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## **COUNTRY OF ORIGIN INFORMATION – IRAQ**

### **Introduction**

This paper is intended to provide as much information as possible about the current situation in Iraq, and is written on the basis of input compiled from a number of different sources interviewed in Jordan, Kuwait and at the Kuwait-Iraqi border during the month of June 2004. Sources include many Iraqis from the three main regions of Iraq whose regular residence is in Iraq as well as UN personnel from various organizations and NGO local and international staff members working both within and outside of Iraq. It addresses various issues which not only affect everyday life in Iraq, but which may also be taken into consideration by Iraqis abroad who are considering return, or whose host Governments may currently be considering returning rejected Iraqi asylum seekers. Due to the conditions under which the information was gathered, and specifically the inability of UNHCR to visit Iraq and collect information first-hand, this paper should by no means be considered exhaustive as concerns the issues covered but rather as an additional source which may provide interested parties with information which is often not reported in the press but is nevertheless an important part of day-to-day life and the struggle for survival in present-day Iraq.

### **I. Security Situation – General Overview**

The security situation and its implications on the lives of all those who either live in Iraq or wish to return to Iraq from abroad continues to be the major challenge in post-war Iraq. Since the invasion by the Coalition Forces in March 2003 and the ensuing fall of the former government, Iraqis have been plagued by nearly daily incidents in all parts of the country ranging from harassment, kidnapping, theft and looting, and vandalism to full-scale attacks involving bombs and or other explosives which have often resulted in the death and injury of many persons. While these attacks appeared initially to directly target only members of the Coalition Forces, it has become apparent that insurgents hope to dissuade any foreign national or country from participating in the reconstruction in Iraq (e.g., kidnappings of Pakistanis, Philipinos, Indians, etc). Iraqis employed by the UN, NGOs and foreign contractors as foreigners who work for any of the above are also at risk. The daily lives and activities of civilians (the main victims of this situation in all parts of Iraq) are severely affected by this situation, although only the most spectacular of these attacks or those involving foreign nationals are generally reported upon by the international press. Furthermore, intellectuals, medical staff, doctors, journalists, artists, as well as anyone associated with or seen to be supporting the new Interim Iraqi Government are increasingly becoming targets of both harassment and attacks. In particular, members of the Iraqi police force as well as potential police recruits are often the victims of such attacks.

Many of these acts of violence are perpetrated by Islamic extremist groups such as Al-Tawheed wal Jihad and are often announced via internet websites. Others may be carried out by persons or small resistance groups still loyal to the previous government, while others still are simply acts of personal vendetta. The main goal appears to be the destabilization of the authorities in Iraq, be it the previous Coalition



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Provisional Authority or the newly appointed Interim Iraqi Government to whom the CPA handed over power on 28 June 2004. Several IIG members and other political figures have already been either killed or are the target of attacks and there is currently no indication that this trend will cease.

While the poor security situation in the Baghdad area is widely acknowledged and publicized, it is important to note that security problems are not limited to the centre, but also extend to the south and north of the country. Residents from the north described the security situation in this region as “a time bomb ready to explode” and emphasized that the North’s more stable infrastructure should not be interpreted as meaning that security problems in the North do not exist. Permanent check points exist on the main entry/exit points linking Erbil, Duhok and Sulaymaniya and are regularly patrolled by Iraqi Civil Defense Corps (re-named Iraqi National Guard following the handover) and local security forces. The situation in Mosul and Kirkuk has been particularly tense in recent weeks and a number of security incidents including explosions, attacks on police stations and pipelines, assassinations or assassination attempts of political figures and kidnapping have occurred in both cities.

## **A. Law enforcement and police structures**

A great deal of effort has been made by the Coalition Forces to revise and revamp the structure, methods, and composition of the Iraqi Police Forces in the hope that the Iraqi Security Forces will be capable of providing adequate security following the Transition of Authority on 28 June 2004. Through the so-called Security Sector Reform, four entities (IPS – Iraqi Police Service; ING – Iraqi National Guard (former ICDC – Iraqi Civil Defense Corps); FPS – Facilities Protection Service; and ICS – Iraqi Correctional Service) were created.

As of June 2004, the ING was the most successful of these institutions and constituted a total of 5082 persons. Specialist training by Coalition Forces was being carried out, although the operational effectiveness of such training was hampered by delays in the delivery of specialist material necessary for the training courses, which include among others EOD (explosive ordinances disposal) and DBE (Border monitoring) training. The future of this unit following the handover of power remains to be seen and will depend on the Iraqi authorities. While ING members may become part of the army, the unit may also be disbanded.

According to the Coalition Forces (CF), the Iraqi Police service requires a total of 6928 persons, of whom 63% had been trained by June 2004. The Iraqi police officers are being trained by the Jordanian Police for an average period of 3 months (for specialists: 6 months). While the training is considered to be of high quality, it is too short in order to be efficient. In addition, while many policemen of the former regime have been re-instated in their functions, CF stressed that the re-training of former policemen has represented a far greater challenge than the training of first-time policemen. Some of the main problems encountered with former policemen include:

- limited leadership at all levels;
- a legacy of corruption;
- the influence of political/religious parties;
- a reluctance to take control;



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Despite the introduction of a Code of Conduct, the temptation for police officials to supplement their meagre salaries through corruption is of particular concern. Nevertheless, a strong willingness to learn and good attendance for duty have also been demonstrated. The accountability of the Iraqi Police Forces currently falls under the Minister of Justice.

The Iraqi Correctional Service (ICS) currently comprises three operating prisons, which the Coalition Forces described as having “modern standards of incarceration” as compared to those of the former regime under which incarceration often took place in special cells located in police stations.

Deployed security personnel from the ING, Police, ICS and Border officials lack equipment, including radio communications, vehicles, uniforms, weapon kits and other essential items. Though Iraqi and Coalition money had been spent to re-equip the personnel, contracts under-estimated required quantities and ordered items have been severely delayed. Likewise, the national budget has not yet absorbed the operational costs for the services, including for salaries and premises. Important and necessary services – such as the border service – are critically understaffed in terms of personnel and premises.

The general Iraqi public lacks faith in the capacity of the Iraqi Police Forces to effectively maintain law and order, an attitude which has to date been repeatedly confirmed by the numerous security incidents currently plaguing Iraq. Many crimes are therefore simply never reported to the police. In turn, perpetrators generally carry out acts of violence, vandalism and other crimes without particular fear of prosecution or conviction. As a result, more and more people have begun to rely on other forms of protection such as tribal links and or vigilante-type justice.

Following the hand-over, some local councils have requested that militias assist in the provision of security services. Militias have an unknown chain-of-command, lack standard operational procedures and tend to blur the distinction between law enforcement and judicial procedures. For example, on 30 July 2004 four Iraqis were arrested, interrogated, charged, tried and executed by a militia in Najaf. The four Iraqis were mistakenly accused of involvement in a car bombing. The four Iraqis were national staff members of a French NGO, and an implementing partner for UNHCR in the Muthanna governate.

## **II. Protection and Human Rights Situation**

The situation of human rights in Iraq was recently the subject of an extensive report produced by the United Nations High Commissioner for Human Rights<sup>1</sup> to which UNHCR contributed. Readers seeking specific information related to a particular ethnic or social group are thus encouraged to refer to the above-mentioned report. While many of the human rights problems mentioned below are faced by the general population, i.e. freedom of movement and the situation of women, etc., the present report focuses primarily (with the exception of the sections on Christians, Marsh

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<sup>1</sup> Report of the United Nations High Commissioner for Human Rights on the present situation of human rights in Iraq, E/CN.4/2005/4, 9 June 2004.



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Arabs and women) on the human rights situation as it affects persons of direct concern to UNHCR (namely refugees, internally displaced persons and returnees) who are often, because of the particularity of their situation, more vulnerable than members of the general population.

Refugees have witnessed a marked deterioration in their access to basic services and other humanitarian assistance. In addition, as regards respect for their basic human rights, the situation changes according to groups and regions, but is overall far from satisfactory. The following paragraphs attempt to give an overview of the respect or violation of some these rights:

## **A. Freedom of movement**

Most legal restrictions to freedom of movement disappeared as a result of the fall of the former regime. Nevertheless, freedom of movement in all parts of Iraq is severely restricted due to the security situation. While there is no formal prohibition of movement, many people have chosen to “self impose” a curfew and do not venture out in the evening. Road travel is hazardous due to the possibility of mined areas, and is further restricted due to the numerous military checkpoints which have been set up, especially in and around Baghdad as well as at the “green line”, which separates the northern governates from central Iraq. Freedom of movement is further hindered by the additional illegal checkpoints which have been set up by armed groups linked to various political parties.

As for the rest of the population, the effective exercise of a refugee’s right to move freely remains limited by the increased violence and insecurity. This in turn hinders their possibilities for self sufficiency. Moreover, the fact that there is no longer a central authority which currently issues recognized travel documents to refugees also limits their capacity to travel abroad.

## **B. Detention**

Welcome amendments to the Iraqi Penal code prohibiting the use of torture and cruel and inhuman or degrading treatment or punishment were made by the Coalition Provisional Authority during its occupation and administration of Iraq. UNHCR is nevertheless aware of some cases of arrest and detention of Palestinian and Syrian refugees. Some cases have remained *incommunicado* while others have had the right to legal counsel and have been subsequently released. Reports concerning several cases who are still being detained without charge and whose whereabouts are unknown have also been received by UNHCR. Families often do not know where their relatives are detained and what the charges against them are. Many families have to travel to multiple prisons across the country searching for news. The right to meet with their families and lawyers and to have a judicial review of their detention is to date still denied to many detained persons.

Furthermore, UNHCR has noted a recent but limited trend of arrest and detention of Iranian refugees in Northern Iraq. These cases are monitored through local staff and locally hired lawyers. Moreover, a few cases of returnees being detained upon arrival to Iraq have been reported.



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### **C. Right to personal security**

Palestinian, Syrian, and Iranian Ahwazi refugees were perceived by the rest of the Iraqi population as having received privileged treatment from the former Iraqi Government in the form of specially subsidized housing and employment possibilities, among others. Following the fall of the previous regime and in the aftermath of the war, many members of these groups have been subject to physical aggression and harassment by non-State-agents including neighbours, landlords, and opponents to the previous government.

### **D. Socio-economic rights**

The breakdown of law and order, prevailing situation of insecurity as well as the lack of a proper and recognized refugee status has strongly affected refugees' enjoyment of basic socio-economic rights such as the right to health care and education. Syrian refugee students, who previously attended university free of charge, have been asked to pay tuition and many refugees are not able to afford health care and are given last priority at public health centres. Following an intervention by UNHCR with the Iraqi authorities, the tuition fee for Syrian students has nevertheless been waived.

### **E. Freedom of expression**

Freedom of expression of the media in Iraq has been notably better since the fall of the previous regime. A number of different newspapers of varying qualities are published and distributed in all parts of Iraq and may be bought and read by anyone.

### **F. Freedom of religion**

The possibility for Shia Muslims to openly practice their faith since the fall of the previous regime appears to be a positive development. However, the increasing trend of harassment and discrimination of the Iraqi Christian population is a worrying sign for the future.

### **G. Christians**

It was unanimously acknowledged by all persons interviewed that the situation of Christians in Iraq has dramatically deteriorated since the fall of the previous regime. This change may be attributed to one or several of the following:

- The Coalition Forces are predominantly made up of persons from Christian nations. Christians are therefore seen to be *de facto* supporters of the Coalition Invasion of Iraq;
- Christians are regarded as “infidels” by the more Islamic fundamentalist and or extremist elements of Iraqi society;
- Christians have traditionally been involved in the alcohol trade in Iraq. The combination of economic benefits and non-Islamic values of this activity is resented by both the more fundamental elements of society, as well as for those who are unemployed.



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Resentment towards Christians appears to be particularly hard felt in the South, as well as in the so-called Sunni triangle, where there is currently a trend towards a stricter interpretation of Islam. Persons interviewed reported several incidents of Christian-owned alcohol shops being targeted by small explosive devices and or ransacked, with the end result being that the families had decided to leave the area. While it is possible that these stores were targeted for religious reasons, many people felt that it was also possible that the perpetrators were simply jealous of the economic benefits these shops procured to their owners and wished to appropriate the shops for themselves. Due to the perceived ineffectiveness of the police as well as the religious element of these crimes, most such crimes are never reported to the police. Those targeted prefer to remain discreet and seem to be opting to leave rather than to face further harassment. The latest explosions aiming at churches in Baghdad and Mosul on 1<sup>st</sup> August 2004, as well as the increased number of Iraqi Christians who have sought refugee in neighbouring Syria in the past three months is indicative of a turning point in the deterioration of the situation of Christians in Iraq.

Christian women have also been harassed and pressured by the extremists groups to adopt a certain type of dress which includes wearing a headscarf.

## **H. Women**

Under the Saddam Hussein regime, women had some of the most liberal protections of any Muslim country under Iraqi legislation which prohibited marriage under the age of 18 and denied favouritism to men in inheritance, divorce and child custody. It was even common for Iraqi women to hold political office, and the U.N. ranked Iraq as the Arab country with the highest level of gender equity prior to the 2003 invasion.

Although CPA Ambassador Bremer refused to endorse the Iraqi Governing Council's Act 137 dated 29/12/2003 (which would have replaced Iraqi civil law concerning family law with Shari'a law) on the grounds that it deprived women of their basic rights, the new Iraqi Interim Constitution nevertheless does not allow women equal rights to marry, equal rights within marriage, nor equal rights to divorce. It does not guarantee them the right to inherit wealth on an equal basis with men and it fails to guarantee Iraqi women married to non-Iraqi men the right to give citizenship to their children. If adopted and ratified in its present form, the constitution will make Islam one source of law, and this could mean that anything contradicting religious codes may not be allowed. For example, Islam allows men to marry many women and does not require a minimum marriage age.

Many human rights and women's organizations are currently lobbying that these issues should be addressed in the new Constitution. The United Nations Development Fund for Women (UNIFEM) is currently trying to implement a strategy to support women leaders in Iraq. UNIFEM works with the Interim Iraqi Government and has assigned a gender focal point to each Ministry. A Ministry of Women's Affairs has also been created.

Since the fall of the previous regime, the situation of women has declined. Muslim and even Christian women are increasingly being encouraged and indeed pressured to wear a veil. Many Christian women have taken to wearing a veil simply to avoid drawing attention to themselves. In the aftermath of the war, certain groups also took



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positions at universities, hospitals and other institutions and ordered women to cover their heads and put on a scarf at all times. Such attitudes affect women's right to move freely and to have free and equal access to employment and other social services. In the South, more and more women are being discouraged from decision-taking and prevented from participating in public life, despite their powerful sense of motivation to empower themselves.

In the centre, women are particularly affected by the security and situation of lawlessness in Iraq, especially as concerns their freedom of movement due to the threat of kidnapping. In the North, despite the fact that a law now defines honour killings as straightforward murder, crimes of this type still take place, and women who are, for example, victims of sexual aggression, are nevertheless frequently ostracized by their family members in an attempt to preserve the family's honour. There is currently one centre for women who are victims of honour crimes. However UNIFEM stated that they do not believe that the existence of the centre is well-known among the female population in the North. There is no type of referral system in place for women who have problems, and police are generally not gender-sensitive. As a result, many gender-related crimes are never reported, especially by the victim who most often chooses not to draw further attention upon or expose herself by filing a report with the police.

## **I. Marsh Arabs**

The majority of Marsh Arabs are concentrated in southern Iraq (Bashrah and surrounding governates). Marsh Arabs have traditionally been regarded by other Iraqis as a very distinct group. A number of international NGOs with projects in the south attested to the fact that Marsh Arabs are often considered by the local population as second class citizens and discriminated against, both as regards access to employment as well as to basic services. Marsh Arab returnees from Iran seem to be especially suspicious in the eyes of the local population and are generally blamed for any criminal activity which takes places in the south.

## **J. Statelessness and documentation**

Statelessness is a major issue in Iraq. Up to half a million Iraqis (including Faili Kurds and Arab Shi'ites) were stripped of their nationality by the previous government and expelled to Iran. Meanwhile, Bidouns (stateless nomads) live on either side of the Iraq/Kuwait border. In addition, children of mixed marriages (particularly in cases where the mother is Iraqi and the father of another nationality) may face problems if they wish to return to Iraq, while women (such as those who have married men of another nationality) may face particular obstacles when they wish to return. In the recent past, nationality issues have not been decided in courts, and nationality laws frequently revised, with the result that indigenous expertise on the subject has declined.

## **K. Mines and UXOs**

There are approximately 10 million mines in Iraq. The mines date from various conflicts as far back as World War II. As a result of the Iraq-Iran war in the 1980s, a



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great deal of the approximately 1200 Km border between Iraq and Iran, including the hydro dams, is littered with mines and UXOs (unexploded ordinances).

This situation is particularly hazardous for spontaneous returnees who generally use illegal border crossing points and has already resulted in a number of deaths. While demining activity is currently on-going, it is far from completed and the presence of mines will continue to pose a serious threat to physical safety for many years to come.

Also, new mines were planted in areas of return before and during the Coalition Forces intervention. Returnees are generally not aware of the existence of these sites. As for those Iraqi refugees who find themselves displaced upon return, they often find shelter in public buildings where UXOs have been left as a result of the last war.

The Coalition Provisional Authority established the Iraq National Mine Action Authority (NMAA) and Iraq Mine Action Centre (IMAC) in Baghdad as a part of the Planning Ministry, to plan and coordinate the mine action response. The NMAA became operational on July 9, 2003, and is responsible for mine action policy development and providing stakeholders with guidance on standards and other requirements to operate in Iraq. It will be responsible for the development of legislation for mine action in the country.

### **III. Material Safety**

#### **A. Employment situation and other forms of income generation**

In addition to the security situation, the second source of concern as well as main obstacle to return is constituted by the current high rate of unemployment in Iraq. Prior to the recent war, persons who were unemployed were able to benefit from some type of welfare provided by the government although it must nevertheless be pointed out that this assistance was extremely limited and difficult to access. Following the Coalition invasion, people who had previously been employed by the Iraqi Government and public industry found themselves unemployed. While prices have gone up, many people have become very vulnerable as they are no longer able to support their needs and those of their families. Very few job opportunities exist due to the public ministries' lack of budget and the collapse of public industry. Competition for vacant posts is extremely high, with one post often receiving between 400-700 applications. Salaries, on the other hand, are very low and do not enable people to do more than to cover very basic needs, if that. Many people consulted stated that they depend on money from relatives living abroad as well as food assistance from the Public Distribution System in order to survive. Returnees from third countries often receive cash grants in order to start small businesses, but the market for such businesses is extremely limited. Returnees may also face discrimination when looking for jobs if they are no longer known by the community and must compete with others who have remained in Iraq despite the economic and political hardships faced. It has been suggested that a recommendation by a political or religious party in favour of a returnee would be helpful in avoiding such discrimination on the labour market.

However, many Iraqis consulted in the course of research for the present paper suggested that vocational training in fields such as agriculture could be a means with which to enable Iraqis, and especially third country returnees, to find and generate



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employment. There is also a demand for skilled labourers throughout the country, (especially contractors and persons skilled in construction projects) although some people may be reluctant to look for work in these fields given the numerous cases of kidnapping and in some cases execution of contractors and construction personnel over the past few months.

The targeting of educated persons, e.g. university professors and intellectuals has also increased over the last six months or so. These threats against Iraqi “intelligentsia” may have an impact on the employment prospects of educated persons wishing to return to Iraq.

## **B. Non-discriminatory access and availability of basic services**

Currently, the most widely-used basic service in Iraq is that of the Public Distribution System (PDS). While access to the distribution centres themselves does not in general appear to be discriminatory, several NGOs interviewed stated that some ethnicities such as Ahwazis report that they have difficulty in obtaining the ration cards from the Ministry of Trade, without which they are unable to receive their food rations. Returnees who are unable to speak Arabic may also face problems in accessing the distribution centres as they are often taken for non-Iraqis by the PDS employees. Persons who are unable to prove that they are Iraqi (i.e. those who are stateless) and for whom no witness can attest to his/her being Iraqi will undoubtedly face similar problems. Refugees, on the other hand, such as those in Al Tash camp, are registered with the Ministry of Trade and receive food rations from them. Similarly in the north, refugees with ID cards and residence permits granted by the local authorities are also registered with the Ministry of Trade and are thus able to receive food rations.

## **C. Health**

Iraqis may visit either the public health system facilities or make use of private clinics, which are much more expensive. While consultations at the public hospitals are free of charge, the price of medicines is very high. Hospitals are generally able to stock and dispense basic medical supplies, although the quantity and quality (there are many problems with expired medicines) are not reliable. Other drugs must be obtained from pharmacies. The high cost of medicines for persons with special medical needs is problematic, especially in light of the very high rate of unemployment and low salaries. The situation in the four southern governates, which each have a main hospital, is particularly severe, with only 25% of hospital equipment functioning IF there is electricity. Medical supplies are very erratic, and hospitals still suffer from the effect of sanctions. Special treatments such as chemotherapy and radiation therapy are difficult to obtain due to both the lack of drugs as well as electricity to run the radiation machines, and children in the paediatric ward who suffer from leukemia and other treatable illnesses are not expected to survive due to the lack of adequate care.

Due to the lack of adequate care as well as to the collapse of many of the public health centres, many people have turned to traditional methods of health care. Female health care providers are particularly rare with the result that many women, especially in the more rural and or religiously strict areas do not receive any type of health care except for traditional medicine, as they will not visit male health care providers. The health



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sector also has a huge shortage of nurses and can be characterized as seriously understaffed and under skilled.

#### **D. Water, sewage and sanitation**

The water situation in the south of Iraq is extremely poor, and is described by all as worse than before the Coalition invasion, although the existing system was already badly neglected and in need of repair. The lack of clean drinking water has had a direct effect on the increase in the incidence of water-related diseases in the south, with small children being the primary group affected. Following the collapse of the previous regime, many women have also moved away from breast feeding (imposed and encouraged by the previous system) and begun using infant formulas mixed with water, a factor which has contributed to a high rate of malnutrition among infants.

Although the majority of the population in the lower south of Iraq has been dependent on bottled water for years, many people in other areas of Iraq previously drank water from the tap. One of the side effects of the recent war has been the looting and destruction of water treatment plants. The quality of water has significantly declined, due not only to the damage in infrastructure but also to open channel sewage treatment facilities. River water is Iraq's main source of drinking water and the quality is greatly affected by objective weather factors (lack of rain, etc.) as well as the more recent increases in sewage and garbage disposal.

Disposal of rubbish is a huge problem throughout Iraq, but is especially severe in the southern governates. The garbage collection system is community-based so far, but is ineffective as most communities lack the necessary funds to provide for regular collection and disposal. Garbage presents a major source of filth as well as a potential health hazard, both as a source of diseases as well as security-wise, as clean-up may involve dumpsters or piles of garbage which could potentially contain IEDs or UXOs.

#### **E. Food and nutrition**

Following the end of the Oil for Food Programme in November 2003, food assistance has been distributed through the Public Distribution System (PDS), on the basis of an agreement between the Iraqi Ministry of Trade and the World Food Programme. Persons wishing to receive food assistance must therefore register with the Ministry of Trade in order to obtain a ration card which must be presented at the local Food Distribution Centre in order for the individual to receive a food package. Obtaining the food ration card is a lengthy process, and new arrivals and or Iraqi returnees are generally obliged to rely on family and neighbours for food pending receipt of the ration card. The PDS in itself is extremely efficient. Virtually 100% of Iraqi citizens receive a monthly food basket, i.e, 27 million persons. It is estimated that up to approximately 70% of Iraqis depend on the PDS as an "income" to fulfill and or supplement their food needs. While ration cards were initially provided to persons who could prove their Iraqi citizenship, this procedure has now been amended to ensure that those who cannot prove citizenship or have had their citizenship revoked are able to access the PDS. Apparently, the Ministry of Trade now accepts as proof witness statements that someone was born in Iraq or has parents who were born in Iraq.



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## F. Education

Due to the security situation, many parents are currently afraid to send their children, particularly girls, to school for fear that they will be either kidnapped *en route* or caught in one of the many random explosions or bouts of crossfire which have become part of daily life in Iraq.

Approximately 50% of Iraq's primary and secondary schools are in a very poor state of disrepair and are not considered acceptable for children, as they have neither basic water nor latrine facilities. This situation was already existent under the previous regime and has only been compounded by the recent war. As a result, those schools which are functioning are very crowded and children are obliged to attend school in shifts. The quality of education varies according to the region due to the quality and level of training of the teachers. As with most other sectors, the schools which are in the poorest condition and the most overcrowded are located in the South. This overcrowding is due in part to the large number of persons who have returned to the South from neighbouring Iran in recent months.

While there is no notable lack of teachers in the north and centre, in the south, there is a general shortage of teachers which is mainly attributed to the lack of salaries. Skill levels are poor and many teachers have not had any formal teacher training. Furthermore, the curriculum taught in Iraqi schools has not been renewed for the last 15 years. Plans to renew the curriculum form part of the Ministry of Education's current priorities, although this will take several years.

According to many NGOs working in the area, there is no overt discrimination as regards access of returnees to schools, due in large part to the clan structure and the fact that many people have returned to places where they previously lived and are therefore known in the community. However, access for returnee children can be problematic due to language problems, as many of them do not speak enough Arabic to follow classes. This phenomenon is particularly felt in the South, due to the large number of persons who have returned from Iran. According to UNICEF, there is a great need to train teachers who do not know how to properly handle such situations and tend to punish children for the wrong reasons, such as not speaking Arabic well, or not wearing their school uniform correctly.

There are currently no facilities available in Iraq for children with special needs or learning disabilities.

While universities in Iraq are open and functioning, many are faced with a shortage of professors, since many of the qualified personnel have left Iraq (an estimated 2000 professors left Iraq's 20 major universities between 1995-2000). Those who remained and who were members of the Ba'ath party (as was the case for many professionals) were dismissed following the fall of the Saddam Hussein regime, although some may now be re-instated due to the reversal of the CPA order concerning Ba'athist party members.<sup>2</sup> The salaries of university professors are paid by the Ministry of Education. While there are reports that salaries for professors have increased, this increase is

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<sup>2</sup> CPA Orders 1 and 2 (linked) of 23 May 2003 regarding members of dissolved entities (including the Ba'athist Party) as well as CPA Order 100 of 28 June 2004, see specifically Section 3 on "Revision of Specific CPA Order Provisions".



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offset by the rise in the cost of living. Several university professors interviewed stated that life is still financially difficult because the base salary of university professors is still traditionally lower than that of other employees.

Access to university may be hindered for returnees due to problems with equivalencies, especially for those who completed high school in another country. Persons with foreign diplomas are required to contact the Ministry of Education in Baghdad directly, who will assess each case on an individual basis and decide whether or not the person can register at the university. On the other hand, returnees who were previously university students before leaving Iraq are not required to undergo any specific formalities in order to re-register.

#### **G. Electricity, power plants, fuel**

The supply of electricity in central Iraq can at best be described as erratic, while in the North it is fairly stable and in the south it is extremely poor. The supply in the North ranges from electricity four hours a day in Erbil, to a nearly constant supply in the city of Dohuk although the general feeling is that the number of units available is not sufficient to meet the demands of the population. Electricity in the Baghdad area is generally available some 50% of the time, and alternates (on and off) by three-hour periods. Persons interviewed stated that they expected this situation to become worse throughout the course of the summer as demands on the system would increase due to the use of air-conditioners. Residents blame this situation partially on the existing electricity system which has not been repaired or upgraded since 1979, as well as on the recent destruction to various power plants as a result of the Coalition invasion and the Coalition Forces' failure to complete maintenance and repairs as promised. Private generators are the norm for those who are able to afford them, however this is only a small percentage of the population. The lack of a stable electricity system severely affects other aspects of daily life, such as refrigeration, air conditioning, computers, and the power supply needed to run hospitals and other institutions. Problems linked to the deteriorated state of the existing system are further compounded by a more recent phenomenon – that of stealing copper wires for sale on the open market. Not only is this activity widespread throughout Iraq, but it also appears to be quite lucrative, due to the lack of effectiveness of the Iraqi police force as well as the general state of lawlessness which currently reigns in Iraq.

#### **H. Return and reintegration assistance**

With the exception of the food package distributed through the PDS, the Iraqi authorities are not able to offer any type of return and re-integration assistance to Iraqi returnees from abroad. UNHCR offers basic returnee assistance (one package of Non-Food Items (NFI)) to the most vulnerable returnees in their communities of origin, regardless of whether they have returned in an organized or spontaneous manner. Persons who voluntarily return with UNHCR-organized convoys receive a one-off, one month food package from the World Food Programme and the Ministry of Trade, free onward transport to their final destination and a 20 USD cash grant. Due to lack of space in the convoy, accompanying baggage is limited to 20 kg per person. Returnees from Rafha Camp in Saudi Arabia were provided with a generous cash grant by the Saudi authorities, and were able to bring back to Iraq all the goods they had acquired while in Saudi Arabia. Persons who return voluntarily from countries



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outside the region are generally provided with a large cash grant, which varies according to the policy of the host government. There are security concerns for those who receive such cash grants as they are easy targets for robbery.

#### **IV. Legal Situation**

##### **A. Land and property rights – dispute resolutions and adjudication mechanisms**

The Iraq Property Claims Commission (IPCC) is the organization set up to reinstate peoples' property rights that were taken away by widespread property confiscations by the former Iraqi Government. Confiscation was used as a way of punishing political opponents, as a source of resources for rewarding allies, and as a way of changing the demographics in strategic areas. The Iraqi Governing Council (IGC) played a lead role in drafting the Statute that established the IPCC and its boundaries. The Statute came into force on January 15, pursuant to CPA regulation 8, and was amended on June 24, pursuant to CPA regulation 12. These regulations may be consulted on the CPA website at [www.cpa-iraq.org/](http://www.cpa-iraq.org/) until 30 June 2005 at which time the website will cease to exist.

The IPCC consists of a National Secretariat (responsible for overseeing all operational and management activities of the IPCC), Regional Commissions (first instance) established in each governorate of Iraq and in the Kurdistan Regional Government area, as well as an Appellate Division (second instance) in Baghdad.

The IPCC process is open to all persons, or their heirs, who have been wrongfully deprived of real property (e.g. house, apartment or parcel of land) or an interest in real property (e.g. right to farm the land) because of actions taken by the former governments between July 17, 1968 and April 9, 2003 and or actions which can be attributed to them. The latter includes actions carried out by Ba'ath party members and relatives of senior officials of the government or Ba'ath party.

Claims may also be made by people who lost or lose real property or an interest in real property between March 18, 2003 and June 30, 2005 as a result of their ethnicity, religion, or sect, or for purposes of ethnic cleansing, or by individuals who had been previously dispossessed of their property as a result of the former government's policy of property confiscation.

The IPCC's jurisdiction does not include situations where property was lost due to legitimate public land reform or lawfully used eminent domain. Nor does the IPCC consider claims for losses not involving a taking of an interest in real property, such as claims for damage to real property, or takings of personal property, or lost income. It is recognized that landowners whose properties were seized and confiscated for land reform purposes after 1968 might have received inadequate or no compensation. These past injustices, including those who suffered injustices as a result of the agricultural reform before 1968, should be dealt with by the future Iraqi Government.

A claim should be filed in person or through a representative at any IPCC Office, latest by 30 June 2005. Claim forms may be obtained from any IPCC Office. A claimant does not necessarily have to be the owner of the property, but is equally



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entitled to file a claim if s/he has lost a right to possess or use the property. This includes, for example, a right to farm or use the land in question. In addition, members of a community may make a claim for communal property. If the rights holder cannot, is absent or his whereabouts are not known, other community members are entitled to file a claim. To do so, they must offer proof of the registered person's absence and of their membership in the community. This applies equally to situations where the rights holder of a family is missing or her/his whereabouts are not known.

In the process, the IPCC will also consider rights of other people who may also claim an interest in the property or who may have a title to the property. The IPCC will normally write, as soon as possible, to any interested parties (i.e. respondents), informing them of a claim. To guard their rights, respondents must file a response within the given deadline.

The IPCC is in the process of establishing offices in each Governorate in Iraq and in the Kurdish Regional Government area. The IPCC offices will collect and register claims and assist people in presenting their evidence to the Regional Commissions that will decide the claims on an impartial basis. The IPCC operates under Instructions for Operation and Guidelines which are intended to ensure the resolution of claims in a fair and consistent manner, regardless of the parties' ethnic background, sect, religion or gender.

The main purpose of the IPCC is to ensure that persons whose property has been wrongly taken are reinstated in their property rights. However, given the need to take individual circumstances into account, it may not always be possible to return property or rights to a former owner, possessor or user, and other forms of compensation may be appropriate, especially as regards persons who may be forced to leave their property as a result of an IPCC decision. The Interim Iraqi Government is currently considering whether it will be able to offer compensation in such cases. In addition, structures still need to be put in place to provide secondary occupants without resources and whose housing needs cannot be met otherwise with temporary alternative accommodation until they can either return to their former home or are provided with a permanent solution (e.g. allocation of land/housing).

The IPCC is also in the process of establishing offices or structures outside Iraq to receive claims, responses and other documents from persons living outside Iraq and relay them to the National Secretariat in Iraq. The creation of such structures is still in the initial stage. At least three to six months are required before these offices are operational. Once those offices and structures are established, public information campaigns will be conducted to advise Iraqis living abroad about how to participate in the IPCC process.

It should be noted that initial plans were to house the IPCC within the Iraqi Ministry of Migration and Displacement (MoDM). Within this context, the MoDM published an article in a local newspaper in April 2004<sup>3</sup> in order to inform readers about the existence and functions of the IPCC. However, no further public information on the IPCC was forthcoming, and a later decision by the CPA concluded that the IPCC will in fact be an independent entity which reports directly to the Prime Minister. Persons

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<sup>3</sup> "Al Sabah" Daily, 21 April 2004. The Article describes the IPCC and includes instructions for filing property claims.



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interviewed expressed frustration at not having heard anything about the IPCC since April, and scepticism about its ability to resolve property disputes in a timely manner. They further mentioned un-documented cases where returnees have decided to take matters into their own hands in order to forcibly evict occupants from their properties.

## **B. Access to legal services, right to a fair trial and due process of law**

According to many Iraqi lawyers interviewed, there is no restriction on access to legal services as long as a person can prove that he or she is an Iraqi, although lawyers' fees may represent an obstacle for many seeking legal redress. The situation of access is particularly problematic for Iraqis who were previously stripped of or deprived of their Iraqi citizenship, as their nationality problems must be resolved in order for them to access legal services, the process of which in itself implies access to legal assistance. One NGO funded by UNHCR currently operates a legal aid centre in Maysan province in the South and the creation of other UNHCR funded centres (in partnership with the International Rescue Committee) is also planned for the North. Among other tasks, these centres assist Iraqi returnees who lack Iraqi identity papers to translate into Arabic and notarize any identity documents they may have obtained or been issued with while abroad, in order that they may access legal and other services open to Iraqi nationals. The legal aid also assist people to collect and prepare the necessary documentation (and in particular proof that their land was confiscated by the former regime) in order to file a property claim with the IPCC.

## **C. Traditional legal/judicial structures**

There has been an increase in the number of people turning to traditional judicial structures since the fall of the Saddam Hussein regime. This increase can be attributed to the lack of authority and general state of lawlessness in Iraq as well as the fact that people have little or no faith in the current ability of the existing official legal structures to resolve disputes in a timely and effective manner. The Iraqi tribal justice system is widely considered by Iraqis to be very effective, especially for criminal cases. It is also a much quicker way of resolving disputes than the long drawn-out court cases where the parties are unable to reach an agreement which is mutually satisfying. Agreements between tribal leaders are considered final, and while the courts are not obliged to adopt such decisions, they generally do as the decision is more likely to be effectively implemented when agreed upon between tribal leaders.

## **V. Displacement Situation**

There are several groups of IDPs located in various parts of the country. The nature of displacement in Iraq has in general had regional dimensions, varying in nature and scope in the north, centre and south. The different patterns of displacement according to the region in Iraq are described in the following paragraphs.

### **A. North**

In the North, there are, among others, the Kurds, Turkmen and Assyrians who were victims of both the "Arabization" and Anfal campaigns, the Kurds who were displaced as a result of the war between the main two Kurdish parties (the PUK and



KDP), and Iraqis of different ethnic and religious backgrounds who opposed the former regime and had to flee their governorates.

The UN estimates that a total of 805,505 individuals (141,234 families) were displaced in the three northern governorates over a thirty-year period. The majority of this group (approximately 74%) were displaced between 1974 and 1990, while the remaining (approximately 26%) were displaced post 1990. 42% of the IDPs originate from former Government of Iraq controlled areas and were primarily displaced as a result of expulsions carried out by the former regime that aimed to change the ethnic balance of the population in resource-rich regions such as Kirkuk<sup>4</sup>. The remaining 58% originate from within the three semi-autonomous Kurdish areas (Dahuk, Erbil, Sulaymaniyah), displaced primarily as a result of inter-Kurdish fighting.

<b>Cause</b>	<b>Period</b>	<b>Percentage</b>
Expelled as part of the Arabization campaign	1974-1987	46%
Victims of the Anfal campaign	1988	28%
Expelled due to the Arabization campaign	Early 1990	7%
Returnees from Iran unable to return to place of origin in GoI territory	Early 1990	5%
Displaced as a result of fighting between PUK and PDK	Early-mid 1990's	9%
Displaced as a result of conflicts with PKK	1980s and early 1990s	2%
Others		2%

Of this group, it is estimated that 98,000 families have very poor living conditions, with 13,354 families residing in extremely harsh conditions, seeking shelter in abandoned public buildings, military compounds or under tents. Approximately 12% or 96,000 people of the total group are particularly vulnerable and include widows, elderly, orphans and disabled.

Since the collapse of the former Government, significant spontaneous return movements of IDPs has taken place to Governorates bordering Kurdish autonomous areas, formerly controlled by the Central Government; primarily to Tameem Kirkuk. In April 2003, as the Peshmerga forces traveled south to Ninewa and Tameem with Coalition forces, non-Kurdish IDPs who had settled in the three northern governorates of Sulemaniyah, Dohuk and Erbil faced harassment including the destruction of their housing, thus forcing them to move south in order to reclaim property and land. With intervention in May/June 2003 from various actors including UNHCR, this overt push ceased. However, various push factors continue to be exerted on the most vulnerable to return to areas south of the green line. It is estimated that 26,000 individuals have

<sup>4</sup> This campaign has commonly become known as the Arabization campaign in which the GOI expelled Kurds, Turkomen and Assyrian populations from areas rich in resources and resettled Arabs from the south to the same areas.



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returned to Kirkuk city and the surrounding areas but are unable to return to their villages due to property disputes or destroyed shelter.

## **B. South**

In the South, the principle group of IDPs remains the Marsh Arabs, who, over the past 15 years, have been subjected to forced migration as a result of an organized Marsh-Drainage campaign undertaken by the former Iraqi regime. The persistent implementation of this campaign led to massive displacement within and outside the country.

The policy of the former Iraqi regime to drain the Marshlands in southern Iraq underwent several stages. A large swathe of the central marshes was drained to facilitate the movement of the military units during the Iraq-Iran war. During the 1990's, the marshes underwent further extensive drainage. As part of the previous government's policy which consisted of resettling Shia populations to the north in order to alter the ethnic balance of the area, many Marsh Arabs were forced to resettle there to replace Kurdish, Turkmen and Assyrians. Although the number of displaced Marsh Arabs is quite difficult to identify due to the protracted nature of displacement and varying levels of integration, it is estimated that between 100,000-200,000 persons remain internally displaced from the marshland areas.

Up to 40,000 persons are estimated to be returning displaced persons, i.e., they were originally from Southern Iraq (mostly Marsh Arabs), were resettled under the Arabization program to Northern Iraq and, following the recent conflict, returned to their ancestral lands in Southern Iraq, although the draining of this area has significantly altered the Marsh Arabs' ability to continue their traditional way of life and farming activities which were based on the cultivation of the marshes. This group of persons is considered returning displaced persons; their preferred durable solution is to reside in or near their current locations.

The need to ensure complete documentation such as identity documents, marriage and birth certificates, and rations cards is a primary concern for this group. Property claims, legal assistance, basic reintegration assistance as well as focused assistance for vulnerable groups including female-headed households, the elderly, and physical and mentally disabled persons must also be urgently addressed.

## **C. Centre**

In central Iraq, Arab populations were displaced in the past as a result of the reversal of the Arabization campaign in Mosul, Kirkuk and northern Diyala. During the last few months, pockets of displacement have occurred during periods of active conflict between Coalition forces and Iraqi resistance groups. In Fallujah, recent conflict between the Coalition and armed groups in the area caused several thousands of people, mainly women and children to flee. The majority sought refuge in nearby towns and villages hosted by extended family members or people from the same tribes. As soon as the active conflict reduced, most of those fleeing returned to Fallujah. Several thousands sought refugee in Baghdad and the majority have now returned. A small group of 400 Kurdish families also fled Fallujah to areas in the north controlled by the Kurdish parties. This group has indicated a desire to



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reintegrate into the Kurdish territories in the north based on the possibility of further unrest in the central regions. Fighting in the south has not yet resulted in significant displacement. However, if fighting continues or intensifies, resulting in civilian casualties and blocked access to supplies, it is likely that a movement pattern, similar to that of Fallujah, will result.

The effects of general insecurity faced by the population of Iraq are exacerbated with regards to IDPs due to their particular vulnerability. For example, many IDP groups who have been able to move with some belongings or have accumulated resources over the years, have been subject to targeting by looters and thieves as a result of the general lawlessness immediately after the fall of the former regime. In addition, the targeting of the male population by the previous regime in its various campaigns has resulted in a large number of female-headed households. The situation of IDPs located in urban settings is complicated by the fact that many have occupied public buildings or are residing in former military sites that were targeted by the Coalition Forces during active fighting. The risk of finding Unexploded Ordnances (UXOs) and or landmines is high in and around such buildings is high.

Many Arab IDPs displaced within areas just below the green line face harassment and are increasingly finding their freedom of movement restricted. For example, IDPs residing in Diyala are refused access by militia to the market place in Khanaqin. Restricted access to public services such as education and health care to Arab IDPs in Kurdish-controlled areas appears to be an emerging trend.

Documentation in Iraq has been closely linked in recent years to the monthly food ration. Many IDPs were excluded from the monthly food ration at their new locations because their documentation stated that their Public Distribution Centre was elsewhere. UNHCR with the Humanitarian Coordinator intervened and advocated for a system that allowed IDPs to register in their current location and continue to keep their old ration card in case evidence of former residence is required in the future, in particular for property disputes.

## **VI. Overall Analysis of the Return Environment**

So far, an estimated 189,000 people have spontaneously returned from Iran. This figure, which is based on new registrations in the Public Distribution System, may however not be completely accurate as cases of double registration have been reported. As of 4 August 2004, 12,849 individuals have returned with UNHCR assistance from Saudi Arabia and Iran.

Most people who have opted for voluntary repatriation from Iran and Saudi Arabia have returned to areas where their ethnic or religious group constitutes a majority. They therefore usually do not suffer from any systemic discrimination.

However, as all other Iraqis, they suffer from the prevailing insecurity as well as lack of law and order. They also remain in dire need of assistance to help them reintegrate in communities whose absorption capacity is limited and where humanitarian and development activities are presently difficult to implement due to the prevailing security situation.



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Moreover, Iraqi returnees face a number of problems relating to their rights to housing, identification, freedom of movement and property restitution. Furthermore, housing, a general problem throughout Iraq, affects returnees in particular and specifically in the South. Many of the Marsh Arab families have returned to very impoverished areas. While homeless families have moved into public buildings or schools, others have sought accommodation with extended family members. Some returning families have even moved to partially-destroyed power stations. The need to pursue shelter solutions for these groups is pressing.

Returnees often lack documentation which would facilitate their freedom of movement and access to basic services. For many of those who have returned with UNHCR assistance to Iraq, their only means of identification is the voluntary repatriation form that UNHCR has provided. As for those who have repatriated spontaneously, a significant number of them have no documentation at all, especially those who were previously expelled from Iraq and stripped of their nationalities.

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