details held on the immigration and security service database. Provided these show no outstanding police warrants or alerts for possible terrorist related incidents, the returnees details will be logged and he will be allowed to depart from the arrivals hall and out of the airport terminal to meet family and friends. Returnees in possession of their original Iraqi ID documents will be free to return home. Occasionally, returnees with copies of ID documents are detained within the arrivals hall

pending delivery of their original documents by family and friends. On some occasions, those arriving simply on the strength of a EU Letter (i.e. without copies of their Iraqi documents) are detained at BIAP police station until either family and friends produce evidence of identity, or the courts determine the nationality and identity of the individual. This was the case with a number of returnees from the UK on charter flights in 2010.

If biometric details reveal that a returnee has an outstanding warrant for his arrest or is wanted on terrorism charges, he will be passed to the Iraqi police at BIAP to be placed before a judge and entered into the Iraqi judicial system.

Until recently, and the introduction of biometric capture equipment (fingerprint scanners), a returnee would be interviewed by the Immigration service and processed for entry to Iraq. He would then be passed to the Iraqi Police for further questioning before being passed to the Iraqi Intelligence Service for questioning regarding possible terrorist links. Following an order from the Prime Minister's Office, the final two stages of this process are no longer practised unless biometric details require otherwise.

In general, the processing of all returnees to BIAP, whether from the UK or other European countries, has developed as increasing numbers of arrivals are dealt with. The current Head of Immigration at BIAP, appointed in March 2011, has introduced a more professional attitude amongst Immigration Officers. His staff are competent and efficient and treat returnees as they would normal passengers. Documented returnees are dealt with quickly and allowed to leave the airport to family and friends or to make their way home. Those without documents are allowed to contact family and friends to arrange delivery to BIAP or to provide proof of identity/nationality.

2nd Secretary Migration (Migration Delivery Officer)
British Embassy
Baghdad

Annex A

Background on 2nd Secretary Migration (Migration Delivery Officer)

The Migration Delivery Officer who prepared this statement was deployed to Erbil, in the Kurdistan Autonomous Region of Iraq, in March 2009 and worked out of the British Consulate General's Office. In September 2009 he transferred to the British Embassy Baghdad and continued to operate from there until October 2011. Prior to his assignment in Iraq the officer, who is a long standing member of the Diplomatic Service, has served in a variety of roles within the Foreign & Commonwealth Office.

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Annex M

LETTER FROM BRITISH EMBASSY IN BAGHDAD, 'RENEWAL OR REISSUANCE OF A CIVIL STATUS ID CARD AND PROVISIONS TO CHANGE PLACE OF RESIDENCE IN IRAQ', DATED 22 JANUARY 2012

Foreign & Commonwealth Office

British Embassy Baghdad
International Zone,
Baghdad,
Republic of Iraq

22 January 2012

ISSUE: Renewal Or Reissuance Of A Civil Status ID card And Provisions To Change Place Of Residence In Iraq

In addressing questions relating to the above issue, we received replies to our enquiries from representatives of four organisations; staff working for the Ministry of Displacement and Migration (MoDM) in Baghdad; Ministry of Interior in Baghdad; International Organisation for Migration (IOM), in Baghdad and Erbil in the Kurdistan Region of Iraq (KRI) of Northern Iraq, and the International Rescue Committee in Erbil (KRI) and Baghdad which included their Legal Advisor. From these sources, we were able to clarify a number of issues pertaining to the renewal or reissuance of a civil status ID card and provisions to change place of Residence in Iraq.

Our interlocutors at IOM, IRC and MoDM told us that the legal requirements for Iraqi citizens under the Civil status law 65 of 1972 were as follows:

- For new born children where one or both parents is an Iraqi citizen, to acquire an Iraqi civil ID the family must present a birth certificate, a valid civil housing card (police residence certificate), renewed civil IDs for one or both of the parents (the Iraqi Parent). One interlocutor (Lawyer) said that those whose parents are not Iraqi may apply for Iraqi Nationality however the law has many conditions and regulations.
- If the child is abroad, according to the Civil Status Law 65 of 1972 (amended) the parents must go to an Iraqi Consulate to obtain the civil status ID card.

If an Iraqi citizen needed to renew their civil status ID card they would generally be required to

visit the civil ID Office where his/her record is held. The applicant would be required to present a copy of their civil ID, copy of their Public Distribution System (PDS) "food ration" card, copy of their nationality certificate and residence card from the local council and 2 coloured photos. It is possible however for close relatives from the Father's side to visit the civil ID Office or Directorate on behalf of the citizen to reissue an ID or a power of attorney can be granted to somebody to do it on behalf of the person.

If the ID is lost, in addition to the above they would be required to produce a written statement declaring the circumstances around the loss which would be seen by an investigation court. In addition an announcement would need to be placed in a local newspaper. Whilst this may sound quite involved it was described by one of our interlocutors as being "a simple and straightforward" process.

Generally speaking people are expected to return in person to the place of origin to reacquire their Civil Status ID card. However there are exceptions:

- If a person does not feel safe in which case they can report this to the Ministry of Displacement & Migration who will be able to support the transfer of the record to the area they wish to live in now;
- The citizen is abroad in which case one of the provisos under Civil Status Law 65 of 1972 is that Iraqi consulates abroad liaise with the Nationality Directorate to enable citizens living abroad to facilitate the issue of their civil status ID card on behalf of the citizen. Citizens can make an application by:
    - Using an application form that is available at their Embassy they should submit an application to obtain a civil status ID card to replace one that has been lost or damaged.
    - The form should be completed by any of the following: the head of the family (male of female), the applicant (record holder), or a guardian or lawyer with the power of attorney.
    - The Consul is required to note down the applicants statement on an application form, stating the full name of the applicant who should also apply his/her thumb print placed onto the application. The statement should be signed by the Consul and sealed with a consular seal. If the request is for a lost ID a copy of the lost ID should be provided or that of a close relative such as his brother or Father or another relative. Our interlocutors further explained that an ID "book page" record number of an Iraqi remains the same for their life and the pages are closely linked to their relatives, so if their own ID or a copy is not available it is usually straightforward to identify the citizen from other relatives records.
- If the citizen is abroad and wants to obtain a civil status card for his/her children abroad the following procedure should be followed:
    - The parents should have registered their marriage with the Civil Status Department. If the parents do not have a copy of the marriage certificate he or she can issue a power of attorney to anybody inside Iraq to obtain a copy of the certificate from the Civil Status Department.
    - The newborn child should have been registered with the Civil Status Department but if they are abroad at the time of the birth the child should be registered with the Iraqi Embassy.

  - Once the child has been registered, a request may be submitted to the Embassy to obtain a civil status ID card for the child.

Source www.mofa.gov.iq/eng/faq/default.aspx

- In the event of a refugee or failed asylum seeker returning to Iraq on their passport, expired passport or a laissez passer travel document without a Civil Identity card, they would be able to pass through the security checks on the road to their home/temporary hotel/relatives or friends presenting their passport. Subsequently they would need to submit an application for a Civil ID card upon their return. This was described as potentially being a quicker process by MOI and MoDM contacts than applying from overseas.

EU letters are currently not acceptable for enforced or voluntary returns to Baghdad. A valid passport, expired passport or laissez passer travel document is required which was introduced by the Iraqi Government in October 2011. The MoDM and MOI said that they would be able to pass through Iraqi security check points explaining they were heading home. Similarly they would be able to rent a property, stay with friends or relatives or temporarily in a hotel until such time as their records are regularised.

Our interlocutors explained that the Iraqi Ministry of Interior operates at the policy level with ID cards being issued by the ID office which whilst if falls under the general responsibility of the MOI, operates at a more local level.

Our interlocutors stated that Iraqi Law allows for an Iraqi citizen to reside anywhere in Iraq. Within the disputed territories there is a committee referred to as the Committee of Article 140 who facilitate and support changes of residence and civil status records in these areas. The committee was established in Baghdad by the Council of Ministers with sub committees based in Kirkuk, Basrah, Missan, Wassit, Thi Qar, Khaniqeen (Diyala) and Sinjar.

To apply for a change of Residence, if the person intends to move within the governorate they need to take the following steps:

- The person is required first to go to the “new” place of residence and then return back to “cancel” the previous place of residence by notifying the local police station (s) and informing the local council’s representative in the area known as the “al mukhtar”.
- In the new place of residence they would need to produce the deeds or the rental agreement.
- Obtain an approval letter to transfer furniture from one area to another issued by the city council is also required.

If the person intends to move from one governorate to another, they are additionally required to notify the Internal Affairs Directorate within the General Directorate of Security and Internal Affairs of the Ministry of Interior, both in the original place of residence and the new residence. Our contacts explained that generally speaking a change in residence required the person to return in person to their original place of residence. However there were exceptions to this e.g. it may no longer be safe for them to do so.

Our interlocutors explained that generally speaking unlike the civil status card, a change of residency must be done in person, nobody can typically do this on behalf of an Iraqi citizen returning from abroad. Where however they are fearful of the security situation, in exactly the

same was as an Internally Displaced Person can request this, a returnee fearful of the security situation in their former residency can seek assistance via the Ministry of Displacement and Migration and local councillor ("al mukhtar").

In such circumstances the Ministry of Displacement and Migration and the local police would support them with the arrangements for the transfer. However our interlocutors added that the need for this was less and less as the security situation has improved considerably.

Our interlocutors explained that according to law No 95 of 1978 (amended) Iraqi's can temporarily reside for 30 days without notifying the authorities. Following this he or she must either return to their registered place of residence or notify the authorities and pay a daily penalty described as a "small sum" for each day they exceed the 30 days. However, this is not rigorously enforced as one of our contacts said in practice up to 2 months was permitted whilst checks are conducted. It is not unknown for it to be longer with no daily penalty being imposed.

Our contacts further explained that in practice checks are made after the individual approaches the police and local councillor saying he wants to move into the area. They check with the Army and police from the governorate he/she previously lived in.

Whilst the law stipulates that a person exceeding his/her stay in a place that is not his/her usual residency is subject to a per daily penalty, there is no evidence of any person being deported or expelled from a region because they do not possess a residency card.

British Embassy
Baghdad

This letter has been compiled by staff of the British Embassy in Baghdad, Iraq entirely from information obtained from the sources indicated. The letter does not reflect the opinions of the author (s) nor any policy of the Foreign and Commonwealth Office. The author (s) have compiled this letter in response to a request from UKBA and any further enquiries regarding its contents should be directed to UKBA.

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Annex N

LETTER FROM BRITISH EMBASSY IN BAGHDAD, 'FREEDOM OF MOVEMENT AND REQUIREMENTS TO TRANSFER PERSONAL DOCUMENTATION IN ORDER TO RELOCATE IN IRAQ', 27 JULY 2011

Foreign & Commonwealth Office

British Embassy Baghdad
International Zone,
Baghdad,
Republic of Iraq

27 July 2011

ISSUE: FREEDOM OF MOVEMENT AND REQUIREMENTS TO TRANSFER PERSONAL DOCUMENTATION IN ORDER TO RELOCATE IN IRAQ

In addressing questions relating to the above issue, we received replies to our enquiries from representatives of two organisations; staff working for the International Organisation for Migration (IOM), in Baghdad and Erbil in the Kurdistan Region (KR) of Northern Iraq, and the Director General of Planning and Follow-Up at the Iraqi Ministry of Displacement and Migration (MoDM). From these three sources, we were able to clarify a number of issues around relocation and the requirement to provide relevant documentation. We also sought advice from the British Embassy Legal Adviser.

Our interlocutors at IOM and MoDM told us that there are no laws restricting the freedom of movement for Iraqi nationals, neither are there laws which restrict Iraqi nationals from changing their permanent place of residence. In addition, there are no laws relating specifically to the freedom of movement of Internally Displaced Persons (IDPs). These rights of freedom of movement are enshrined in the Iraqi Constitution. That said, we were told that while there are no laws governing freedom of movement, there are certain 'regulations' which are required to be met, for instance the production of certain types of Iraqi documents and, in the presentation of personal information to the local council or police station.

We were told that Iraqi nationals are issued with four documents, a Iraqi Nationality Document, a ID card (Jensiya), a Residence Card and a PDS (or ration card). Iraqi nationals are required to present these documents when seeking to relocate, or for any number of other issues, such as buying a car, obtaining a passport, getting married etc.

Our contacts at IOM and MoDM were not able to confirm whether there was a legal requirement for an individual to be registered at a particular address or home area, but the representative of the MoDM suggested that this was a 'regulation' passed down from the Ministry of the Interior. He explained that there are four areas of legislation flowing from the Iraqi Constitution, to Iraqi Law, to Ministerial Orders and finally Regulations. Regulations governed the specific requirements involved in a process. The British Embassy Legal Adviser confirmed that 'freedom of movement, travel and residence' is also one of the fundamental freedoms granted to all Iraqis (including returning migrants and displaced persons) under Article 44(1) of the Iraqi constitution

All interlocutors confirmed that the main barriers to internal movement across Iraq are the regular security checkpoints. The officer from the MoDM suggested that these had been introduced around 1991 to control security and prevent areas becoming either predominantly Sunni or Shia. Provided an individual had the necessary identity documents, there was usually no problem in passing these areas. The IOM representative from the KR said that some differences exist in accessing that area of Northern Iraq where there was a requirement to produce a Residency Card issued by the Kurdistan Regional Government.

We were told that in order to relocate from one part of Iraq to another, it was necessary to provide the four documents mentioned above. In addition, there was a requirement to obtain permission from the council or security office in the area someone intended to relocate to. It might also be necessary to provide proof of accommodation in a new area, for instance a rental agreement or house deeds to allow an individual to relocate furniture and belongings from one area to another.

All contacts said that without these documents it would not be possible to transit security checkpoints. It was accepted that all Iraqi's had these four documents. Anyone without these documents would face difficulties in moving around a city, let alone trying to relocate.

Contacts told us that the MoDM, have processes in place to help IDPs and returnees obtain any missing documentation. In the KR, the MoDM equivalent, the Bureau of Displacement and Migration (BMD), also provides support with documentation issues.

The representative of the MoDM told us that it was not necessary for an individual to return to their registered place of residence to transfer documents to a new area of Iraq. The officer said that it is possible for instance to apply at a registration office in Baghdad, to have documents transferred from elsewhere in Iraq. He added that in practise this didn't happen as it was now safe enough for someone to return to their registered place of residence to arrange to transfer documents.

Interlocutors said that processes and procedures were the same throughout governorates across south and central Iraq. However, all agreed that the Kurdistan Region had slightly different requirements. All agreed that procedures around relocation were the same for Iraqi nationals wishing to move home and registered IDPs.

Representatives of IOM, both in Baghdad and in the Kurdistan Region, said that IDPs returning to Iraq for the first time since 2003 would be registered with MoDM (or BMD). The officer from the MoDM said that registration of IDPs continued, especially with those Iraqi's returning from Syria, Iran, Egypt etc.

The officer from the MoDM told us that under an updated version of their 2008 policy on displacement, the ministry are helping IDPs to relocate where they can. But at the same time, MoDM are encouraging IDPs to return to their original areas. MoDM (supported by IOM)

continue to help with documentation, legal advice on recovery of property and advice around employment etc.

British Embassy
Baghdad

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Annex O

LETTER FROM BRITISH EMBASSY IN BAGHDAD, 'MIXED SUNNI/SHIA MARRIAGES', 9 MAY 2011

Foreign & Commonwealth Office

British Embassy Baghdad
International Zone,
Baghdad,
Republic of Iraq

9 May 2011

ISSUE: MIXED SUNNI/SHIA MARRIAGES

In addressing questions relating to the above issue, we consulted a senior advisor to the UK Police Advisory team currently serving in Baghdad , a Intelligence Analyst from a commercial company working in Baghdad and a Iraqi representative of an International NGO with offices across Iraq. Our contacts explained that personal information relating to an individual's religious identity (e.g. Sunni or Shia) is not disclosed on any identification documents currently used in Iraq. Such information may be disclosed, i.e. to a police officer, but an individual has the right to refuse. In practise though, an individual's tribal name and place of birth will give a clear indication of their religious identity.

An individual's identity document may be requested for any number of reasons, including presentation to security officers/police at check-points, applying for a job, liaison with Government of Iraq departments etc. This documentation is also required as part of the broader process when an individual decides to relocate to a new area of Iraq. In order to relocate, an individual must be in possession of the following documents:

- The personal identification number which is issued by the General Directorate of Citizenship in accordance with Iraqi Civil Law Number 65 (1972);
- Iraqi nationality certificate;
- Letter of confirmation from the Civil Administrator of the intended relocation address;
- Letter from the police station in the intended area of relocation
- Declaration from the security services that the person is not involved in criminal activities.

An individual seeking to relocate without these documents is likely to face difficulties in

accessing basic food stuff as part of the ration programme. They may also face difficulties with police and security officials if their identity cannot be verified from centrally held records. An individual may not be given access to a particular area, i.e. with furniture/belongings without presenting identity documents. A Internally Displaced Person (IDP) who isn't able to buy or rent accommodation in their new location may also face difficulties when the authorities refuse to issue the required Housing Card which allows access to social services and schools etc.

We were told that there are no significant risks to mixed Sunni/Shia families and couples as opposed to those of the same religious affiliation. Marriages are possible through registration at a civil court ceremony without the requirement to provide evidence of one's religious identity. We were told that a marriage certificate will indicate whether the ceremony was carried out in accordance with Sunni or Shia practise. Although records are not maintained, anecdotal evidence suggests that the number of such marriages is increasing. According to our contacts, there are a number of areas in Central Baghdad and other major cities where mixed Sunni and Shia families live together. It was explained however that this is not always the case in rural and tribal areas where mixed marriages are less common. In other areas, it may be possible for a Sunni man to marry a Shia lady but not vice-versa. In rural areas, a mixed marriage couple may also face security risks from groups such as al-Qa'ida and the Islamic State of Iraq occasionally as part of ongoing 'Islamification' activities. Mixed marriage couples in the Kurdistan Region face no problems or security risks.

The Iraqi Government has welcomed mixed marriages and in 2006 introduced a scheme whereby Sunni and Shia couples were able claim US$2,000 once they were married. This scheme was introduced to help break down sectarian division. We were told by one interlocutor that this programme has since ended. One contact also said that that the Iraqi Government has contributed to the creation of divisions between Sunni and Shia by government departments preferring to employ people from one sect or the other.

It is difficult to offer an accurate assessment of the level of infiltration of the Iraqi Government and Iraqi Security Forces. However, according to our contacts, both Sunni insurgents and Shi'a militias are infiltrated into ministries and the security forces. It is further claimed that ISF, especially the Iraqi Police, are largely infiltrated by Shi'a militias who are funded and directed by Iran. Infiltration is suspected to reach to senior levels in Government and Security circles. We were told that it would be a straightforward process for a senior member of the government or a security body to take advantage of their position to access personal information of any other individual.

2nd Secretary Migration (MDO)
British Embassy, Baghdad

This letter has been compiled by staff of the British Embassy in Baghdad entirely from information obtained from the sources indicated. The letter does not reflect the opinions of the author(s), nor any policy of the Foreign and Commonwealth Office. The author(s) have compiled this letter in response to a request from UKBA and any further enquiries regarding its contents should be directed to UKBA.

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Annex P

LETTER FROM FOREIGN & COMMONWEALTH OFFICE, LONDON, 'IRAQ – INTERNAL TRAVEL', 7 JUNE 2010

UNCLASSIFIED
COVERING UNCLASSIFIED - SENSITIVE

Foreign & Commonwealth Office

07/06/2010

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IRAQ - INTERNAL TRAVEL

Dear

In the First Tier Tribunal (Immigration & Asylum Chamber)
Iraq Country Guidance Cases

An approach was made for information in relation to various issues concerning life in Iraq which we understand is required for the purposes of Iraq Country Guidance Appeals before the Upper Tribunal. The information provided below is fully disclosable and sourced where possible. The FCO has made every effort to use reliable and accurate sources, however, the FCO cannot be held responsible for inaccuracies made by said third parties.

Safety within Iraq

Although Iraq has made real progress in defeating the insurgency and moving toward political accommodation, security remains a challenge. However, the level of violence in Iraq is distinctly lower than previous levels which peaked in 2007. It is now dropping below the average levels that existed at the beginning of the insurgency in 2004; most of the violence related to the Sunni insurgency is now concentrated in Baghdad and in Diyala, Ninewa, and Salah ad Din provinces in central and northern Iraq. Fears that U.S. military withdrawal from Iraq's cities in June 2009 would trigger new rounds of internal violence have so far proved to be unfounded.

The period immediately before Parliamentary Elections in March witnessed a spike in violence, despite this, on Election Day, millions of Iraqi citizens were able to cast their votes.

Violent incidents since March suggest that Sunni and Shia groups continue to attempt to undermine a peaceful solution to Iraq's political and social issues. While negotiations continue over the formation of the new Iraqi government, there is a possibility of violent incidents aimed at destabilising this process and attacking the credibility of the Iraqi Security Forces (who have been the primary target for the majority of attacks).

Nevertheless the overall security situation in Iraq continues to improve and remains comparably favourable to previous years.

Internal relocation

Internal transport

The increasing stability across Iraq has brought an increase in the number of internal flights which are available between Baghdad and other airports across Iraq (including Iraqi Airways flights to Najaf, Mosul, Erbil and Sulaimaniya). These operate from Baghdad International Airport and are subject to the same rigorous security regime as all other flights to/from the airport. In addition to a growing number of domestic flights, Baghdad International Airport is now served by a number of international carriers, including Turkish, Gulf, Etihad and Emirates. Further to a growing aviation market, coach services operate from Baghdad to all major destinations in South and Central Iraq. Furthermore, there is a good road network across Iraq with taxis and private cars readily available. Iraq also has around 2,276 kilometres of rail network. While much of this is in disrepair, regular passenger services are operating between Baghdad and Basrah and Baghdad and Falluja. Further upgrades and investment are planned (including a metro system for Baghdad).

Travel/relocation documentation

Travel around Iraq without some form of documentation is likely to be difficult. However, a person wishing to remain in, or move to, an area of Iraq other than his or her home town does not have to visit their home town to obtain the requisite documentation for a relocation application. For those returnees who are unable to recover their original documentation, the Iraqi Ministry of Displacement and Migration, together with IOM and UNHCR, offer significant support to returnees, including the provision of two national registration centres, at Al Resafa and Al Karkh as well as legal services and re-documentation assistance. Furthermore, the Government of Iraqi is taking steps to improve the situation of internally displaced people and returnees through targeted policy formulation amongst other approaches. In order to relocate, an individual must be in possession of all the following documents:

- The personal identification number which is issued by the General Directorate of Citizenship in accordance with Iraqi civil law number 65 (1972);
- Iraqi Nationality Certificate which shows that the holder is Iraqi;
- A letter of confirmation from the Baladia Council (civil administrator) of the intended relocation town;
- Letter from the police station of the intended area of relocation;
- A declaration from the security services that the person is not involved in criminal activities.

The Ministry of Displacement and Migration, supported by IOM and UNHCR, operate Protection Assessment Centre’s where an individual is able to access legal advice and support with re-documentation and relocation.

Position of Kurds wishing to relocate

The Iraqi constitution provides that the State shall guarantee freedom of movement of Iraqi manpower, goods and capital between regions and governorates and that this is regulated by law. Iraqi Kurds are free to relocate outside the Kurdistan region of Northern Iraq (KR) should they wish to do so. There are, for example, significant numbers of Kurds in Baghdad. Equally, non-Kurdish Iraqi citizens wishing to relocate to the KR are free to do so. However, in reality issues around language barriers, a lack of employment opportunities and relatively high costs of accommodation often limit such movement.

Removals from UK to Iraq

Effecting returns

In 2008 the UK courts found that the UK was able to safely return people to Iraq. The security situation in Iraq is significantly better now than it was in 2008 and assisted voluntary returns to Iraq have increased year on year since 2007. Further to this the UK negotiated a mutually satisfactory returns agreement with the Government of Iraq; provision was made to ensure that returns occur in a safe and dignified manner, with the UK providing a returns package for those cases that have been found to have no lawful right to remain in the UK. The emphasis was placed on the ability of those returning being able to travel to their home area should they so wish and receive assistance in order to reintegrate into their country of origin as smoothly as possible.

Nevertheless, returning to Iraq has occasionally been frustrated for a variety of reasons. HMG is pursuing a wide ranging strategy in order to ensure that any potential issues are overcome in a timely manner. In an effort to ensure that a safe, sustainable returns route is maintained the UK invited a number of officials from the Iraqi Ministry of the Interior to the UK to carry out nationality interviews with believed Iraqi nationals in order to confirm their nationality. This ensured that those confirmed Iraqi citizens who had no legal basis to remain in the UK are able to return to Iraq at the appropriate time, indeed many of those confirmed as Iraqi nationals will be returning to Iraq shortly. Such was the success of this visit that it is foreseen that this process will be repeated and refined in the future to ensure ease of return for Iraqi nationals.

Assistance on return

In 2009, the Presidency Council issued the Ministry of Displacement and Migration Law No 21 providing the establishment of the Iraqi Ministry of Displacement and Migration (MoDM). MODM, with the support of IOM and UNHCR, is charged with providing assistance to a broad range of individuals including refugees, IDP returnees, asylum seekers, deportees and communities with specific needs. Assistance ranges from support with documentation to helping meet needs around health care, employment, housing, social welfare, property, registration and a range of other interventions.

Further official support for returnees is available from the Iraqi Ministry of Labour and Social Affairs.

Returnees from the UK are provided with direct contact details for these two Ministries. In addition HMG currently funds a German NGO based in the Kurdistan Region to provide returnees with the opportunity to participate in a re-skilling programme. This programme also makes provision for the local community in order to further the reintegration of those returning. The NGO provides opportunity to develop a range of skills targeted to improve an individuals

ability to support themselves in their country of origin. This programme is open to those individuals who were forcibly removed from the UK as well as voluntary cases.

[REDACTED]
Migration Directorate

cc: [REDACTED]

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Annex Q

COI SERVICE, COVER LETTER AND NOTE OF MEETING WITH HASSANAIN HADI FADHIL, SECOND SECRETARY, EMBASSY OF THE REPUBLIC OF IRAQ, LONDON, 5 JANUARY 2011

Home Office
UK Border Agency

Country of Origin Information (COI) Service

16 January 2012

To whom it may concern

Re: Iraqi Civil ID Cards and residency

The attached approved note was compiled by the Iraq country researcher, Country of Origin Information (COI) Service, UK Border Agency, solely from information provided by Hassanain Hadi Fadhil, Second Secretary, Embassy of the Republic of Iraq during an interview on 5 January 2012. The interview was informal and semi-structured; its subject was to discuss issuance procedures for Iraqis to obtain a Civil ID Card and other related matters. The note is not a verbatim account of the interview but accurately reflects the information provided by Mr Hassanain Hadi Fadhil.

Following the meeting, the note of the interview was forwarded to Mr Hassanain Hadi Fadhil and he was invited to make comments/changes he considered appropriate. Mr Hassanain made no comments or changes to the document by the deadline of 12 January 2012. On 13 January 2012 COI Service wrote to Mr Hassanain confirming that the draft notes would be treated as approved. The approval process ensures that the source is fully aware of the content of the notes and the information attributed to him. This process is in line with best practice outlined in the EU Common Guidelines on (Joint) Fact Finding Missions: a practical tool to assist member states in organizing (joint) Fact Finding Missions,November 2010
.
The attached note should therefore be considered in the context set out above.

Yours sincerely,

COI Service, UKBA

Note of meeting with Hassanain Hadi Fadhil, Second Secretary, Embassy of the Republic of Iraq, London, 5 January 2012

Hassanain Hadi Fahil explained that the Civil ID Card is required by law and that each Iraqi national, whether they were born inside or outside Iraq, is issued with an Iraqi Civil ID Card, this would be provided upon production of a birth certificate. Civil ID Cards were issued by the Ministry of Interior, Iraqi Civil Card Directorate, i.e. General Directorate of Civil Status.

Hassanain Hadi Fahil clarified that the issuance of the Iraqi Nationality Certificate, which was another key form of personal identification in Iraq, was overseen by the General Directorate of Nationality, which was also part of the Ministry of Interior. Hassanain Hadi Fadil added that these two departments although separate worked closely together, as both the Civil ID Card and the Nationality Certificate were required to issue an Iraqi citizen with an Iraqi passport.

Hassanain Hadi Fadhil stated that Civil ID Card recorded personal details about the card holder, also found on an individual's birth certificate including, full name, date of birth, place of birth and parent details. The Civil ID Card also included a photo of the card holder and additionally other information to verify the card holder's identity such as skin colour or eye colour.

Hassanain Hadi Fahil stated that Iraqi nationals residing in Iraq, who had lost their Civil ID Card and needed to obtain a replacement, would first be required to report the incident at a local police station where they would be given a police report recording that they had lost their Civil ID Card. The individual would then be required to return to the province, i.e. governorate which issued the card and visit a Civil Status office to get a new Civil ID Card issued. Hassanain Hadi Fadhil added that an individual would need to return in person to complete this process and that it was not possible to re-obtain a Civil ID Card for example through mail/correspondence or via family or friends. Hassanain Hadi Fadhil clarified that in each province, i.e. governorate there would be several Civil Status offices which could deal with such matters.

When asked whether there were any special arrangements in place for persons who feared returning back to a particular area of Iraq, for example due to fear of sectarian violence, Hassanain Hadi Fadhil stated that maybe up until 2007 there could be such cases, but now the security situation had improved significantly across all of Iraq and therefore individuals had no reason to fear returning to a particular part of Iraq to re-obtain their Civil ID Card.

When asked what the procedures are to re-obtain a lost Civil ID Card when an Iraqi citizen was in another country, for example the UK. Hassanain Hadi Fadhil stated that such an individual can come to the embassy and provide a photocopy of their Civil ID Card or another form of identification, such as a passport. Alternatively if an individual did not have a copy of any identification, they can provide a copy of a relative's identification, such as a brother or father. The individual would also be required to fill out an application form and provide details about how they lost their Civil ID Card. The Iraqi embassy would then act as an intermediary and return the application to Iraq and the Ministry of Interior, who could carry out enquiries as to whether the individual was listed on their Civil Status records. If such a record did exist they would reissue a new Civil ID Card and send it to the embassy in the UK where the individual could collect it.

Hassanain Hadi Fahil stated that there is a requirement in Iraq for the head of family to register their family's place of residence with the local council office, to prove that that family lives in a particular area. A residency card would also be issued to the head of family. Hassanain Hadi Fahil clarified that this registration of residency was overseen by the local government in each province, i.e. governorate and not by the Ministry of Interior. Hassanain Hadi Fahil further

clarified that this procedure was separate from the practice in Iraq for each family to report their presence/address with the local neighbourhood Mukhtar. According to Hassanain Hadi Fahil, the Mukhtar was usually an older person who had lived in a local area/neighbourhood for a long time and knew all the residents in that small area. Hassanain Hadi Fahil added that the local Mukhtar would however liaise with the local council to provide information about persons residing in their area.

In order to change a family's registered place of residence, for example when moving home, Hassanain Hadi Fahil explained that the head of family would need to seek approval from their current/former local council, verifying that they lived in that area. The head of family would also need approval from new local council the family intended to move to, to complete the registration process.

Hassanain Hadi Fahil clarified that the Iraqi Embassy in London did not have much involvement with such matters, as most Iraqis would deal such administrative business when they returned to Iraq. Hassanain Hadi Fahil was unable to provide any further information on the issuance of residency cards to Iraqis as such cards were only used in Iraq and not abroad.

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Annex R

UNHCR BAGHDAD, RESPONSE TO INQUIRY REGARDING RETURNEES / DEPORTEES: DOCUMENTATION, ASSISTANCE AND CONDITIONS AT BAGHDAD AIRPORT, 3 NOVEMBER 2011

UNHCR
United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

Disclaimer: The following document has been prepared by UNHCR in response to a request by an expert witness appearing before the UK Asylum Tribunal. It is based on information available to UNHCR at the time of writing, as well as anecdoctal information which should be regarded as indicative and not exhaustive.

Response to inquiry regarding returnees / deportees:
documentation, assistance and conditions at Baghdad Airport

1) Documentation / Assistance

a) Procedures for obtaining documentation: civil status identity card, nationality certificate, PDS card

i) Civil Status Identity card
The Civil Status ID card is issued by the Ministry of Interior (Director General for Travel and Nationality) through the Civil Status departments in the governorates.

An Iraqi identity card can only be issued inside Iraq. However, outside of Iraq the procedure can be initiated through an application to the Embassy of Iraq.

Requirements and procedures for obtaining an Iraqi identification card (on return to Iraq)
The following are required:
-. Application form, available from the Civil Status Directorate bookshop (5,000 Iraqi Dinars (IQD))
- Fiscal Stamp (IQD 750) available from the book shop of the Police Families' Martyrs
-. Birth certificate or proof of birth in the case of a child, and a copy of the father's civil status ID.
-. Housing card (or supporting letter from the local council to confirm the subject's residence),
-. PDS card,
-. Two personal photographs of each applicant (4 in Kurdistan Region)
The completed application form (with fiscal stamp), together with the photographs and documents listed above, should be taken to the Civil Status Directorate. The card will be issued and laminated, for a cost of IQD 500. The procedure can be completed within one day.
Relevant legislation: Nationality Law No.26 / 2006; Housing Law (as amended) No. 95 / 1978.

ii) Iraqi Nationality Certificate
Iraqi Nationality is governed by the Iraqi Nationality Law No. 26 (2006).

An Iraqi Nationality Certificate proves that a person is an Iraqi citizen, and is issued by the Ministry of Interior.
The following documents need to be submitted to the General Nationality Directorate in each governorate in person (powers of attorney are not accepted unless on behalf of minors):
- Completed Iraqi Nationality Certificate application form (with two 500 Iraqi Dinar stamps)
- Father's Nationality Certificate (original and copy); or in the event that this is lost, brother's, grandfather's or uncle's Nationality certificate will be accepted;
- Public Distribution Card (original and copy);
- Housing card (or supporting letter from the local council to confirm the applicants' residence)
- 2 personal photographs of the applicant (4 in KR)
In straightforward cases the Nationality Certificate should normally be issued within one day. In cases where a person does not have documentation to prove Iraqi citizenship, the process may have to be undertaken in Baghdad.

iii) Public Distribution System (PDS) card
The PDS card is prepared by the Ministry of Trade and is issued by the Planning and Supply Directorate, Supply Department. PDS cards are distributed by the branch supply centres which operate in all governorates.

The following documents are required:
- Civil Status ID of all members of the family (original and copy),
- Personal Civil ID Record,
- Housing card (or supporting letter from the local council to proof area of residence),
- Written statement by the head of the family confirming the accuracy of the information and documents submitted.
- All members of the family must appear at the PDS office for verification.
The PDS card is issued to individuals or families free of charge. The process takes approximately one month (whether Baghdad or the governorates).

b) Documentation and Procedures to change residency from Kirkuk to another location
The procedures for relocation / change of residency would depend on whether the family plans to move to a location in central/southern Iraq or KR.

Procedure for gaining access to / residency in KR: There is no written guidance / instruction on the procedures and requirements for entering or residing in KR. UNHCR has been closely monitoring the situation, and the following is based on extensive interviews and observations by staff and implementing partners.
Entry: At the checkpoints to the KR, individuals / families will be given a temporary access card (tourist, work or residence). A sponsor (who is from the KR) may be required at this stage; however, there is a lack of consistency in this, and many persons are permitted to enter without securing a sponsor.
Residence: Persons wishing to reside in the KR must obtain an Information Card from the neighbourhood security station (Asayesh), and at this point, a sponsor is required. Documentation including proof of rent, civil ID, nationality certificate and photographs are also required. The card will be issued for 3, 6 or 12 months, and allows freedom of movement throughout the KR, as well as rights to education, healthcare and employment (except in the public sector).

c) Documentation issued at Baghdad International Airport (BIAP) to a person who entered Iraq on a European Travel document to facilitate travel in Iraq?
Persons who enter BIAP with only a Laissez Passer or other travel document, will be held at the BIAP police station until their identity is established. If a person has no identification

documents, and no family members who could bring documentation to the airport, presentation before a judge will be required.
No documentation would be issued at the airport but a letter would be issued to facilitate the individual's movement back to their place of origin / relocation.

d) Assistance available at Ministry of Migration and Displacement (MoMD) Returnee Assistance Centres (RACS) and UNHCR Protection, Assistance and Reintegration Centres (PARCS)
MoMD RACS:
There are currently 5 MoMD Returnee Assistance Centres (RACS) in Iraq (2 in Baghdad, 1 in Diyala, 1 in Basra, 1 in Ninewa), and branch offices in all governorates (incl Kirkuk), offering advice and assistance to returnees. Pursuant to Order 101/ 2008 (2 August 2008) the Government of Iraq initiated the process of facilitation and support to returnees.

Broadly, returnees are entitled to the following:
- 4 Million Iraqi Dinar Returnee Grant (increased from 1.5 Million in mid 2011)
- Facilitation letter for possible exemption of electricity, water and telephone bills owed by the returnee in the property left behind during the period of displacement
- Facilitation letters for possible regaining of public sector employment (there is additional assistance to highly skilled former public sector workers such as University professors, access to education, property restitution, obtaining missing documentation, passports and letters from the Municipal Council.

A specialized reception committee in the RAC provides referral services to Ministry of Displacement and Migration (MoDM); the Iraqi Security Forces, (ISF) a Directorate and to the Government Real Estate Offices in Baghdad for property related issues including property restitution.

Eligible returnees are persons who:
- Fled between 1/1/ 2006 to 1/1/ 2008, and were displaced for not less than eight months outside of Iraq;
- Fled Iraq one year prior to 09/04/2003 and returned to Iraq after 09/04/2003; this group may also be eligible for additional returnee assistance from MoDM including allocation of land.

UNHCR Protection, Assistance and Reintegration Centres (PARCS)
UNHCR has an extensive protection / assistance outreach across all eighteen governorates in Iraq. The network of PARCs,[349] comprising fixed centres and mobile teams, provide legal counselling, assistance and referrals to appropriate service providers. PARC lawyers can provide legal representation in court and before administrative bodies, assist in the filing of complaints and in advocacy with local authorities. PARCs also provide advice and assistance on registration with MoMD, rights and entitlements.

Types of legal cases / issues with which the PARC lawyers assist include: Civil ID / Nationality, birth / death certificates, marriage, divorce / separation, inheritance, passport, PDS, education, moveable / immoveable property, compensation.

2) Procedures and Conditions on arrival to BIAP
UNHCR and implementing partner staff have been monitoring the arrival of forced return flights

[349] Prior to 2011, UNHCR had separate Protection and Assistance Centres (PACS) and Return Integration and Community Centres (RICCS). The PARCs are a merger of these two entities, with the aim of providing the full range of legal/humanitarian assistance in one structure. In Baghdad, separate PACs / RICCs continue to operate.

at Baghdad International Airport (BIAP) since early 2010. In late October 2010, formal permission was granted by the Government of Iraq for access to BIAP by UNHCR and specified IP staff. This has greatly enhanced the agencies' ability to monitor and interview returnees, enabling the provision of legal advice, assistance and referrals.

On arrival to BIAP, the returnees'[350] files are handed over by the security guards from the returning country (who accompany the returnees on the flight) to the Iraqi intelligence service. The files contain copies of the returnees' documents and the rejection of asylum document issued by the Immigration Office in the country of asylum (COA). Returnees are then obliged to undergo a series of individual investigations / interviews by a number of Government departments:

- Immigration, Ministry of Interior/Passport office;
- Intelligence Service
- Airport Military Intelligence / Security.

On completion of each section, an official clearance letter is issued by each department.

The procedures in each department are as follows:

- Immigration Service, Ministry of Interior/Passport Office:
  - Returnees' documents are reviewed and checked against the Central Iraqi criminal database to verify whether the deportee is wanted for any crime
  - Returnee is photographed and an entry stamp is entered on his/her Laissez Passer or Passport, if available.

- In the Intelligence Service:
  - Each returnee goes through an investigation by specialized officers (nature of the questions are unknown).
  - After completing the investigation, the returnee is referred to the Airport Security Department.
  - At this stage, the returnees are allowed to bring their luggage, buy food and use the toilet under the supervision of the Iraqi Security.
  - This process can take up to 8 – 10 hours

- In the Airport Military Intelligence/Security Department:
  - Each returnee is called for another investigation by the Security Officers, and then referred for another investigation by the Information Office.
  - The Security Office then sends a confidential letter to the Central Database of the Iraqi Ministry of Interior and other security entities to check if the returnee is wanted for a crime inside Iraq.
  - The returnees then wait in the same security office until they receive the final decision from the relevant security authorities. This process can take five hours or more.

  - If the result of the investigation showed that the returnee is wanted, he/she will be referred to concerned authorities by whom he/she is wanted, and then go through legal procedures.

  - If the result of the investigation clears the returnee, he/she is then allowed to leave the airport. Some of the returnees wait in the waiting area for their families, relatives or friends to fetch them.

[350] The term 'returnee' in this section is used to refer to persons forcibly returned to Iraq.

General conditions at BIAP

Returnees interviewed by UNHCR / IPs have not reported specific ill-treatment by the authorities at BIAP. However, planes frequently arrive into BIAP after midnight, and the late arrival and prolonged investigation procedures mean that returnees often have to spend the night in the airport. This is in particular the case of the returnees whose final destinations are in the Northern Governorates / KRG, and who are unwilling / unable to travel from Baghdad to such governorates at night due to insecurity of the roads and inside the cities. Financial assistance may be provided to the returnees by the authorities from the returning country for onward travel, however, there is no uniform amount / procedure, and some returnees have reported that amounts are insufficient to cover their transportation and assistance costs.

In addition, as noted in section 1 c) above, persons who do not have identity documents aside from the Laissez Passer will be held in detention until their identity can be confirmed; either by the provision of documents by relatives or by presentation before a judge. On a number of occasions where flights have arrived prior to a weekend / public holiday, this has necessitated lengthy stays in detention until courts reopen.

According to reports from returnees, families are not provided with any special assistance / treatment. Whilst waiting for their final clearance, returnees are provided with refreshments and a meal. Additional items can be purchased from the airport. Returnees report informally that the facilities are not adequate, for example, large numbers of persons waiting in small rooms, inadequate provision of food etc; however, UNHCR has not been able to confirm this information.

Baghdad, 3 November 2011

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Annex S

UNHCR, WRITTEN SUBMISSION PROVIDED TO THE UPPER TRIBUNAL, HM CASE, INTERESTED PARY'S RESPONSE TO FURTHER DIRECTIONS OF THE UPPER TRIBUNAL, 21 JUNE 2010, UNDATED, CIRCA JUNE/JULY 2010

UNHCR
United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

IN THE UPPER TRIBUNAL
(IMMIGRATION AND
ASYLUM CHAMBER)

AA/00817/2008,
AA/00688/2008,
AA/10936/2008,
AA/01419/2007

(1) Aziz (2) Margaye (3) Margaye, (4) Algazaz

Appellants

-and-

Secretary of State for the Home Department

Respondent

-and-

United Nations High Commissioner for Refugees

Interested Party

INTERESTED PARTY'S RESPONSE TO FURTHER DIRECTIONS OF THE UPPER TRIBUNAL, DATED 21 JUNE 2010

The information contained herein was gathered and compiled by UNHCR in London and Baghdad, together with UNHCR's legal aid implementing partners in Iraq. This information is submitted in response to questions raised by the Upper Tribunal (Immigration and Asylum) by way of Further Directions, dated 21 June 2010, relating to the conditions surrounding the return to Iraq of a number of failed asylum seekers, transported to Baghdad on charter flights on 9 June 2010 and 16 June 2010.

The individuals concerned have made statements to UNHCR and to its implementing partners regarding the nature of the returns and the level and circumstances of force used.

BACKGROUND

1. As per the Further Directions issued by the Upper Tribunal (Immigration and Asylum Chamber) on 21 June 2010, signed by Mr Justice Blake, please find below UNHCR's response to the request for information concerning events reported in the press suggesting the following:

a. on the 9 June flight a number of returnees were held for a week in overcrowded detention facilities;
b. Returnees of Kurdish origin were picked out for attention by the Iraqi authorities;
c. Kurdish returnees being organised by Sweden were flown on to an airport in the KRI without difficulty;
d. Inappropriate force had been used by accompanying security staff and Iraqi officials;
e. the UN is to investigate claims being made conceming these incidents and it is also said that, according to a member of UNHCR in Baghdad, 14 of the 42 failed asylum seekers involved have been interviewed by UNHCR lawyers.

2. By way of background please note the following. On 9 June 2010, a Frontex coordinated flight forcibly returned some 50 to 55 Iraqis from the UK (11), Sweden (exact number not confirmed), Norway (9) and the Netherlands (8) to Baghdad. On 16 June 2010, a similar flight forcibly returned 42 Iraqis from the UK.

3. In response to these two events, UNHCR sent letters to UK, Swedish and Norwegian governments expressing UNHCR's concerns with forced return of persons from central Iraq. On 8 June a press briefing note to this effect was also issued in Geneva on UNHCR's position (see attached). The United Nations High Commissioner for Refugees António Guterres was interviewed by the BBC on 18 June 2010 on the occasion of his visit to Syria. He stated "*The numbers of forced returns are small and there are some areas in Iraq where return is possible without great concern. But in Baghdad, in areas of Central Iraq, we still consider a security situation that does not allow for those returns to take place. We are recommending that people are not forced to go back against their will and I mean if one sees the news every day one can understand why our concern is so clear."* UNHCR Baghdad with the help of implementing partners has been able to do some monitoring of these returns.

4. The UK authorities replied to UNHCR's letter of 4 June 2010 on 16 June 2010. The UK Government stated that the UKBA carefully considers all asylum and human rights applications on their individual merits, in accordance with obligations under the 1951 Convention, the ECHR, and the EU Qualification Directive - Article 15c. The Government indicated that the UK remains of the view that except in the exceptional circumstances provided for by Article 15c of the EU Qualification Directive, persons are not treated as being at risk simply because they originate from a particular country - or a part of a country - when the Government, and the independent courts, have found that there is no real risk to them personally.

RETURNS TO IRAQ

5. On 9 June 2010, a plane landed at Baghdad International Airport at 5:55 pm with 55 persons (51 Kurdish and 4 Arabs) on board who resided previously in the UK, Sweden, Norway and the Netherlands. They have been living outside Iraq for five to twelve years.

6. According to UNHCR Baghdad office, on 17 June 2010 at 6 am a plane landed at Baghdad International Airport carrying 42 Iraqi deportees from the UK (six of Arab and 36 of Kurdish origin). All asserted that they had been detained by the UK authorities because they were living illegally in the UK and were deported by force to Iraq. Individuals who were interviewed at the airport by UNHCR and its implementing partners confirmed that none of them were abused during detention in the UK. However some claim to have experienced or witnessed mistreatment during their removal, further described below in the individual statements. The accounts of the individuals interviewed suggest that certain returnees were manhandled and/or handcuffed.

7. After the arrival in Baghdad, eleven deportees from UK were reportedly held at Baghdad International Airport in one small room with two beds and one toilet for twelve persons. The eleven in question are from Dohuk, Suli, Erbil and several from Khanaqin. It was confirmed by the Iraqi authorities to UNHCR that all returnees were held for routine security and identity screening purposes.

8. The information set out below is based on interviews conducted at the airport as well as on follow up interviews, some of which were carried out by telephone. While some persons referenced their asylum claims in the UK and indicated that they had been unable to access an appeals process, UNHCR's primary concern in interviewing the individuals on the return flights was to assess and meet protection needs and assess the circumstances of return.

9. UNHCR staff in follow up with the concerned persons provided a briefing on UNHCR services available and also checked the individuals' ability to return to place of origin, to be reunited with family members, their access to employment or other source of income; their access to education; access to medical care, and documentation of civil status including Public Distribution (ration) cards and identity papers.

10. It must be noted that monitoring of many returnees in Iraq and in particular those who have been forced to return is extremely complex due both to logistical and security concerns. It is further complicated by the concern of the individuals themselves to maintain a low profile. The majority of those screened have stated that they feel extremely unsafe and intend to depart from Iraq at the first opportunity. Some are in hiding and due both to their concerns and the short length of time available could only be interviewed by telephone. Thus UNHCR has not been able to follow normally appropriate procedures including obtaining the written consent of the concerned persons to be placed on record in the forthcoming or further Court proceedings, nor has it been possible to establish identity to the extent desirable. Therefore identities have been anonymised accordingly.

INDIVIDUAL ACCOUNTS

11. In addition to the information collated by UNHCR after the second flight (16 June), follow up interviews with deportees have been documented for five individuals. We include, below, relevant information relating to four of these individuals:

KFA:

Reportedly detained (in the UK) during weekly confirmation in residency office for one day, and stated that he was detained prior to removal from 26 May 2010 to 16 June 2010. He made no claim of ill treatment during the deportation process. He has been reunited with family and is currently supported by his mother. He does not have access to medical care or education; He wishes to leave Iraq due to protection concerns.

FOK:

Reportedly in detention in the UK from 2005 due to a fight with British citizen. He was deported after more than 5 years in prison. He has now been reunited with his family (sister) and has no access to medical care or education and is unemployed.

HSA:

Confirmed forced return from the UK, stated no ill treatment, but stated that he witnessed the beating of others in his group. Held in Baghdad and returned to the KRG. Arrived in the UK in 2001 and was granted leave to remain which was not renewed in 2005. He was detained for 18 months. Upon return to Iraq he was held in detention at Baghdad International Airport. He is now in hiding in the KRG because he believes that his life will be in danger should he be identified within the community. Because of his identity and background he believes that it would be dangerous for him to stay with his mother and he is seeking to depart from Iraq at the earliest opportunity. We note that, due to a poor telephone connection, it was difficult to ascertain all details.

RJH:

Reportedly entered the UK on 17 December 2007 and resided in Liverpool. He claims that the UK police invited him for questioning on 1 May 2010, and was detained and deported. In his further statement, he says that on June 16, that those rejected Iraqi asylum seekers who refused to board the plane were handcuffed by British security guards. On June 17, when the plane landed in Baghdad International Airport, he stated that an Iraqi officer came on board and requested the deportees to step out from the plane. Allegedly, the deportees refused and were dragged out by force and one of the British security guards grabbed RJH by the neck and he believed they were about to suffocate him. RJH stated that he requested an interpreter, to speak to the Iraqi officer but he was denied this request and insulted.

According to RJH, all the deportees were locked up at the Baghdad airport for eleven days under very difficult conditions where they had very limited access to the toilet and had only one meal a day. RJH claimed that an official requested $200 per/head for releasing each of them. After release from detention, eleven deportees from Kurdistan, were taken to the airport and sent to Erbil. The deportees received by the official(s) at the airport in the KRG were then transferred to Security Prison inside Erbil town and stayed there for one night. The next day, all the deportees were released after provided necessary documentation proving their nationality.

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Annex T

EUROPEAN COUNTRY OF ORIGIN SPONSORSHIP (ECS) PROGRAMME, REQUEST FOR INFORMATION SUBMITTED BY UKBA'S COI SERVICE TO THE IRAQ ECS EXPERTS TEAM, DATED 30 AUGUST 2011, COMPLETED 22 SEPTEMBER 2011

European Country of Origin Sponsorship (ECS) introduces an information and co-operation network that allows all European countries to profit from Country of Origin Information.

A. Request

Requesting ECS Contact/Person

Contact details:
Name: [redacted]
Country: UK
Authority/Organisation: UK Border Agency
Phone: +44 020 [xxxxx]
Fax: + 44 020 [xxxx]
E-Mail address: [redacted]

Request Details

Country of Origin: Iraq

Context / Background (optional if needed): We are currently investigating alleged claims that returning failed asylum seekers from the UK are subject to human rights violations.

Question/Subject Alleged reports of human rights violations against returning failed asylum seekers.

1. Do you have any COI relating to the treatment of failed asylum seekers, returning from European member states, by the Iraqi authorities at Baghdad International Airport, or in detention facilities near/in the airport following arrival.

2. Do you have any COI which indicates certain returning failed asylum seekers may be at particular increased risk (eg: ethnic groups – Sunni or Shia Arabs, Kurds, other

minority groups; persons travelling on EU letter documents as opposed to regular travel documents; persons travelling on charter (as opposed to scheduled flights); persons returning under escort; persons non-compliant during return procedure; persons with any other known risk factors – eg; from a particular geographical region, tribe, criminal record, or host country.

3. Do you have any COI relating to the treatment of other Iraqi nationals, (including illegal migrants) returning from European member states, by the Iraqi authorities at Baghdad International Airport, or in detention facilities near/in the airport following arrival?

4. Do you have any COI to explain what, if any, checks are made by NGOs, diplomatic missions or other human rights monitors involved in the return of Iraqi nationals from European member states?

5. Do you have any COI to illustrate the procedures currently in place by the Government of Iraq for processing failed asylum seekers returning to Baghdad International Airport?
6. Do you have any COI data on returnees from European member states which can be disclosed in the public domain? (EG: number of enforced/voluntary returns to Baghdad airport per year; charter/scheduled returns; including breakdown of persons returning under an EU letter document; religious sect; ethnic group)

Date of request: 30/08/2011
Timeframe: Completion till: 22/09/2011

Date of answer: day/month/year

Already used sources of information, if any:

Danish Immigration Services: Security and Human Rights in South/central Iraq September 2010
Amnesty International: State of the World's Human Rights, 13 May 2011
Embassy of the US, Baghdad-Iraq, Security companies

B. Answer of the ECS Experts Team

The present answer has been elaborated by the COI Unit in Sweden within the framework of the partnership provided for in the ECS project.

Disclaimer on Sources and Information

This report was written according to the Common EU Guidelines for processing COI (2008). All sources used are referenced. All information presented, except for undisputed/obvious facts, has been cross-checked, unless stated otherwise.
The information provided has been researched, evaluated and processed with the utmost care within a limited time frame. However, this document is not exhaustive. Neither is this document conclusive as to the merit of any particular claim to international protection.
If a certain event, person or organization is not mentioned in the report, this does not mean that the event has not taken place or that the person or organization does not exist. The information in the report does not reflect the opinion or policy of the sponsor country.

Executive summary (optional) or Main keywords (advisable)

Treatment of returnees at Baghdad International Airport (BIAP)

[Answer:]

1 and 2. We have no information indicating that certain Iraqi failed asylum seekers are at particular increased risk when arriving at BIAP. On a fact-finding mission (FFM) to Baghdad late October/early November 2010 we were told by various interlocutors that Iraqis returning from Europe face the same problems as the Iraqis returning from the neighbouring countries – irrespective of ethnicity or religion. But then we are talking about problems like security, housing and electricity. As for the treatment at BIAP, UNHCR cautioned that returnees without valid travel documents may be taken into custody and interrogated. Valid travel documents is a must. In order to avoid any problems on arrival it is advisable that the failed asylum seekers return by themselves, but chartered flights have worked, although with some critizism from the Iraqi authorities.

3. Stateless Palestinians from Iraq returning as failed asylum seekers are, according to the migration authorities at BIAP not allowed re-entry. All in all it seems very difficult for those persons to return if they stay out of Iraq for more than three months. Stateless Palestinians having been forcibly returned have routinely been interrogated. It is not known how the treatment was during the time in custody.

4. –

5. –

6. In 2010 around 1 400 Iraqi failed asylum seekers returned on their own (voluntarily) to Iraq. 391 were forcibly returned.

So far this year 524 have returned voluntarily and 298 were forcibly returned.

Consulted (additional) sources of information

- Delrapport fån utredningsresa till Irak – oktober/november 2010 (utsatta grupper – kristna), Migrationsverket 2010-12-09, Lifos 24184, http://lifosintern.migrationsverket.se/dokument?documentSummaryId=24184

- Colleagues working with returns, Migrationsverket 2011-09-19

- Irak: Palestinere i Irak. Kontroll/arrestasjon på grensen av palestinere som vender tillbake, Norsk Landinfo 2011-03-02, Lifos 24707 http://lifosintern.migrationsverket.se/dokument?documentSummaryId=24707

Annexes

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Comments of the ECS Expert (optional)

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☞For any Feedback related to this answer please contact one of these focal points: mail@hotmail.com

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