MARKED FOR LIFE

DISPLACED IRAQIS IN CYCLE OF ABUSE AND STIGMATIZATION

AMNESTY INTERNATIONAL

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Cover photo: *A destroyed house marked with the words "this is the home of Daesh dogs" in the town of Hammam al-Alil in Ninewa governorate. 17 March 2020. ©Amnesty International*

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GLOSSARY

WORD	DESCRIPTION
ASAYISH	The Kurdistan Regional Government's primary security and intelligence agency and one of six security forces under the authority of the Kurdistan Region Security Council. Asayish branches can be found in all governorates of the Kurdistan Region of Iraq. Its mandate includes combating terrorism, threats to national security, drug trafficking and other serious offences.
ASAYISH GISHTI	The General Security Directorate of the Asayish. One of several directorates of the Asayish, it operates detention facilities used to hold suspects in terrorism and security-related cases, as well as those accused of drug crimes and other serious offences. Law No. 5 of 2011 of the KR-I sets out the long list of the Asayish's responsibilities, which include the protection of public and private liberties in accordance with the principles of democracy and human rights; the security of official institutions and individuals; the security of airports, borders, dams and oil establishments; gathering information on and confronting threats to internal security; countering organized crime, terrorism and drug trafficking; and "following up" on cases of refugees, residents and foreign visitors in the Kurdistan Region of Iraq.
CIVIL DOCUMENTS	In Iraq, the four key civil documents are the identity card, nationality card, Public Distribution System card and housing card.
DAESH	Arabic acronym of IS's former name, the Islamic State of Iraq and al-Sham (ISIS). *Daeshi* refers to someone from *Daesh*. Both words are generally considered to have derogatory connotations. They are not used by IS itself.
ERD	Emergency Response Division, an Iraqi special forces unit under the Interior Ministry
IDP	Internally displaced person
IOM	International Organization for Migration
IS	The armed group calling itself the Islamic State
KRG	Kurdistan Regional Government
KR-I	Kurdistan Region of Iraq
MUKHTAR	Arabic term for community leader
NATIONAL SECURITY SERVICE	An Iraqi intelligence agency that reports directly to the Prime Minister

NGO	Non-governmental organization
OCHA	UN Office for the Coordination of Humanitarian Affairs
PDS	Public Distribution System. The PDS was established in 1990 in response to food shortages after the UN-imposed sanctions on Iraq. PDS allowances are provided to Iraqi citizens who qualify for them through distribution points run by the Ministry of Trade throughout the country. The PDS card is a government-issued document that lists all members of the household and gives Iraqi citizens access to monthly rations of state-provided food items for a nominal fee. T
PESHMERGA	The armed forces of the Kurdistan Regional Government
PMU	Popular Mobilization Units, known in Arabic as *al-Hashd al-Sha'abi*. The PMU are militias affiliated to the central Iraqi authorities that were brought under a common umbrella in June 2014 by then Prime Minister Nouri al-Maliki in the context of the fight against IS. In February 2016, then Prime Minister Haider al-Abadi designated them as "an independent military formation" forming part of the Iraqi armed forces".
TMU	Tribal Mobilization Units, known in Arabic as a*l-Hashd al-Ashairi*. The TMU are militias composed of fighters from Sunni tribes and generally active locally in their own places of origin. They played an increasing role in the fight against IS and in securing their areas after they had been recaptured. While much less powerful than the PMU, some tribes within the TMU also received support from government authorities including salaries and weapons.
UNAMI	UN Assistance Mission for Iraq
UNHCR	UN High Commissioner for Refugees, the UN Refugee Agency

1. EXECUTIVE SUMMARY

> **"In Iraq, nothing is bigger and more dangerous than someone calling you *Daeshi* [IS member]. One word and you're gone. People are scared… I used to have hope for a normal life. But now there are red sniper dots on all of us."**
> "Abed", aged 23, released from Asayish detention.

Nearly three years have passed since Iraqi authorities declared victory over the armed group calling itself the Islamic State (IS) following an armed conflict that led to the displacement of millions of Iraqis. However, many displaced men, women and children feel marked for life, trapped in a cycle of abuse and stigmatization. Amnesty International has found that the Iraqi authorities, along with the Kurdistan Regional Government (KRG), have been short-sighted in subjecting thousands of internally displaced people (IDPs) with perceived ties to the armed group – often due to factors outside their control – to serious violations of human rights and that these actions have played a significant role in stigmatizing them and the broader community of IDPs in Iraq.

Amnesty International's findings are based on remote and field research conducted between November 2018 and October 2020, including two fact-finding missions carried out in 2018 and 2019. It conducted individual interviews with 119 IDPs (106 men and women and 13 boys under the age of 18), visiting seven IDP camps. In addition, Amnesty International interviewed 15 humanitarian workers, as well as officials from UN agencies, and met with KRG officials. Follow-up interviews were carried out remotely in August 2020 with nine IDPs, as well as with one lawyer and two humanitarian and protection workers. On 3 August 2020, it communicated its key findings in memorandums addressed to the prime ministers of Iraq and the Kurdistan Region of Iraq (KR-I). A response received from a KRG body in August 2020 provided brief information on laws regulating arrests and trials in the KR-I as well as short responses to some findings. No substantive response had been received from the central Iraqi authorities as of 13 November 2020.

Amnesty International has extensively documented IS crimes in Iraq, some of which amount to war crimes and crimes against humanity, and recognizes that the armed group's activities continue to pose a threat to civilian lives in Iraq today. It has also acknowledged the immense challenges facing the KRG and Iraqi authorities and their duty to protect the security of all civilians on their territory and to ensure that IS perpetrators are held accountable. However, Amnesty International remains seriously concerned about the failure of Iraqi authorities to date to conduct trials of IS suspects that are in line with international fair trial standards, and without recourse to the death penalty, and of their failure to date to hold accountable those members of Iraqi or KRG security forces responsible for internationally recognized crimes. Both authorities must avoid perpetuating the sort of state actions that have been highlighted as the seeds of previous cycles of violence in the country and give themselves a sustainable basis to overcome the destructive legacy of IS.

ABUSIVE DETENTION AND UNFAIR TRIALS IN KR-I

Between 2014 and 2017, the period when IS controlled Iraqi territory, the Asayish (the KRG's primary security and intelligence agency) subjected hundreds of thousands of men – as well as boys under the age of 18 and considered of fighting age – who had left IS-held areas to a security screening process, the purpose of which was to determine whether they were associated with IS. Some were arrested between 2016 and 2017 after they arrived at KRG-held checkpoints or mustering points near front lines. Others were arrested after arriving at IDP camps in the KR-I.

Through the interviews conducted in the course of this research, Amnesty International documented the detention of 48 individuals – 35 men and 13 boys who were under the age of 18 at the time of their arrest – by the Asayish between 2016 and 2017 for suspected

affiliation to IS. In all cases, the Asayish members carrying out these arrests did not present an arrest warrant and either gave no basis for the arrest or simply stated that the individual's name was on a "wanted list". In one case, Asayish officers gave a particularly strong indication that the arrest they were carrying out was arbitrary when they told one man and his son who were fleeing Hawija, Kirkuk governorate, in October 2017, that they were being arrested because his other son was missing and presumed to have joined IS. Others were arrested after an informant had reported the person as being affiliated with IS. According to interviewees, some informants falsely accused individuals of being IS members because they had personal or tribal grievances against them.

In all the cases documented by Amnesty International, men and boys arrested by the Asayish were kept in detention facilities for weeks or even months without being referred to judicial authorities. Amnesty International appreciates that many of the accusations made against these individuals might relate to crimes that are recognized under international law. However, the due process concerns it has recorded indicate that the detentions were often arbitrary.

Under Iraqi law officials must present a judicial warrant when conducting an arrest, apart from in exceptional circumstances, and inform the person being arrested of the reason for the arrest and of any charges against them. Failure to abide by domestic legal requirements that protect against an unjust arrest means the arrests constitute an unlawful and potentially arbitrary deprivation of liberty. Arbitrary detention constitutes a violation of international human rights law.

All of the men and boys interviewed by Amnesty International said that, during interrogation by the Asayish, they were subjected to torture or other ill-treatment including by being beaten with fists, pipes or hoses. One man said that he suffered a broken arm and several broken ribs as a consequence of such treatment. One man said that he was threatened with sexual violence against him and his female relatives. All said their Asayish interrogators told them that the beatings would stop if they "confessed" to being affiliated to IS.

"Shakir", aged 24, who resided in an IDP camp in the KR-I at the time of his interview, told Amnesty International that he fled his home in Salah al-Din governorate and was handed over to Asayish forces by the Popular Mobilization Units (PMU), militias affiliated to the central Iraqi authorities that were designated as forming part of the Iraqi armed forces in 2016, after arrival at a checkpoint near KRG-held areas. He said PMU fighters subjected him to beatings after a man from his home village falsely accused him and his brother of IS affiliation. He told Amnesty International:

An Asayish officer interrogated me alone… He kept beating me repeatedly all over my body. I told him I was not *Daesh* and that he could call to check that the man who reported my brother was lying. He called the man – the same one who reported us. The interrogator said that he was trustworthy because his brother was with the PMU… I confessed because I knew that he wasn't going to stop until I confessed.

According to all of the 13 individuals who were under the age of 18 at the time of their arrest by the Asayish in 2016 or 2017 and whose cases Amnesty International documented, they were held with adults for varying lengths of time before being transferred to juvenile detention facilities.

When these men and boys were brought to court in Erbil, many were convicted under the KR-I's vaguely worded Anti-Terrorism Law in trials that failed to comply with international standards for fair trial and, where applicable, juvenile justice. Some said that they told the court judge that they had "confessed" under duress, but no investigations were launched into their claims of torture and other ill-treatment. All of the former detainees interviewed by Amnesty International said they only met their court-appointed lawyer on the day of the trial and that no interpretation service was provided, meaning they could not understand the court proceedings in Kurdish.

"Ali", who was aged 17 at the time he was arrested by the Asayish on suspicion of ties to IS at a camp in the KR-I in late March 2016, told Amnesty International that he was held for over a year in Erbil, where he was forced to "confess" under duress to being affiliated with IS. He was convicted despite retracting his "confession" and sentenced to nine months in prison. Whether they were freed without charge, acquitted or released after completing a prison sentence, former detainees have faced arbitrary restrictions on their movement. Of the 33 former detainees residing in camps in the KR-I whom Amnesty International interviewed, 10 said that they had been turned back at an Asayish checkpoint when attempting to enter Erbil. Some were told that a temporary ban had been imposed upon them and others were told that they were permanently banned from accessing the KR-I beyond the areas where their camp was situated. None were informed of the ban at the time of their release.

DISAPPEARANCES IN NINEWA

Since 2014, a range of Iraqi military and security forces have arrested thousands of men – as well as boys considered of fighting age – suspected of affiliation to IS in central Iraq. Thousands of them have disappeared afterwards, leaving their families to suffer not only the anguish of not knowing their fate, but also the stigma of perceived ties to IS.

During the course of this research, Amnesty International documented the cases of 67 individuals – 61 men, three women and three boys under the age of 18 at the time of arrest – who were arrested for suspected ties to IS and subjected to enforced disappearance between 2017 and 2019 by Iraqi military and security forces. Some were arrested at checkpoints in Ninewa governorate when leaving IS-held areas, others during military operations that took place between February and July 2017 to retake west Mosul from IS control, others still when they were living in IDP camps in Ninewa governorate or after returning to their areas of origin. Security forces failed in every case to present a warrant or tell their relatives where their loved ones were being taken and in some cases beat, mostly with fists or sticks, those they were arresting, then placed them in stress positions while handcuffed and blindfolded before dragging them away.

In some cases, they were arrested after being subjected to seriously flawed security screening processes in which their name was found to match one on a "wanted list" similar to those relied on by the Asayish. In others, they were found not to be carrying identification documents.

"Um Sara" described to Amnesty International the arrest of her husband in May 2017, during the military operation to retake west Mosul:

The army came out of nowhere. One of them said to the whole group, "I hear there is a leader among you." Two of them came out of nowhere and jumped on my husband. They grabbed him and said, "You're a terrorist leader." … They were masked. They took him away. My daughters were all wailing like injured animals over their father.

She has had no news of his fate or whereabouts since then.

The families of the disappeared explained to Amnesty International that they feared being arrested outside the IDP camps, particularly of being stopped at checkpoints if they attempted to search for their loved ones.

As a state party to the International Convention for the Protection of all Persons against Enforced Disappearance, Iraq is required to investigate and bring to justice any person who "commits, orders, solicits or induces" or attempts to commit an enforced disappearance.

OBSTACLES TO A SAFE FUTURE

Displaced men, women and children perceived to be affiliated to IS face multiple obstacles in Iraq. Many displaced families who lived under IS control are now living without one or more of their civil documents, including identity cards. In July 2020, the International Organization for Migration recorded that 49% of all IDPs in Iraq had reported that at least one member of their family was missing at least one essential civil document. These documents are vital for IDPs' ability to exercise their right to freedom of movement and access to employment, education, pensions and other state services and benefits.

Iraqi authorities, especially security actors, present at civil status directorate offices have hindered or blocked displaced men, women and children with perceived affiliation to IS from obtaining, renewing or replacing civil documents. Security forces present at civil status directorates screen IDP applicants for IS affiliation by checking their names against a "wanted list" and subjecting them to an interrogation. This procedure is not applied to Iraqi citizens who are not displaced.

Women IDPs interviewed by Amnesty International said that one way to obtain civil status documents if they were not cleared by the security screening was to disown absent male relatives who were perceived to be affiliated with IS. Some also said that security and intelligence officers harassed and insulted them and their deceased or missing male relatives. Sometimes the treatment led the women to stop engaging in the process altogether. Some of those providing legal assistance to IDPs told Amnesty International that they experienced harassment from security and intelligence officers in civil status directorate offices when they sought to help IDPs obtain civil documents. Financial constraints have also hindered displaced families from travelling to the civil status directorate office in their area of origin in order to renew, replace or obtain civil documents.

All the men and boys released from detention in the KR-I who spoke to Amnesty International expressed fears that they would be rearrested by central Iraqi security forces and face torture or other ill-treatment and unfair trials if they sought to return to their homes. Their fears stemmed mostly from reports of the rearrest of relatives, friends and other men and boys who had been detained and released by KRG authorities.

Former detainees and families of those arrested because of their perceived affiliation to IS were also afraid of members of the communities living in their areas of origin committing violence against them in acts of revenge for the crimes of the armed group. Several of those interviewed by Amnesty International reported being driven out of their areas of origin when attempting to return there.

Following the announcement by the Iraqi authorities of the conclusion of the armed conflict involving IS in December 2017, there was an initial wave of IDPs returning to their areas of origin. The IOM reported at the end of June 2018 that "more than 590,000 IDPs" had returned in 2018, but that the pace was "slowing down" as the remaining IDPs, numbering some 2 million, faced significant obstacles to return". Since then, the central Iraqi government has sought to "close the displacement file" by issuing financial grants to IDPs returning to their areas of origin and closing and consolidating IDP camps. By the end of 2019, the Iraqi authorities had closed or consolidated at least 54 IDP camps and continued these efforts into the first months of 2020. They then stopped as Iraqi authorities began to impose restrictions of movement to prevent the spread of COVID-19 in the country. Iraq's Ministry of Migration and Displacement announced in October 2020 that it had drafted a plan to end displacement that addressed obstacles to the return of IDPs. By mid-October, camp closures had resumed in several locations, including Baghdad, Karbala, Diyala, Suleimaniya, Anbar, Kirkuk and Ninewa.

The first camp closures and consolidations took place in Ninewa governorate in September 2019 and already raised alarm bells; IDPs were reported to have been forcibly returned to their areas of origin despite serious humanitarian and security concerns. Since then, while some IDPs have been able to return to their areas of origin, others have been subjected to secondary displacement; they have been forced to move to other camps or to informal settlements. Some had faced threats from their communities in their areas of origin,

while others were blocked by local authorities from entering their home areas, despite having received clearance prior to departure from the camps.

Facilitating voluntary returns of IDPs to their areas of origin is welcome. As per international humanitarian law, displaced persons have the right to voluntary return in safety to their homes as soon as the reason for their displacement ceases to exist. However, attempting to end displacement through the closure and consolidation of camps without addressing risks to IDPs with perceived ties to IS who are unwilling or unable to return to their areas of origin makes them particularly vulnerable to secondary displacement, often forcing them to live in precarious shelters such as unfinished or abandoned buildings.

RECOMMENDATIONS

The resumption of closing and consolidating IDP camps in October 2020 is particularly worrisome in the context of persisting obstacles to returns, as this may leave thousands of Iraqis left in limbo, unable to return home. It is welcome that the Iraqi authorities have been developing a plan to address obstacles to the return of IDPs, but that plan should be designed and implemented in such a way that IDPs are given a meaningful choice about their future and that, if they elect to return to their areas of origin, those returns are dignified, safe and sustainable. More pressingly, the Iraqi authorities must halt any camp consolidations or closures until the blocks to return of IDPs have been addressed in such a way as to allow displaced communities to return in a safe, dignified and sustainable manner to their areas of origin. The authorities should also take concrete steps to effectively address the collective punishment of IDPs with perceived ties to IS and guarantee that no one is punished for the crimes of others or for crimes for which they have already been punished. In order to prevent patterns of violations themselves and tackle root causes of the stigmatization of IDPs, Amnesty International urges the Iraqi authorities to guarantee that all Iraqis are able to obtain their civil documentation; to reveal the fate and whereabouts of those who have disappeared after arrest by Iraqi forces; and, along with KRG authorities, ensure that arrests are made only on grounds permitted under international human rights law and that detainees are not subjected to torture or other ill-treatment. Both the Iraqi and KRG authorities must ensure accountability for crimes committed by all parties to the conflict for internationally recognised offences committed during and in the aftermath of the conflict, and holding accountable those responsible for the enforced disappearances, torture and other ill-treatment, in trials that meet international fair trial standards and without recourse to the death penalty.

2. METHODOLOGY

This report focuses on human rights violations faced by internally displaced Iraqi men, women and children who are perceived to be affiliated with the armed group calling itself the Islamic State (IS) and the impact of these violations. Within its broader body of work on the human rights situation in Iraq, Amnesty International had found that internally displaced persons (IDPs) with this perceived affiliation faced particular risks.[1] Amnesty International has condemned and extensively documented human rights abuses and violations of international law by IS in Iraq, some amounting to war crimes and crimes against humanity, and has called for perpetrators to be held accountable in fair trials without recourse to the death penalty. However, it had observed that many IDPs were perceived to be affiliated to IS due to factors outside their control, such as being related to an IS fighter or coming from an area perceived to be an IS stronghold.[2]

The findings in this report are based on a combination of remote and field research conducted between November 2018 and October 2020. The research included two fact-finding missions to Iraq carried out between 17 and 27 November 2018 and between 18 and 28 May 2019. Amnesty International had intended to carry out a third mission in 2020 but was unable to do so due to travel restrictions related to COVID-19. During the field missions, three Amnesty International researchers conducted interviews with IDPs at the following camps: Germawa in the governorate of Duhok in the Kurdistan Region of Iraq (KR-I), Dibaga, Hasan Sham U2, Hasan Sham U3 and Khazir in the governorate of Erbil, also in the KR-I, and Nimrud, Salamiya 1 and Salamiya 2 in the governorate of Ninewa, which is administered by the central Iraqi authorities. The organization's researchers were not able to travel to other governorates, partly for security reasons and partly because of administrative obstacles imposed by the central Iraqi authorities and the authorities of Kurdistan Regional Government (KRG) on the movement of human rights organizations within the country. The interviewees originated from disputed territories that form part of Erbil governorate, in the KR-I, and Kirkuk, Ninewa and Salah-al-Din governorates, all under the control of the central Iraqi authorities. Amnesty International met officials from the administration of all the camps visited before entering them, but representatives of neither the camp nor any other authorities were present during interviews.

The researchers carried out individual interviews between November 2018 and October 2020 with a total of 119 IDPs, all in Arabic. Interviews in 2018 and 2019 were conducted in person inside Iraq; those in 2020 were conducted remotely. The interviews carried out in 2020 included follow-up interviews with nine IDPs – four of them had been interviewed in Ninewa in 2019 and were in KR-I at the time of the follow-up interview, after the camp they were in was closed. A follow-up interview was additionally carried out with one Iraqi lawyer to discuss issues related to civil documents obstacles and the harassment of lawyers seeking to help families with perceived ties to IS, in addition to two interviews with humanitarian workers to confirm that the situation with regards to IDPs facing obstacles to return remained unchanged.

They spoke to 20 men and 13 unaccompanied boys under the age of 18 who had been detained by KRG security forces on suspicion of affiliation to IS, but were later released and were living in camps in the KR-I, about their experiences in detention. The researchers attempted to interview women and girls who had been detained by KRG security forces for suspected affiliation to IS but were informed none resided in the camp they visited. They also spoke to two men and 13 women about the detention of a total of 15 male relatives – all men aged at least 18 at the time of arrest – on suspicion of affiliation to IS at the hands of KRG security forces and the impact of this experience. Similarly, they interviewed five men and 34 women about the detention or enforced disappearance of a total of 67 relatives on suspicion of affiliation to IS at the hands of central Iraqi security forces and the impact of this experience. Of these 67 relatives, at the time of arrest, 61 were men over the age of 18, three were women over the age of 18 and three were boys under the age of 18.

Amnesty International spoke as well to nine displaced women who had become heads of household since their husbands had either died or gone missing during the armed conflict before their areas were retaken from IS. The organization did so as it found, during the

[1] For more information on Amnesty International's range of work on the human rights situation in Iraq in recent years, see Amnesty International, "Iraq", www.amnesty.org/en/countries/middle-east-and-north-africa/iraq/

[2] For further details on what determines perceived affiliation to IS, see Amnesty International, *The condemned: Women and children isolated, trapped and exploited in Iraq* (Index: MDE 14/8196/2018; hereinafter: Amnesty International, *The condemned*); Amnesty International, *At any cost: The civilian catastrophe in west Mosul* (Index: MDE 14/6610/2017; hereinafter Amnesty International, *At any cost*).

course of this and previous research, that women who had become heads of household in such circumstances were assumed to have ties to IS and experienced similar stigmas as women whose male relatives had been detained on suspicion of affiliation to IS.

The remaining 23 IDPs with whom Amnesty International spoke provided more general information on conditions and arrests in the camps, as well as their fears and anxieties about returning to their areas of origin.

The majority of these individual interviews were carried out on a one-to-one basis. Otherwise, individual interviews were conducted with two to four immediate family members only present.

Researchers also conducted four separate focus group interviews with IDPs in camps in the KR-I during its fact-finding missions. They carried out three of these focus groups interviews in November 2018: one with around 20 released male detainees who were under the age of 18 at the time of the interview; another with around 20 men aged 18 or above; and a third with three displaced *mukhtars* (community leaders). They conducted the fourth in May 2019 with around 15 released male detainees aged 18 or above.

To respect their requests that they remain anonymous for their own security or the security of their family members, Amnesty International changed the names of the IDPs featured in this report, replacing them with pseudonyms, which appear in quotation marks, and omitted the location of the interview and other key identifying details such as the interviewee's place of origin. In some cases, only the month and year of arrest are mentioned, at the request of the interviewees. Unless otherwise stated, the age given for interviewees is their age at the time of the interview.

In addition, Amnesty International interviewed 15 humanitarian workers, 12 of them from international organizations and six from national ones, as well as officials from UN agencies, about the situation of IDPs, including barriers to them returning to their areas of origin. It reviewed reports by UN agencies including the UN High Commissioner for Refugees (UNHCR), the UN Office for the Coordination of Humanitarian Affairs (OCHA), the UN Assistance Mission for Iraq (UNAMI) and the International Organization for Migration (IOM), as well as reports by international non-governmental organizations (NGOs), local monitoring groups and the media. In addition, it examined relevant official statements issued by both the central Iraqi and KRG authorities.

It met with officials from the KRG's Joint Crisis Coordination Centre and High Committee to Evaluate and Respond to International Reports in Erbil on 18 November 2018 and 21 May 2019 to discuss the situation of IDPs in the KR-I. The meetings were conducted in English and Kurdish (Sorani). During its May 2019 mission, the organization also sought to meet officials from the security forces and judicial authorities, as well as prosecution lawyers, in the KR-I, but was told they were too busy during the period of the visit. It was unable to access verdicts from courts in the KR-I due to the inability to secure a meeting with officials from the judicial authorities and the lack of an online database containing this information.

On 3 August 2020, Amnesty International communicated its key findings in memorandums addressed to Iraqi Prime Minister Mustafa al-Kadhimi and KR-I Prime Minister Masrour Barzani. A response received from the Office of the International Advocacy Coordinator for the KRG authorities dated 16 August 2020 provided brief information related to laws regulating arrests and trials in the KR-I as well as short responses to a number of findings in the report. Where relevant, these responses are reflected in the report. No substantive response had been received from the central Iraqi authorities as of XX November 2020, when this report was finalized.

Amnesty International would like to express its immense gratitude to all the men, women and boys who took the time to speak about their experiences to the organization. It would also like to thank all the humanitarian workers who shared their valuable insights.

3. BACKGROUND

The armed group calling itself the Islamic State (IS) attracted global attention in early 2014 when it drove Iraqi government forces out of cities in western Iraq. In June 2014, it captured Iraq's second largest city, Mosul, in Ninewa governorate, which was to become the armed group's most notable stronghold in the country. In August 2014, it killed and abducted thousands of Yazidi men, women and children in Sinjar district, also in Ninewa governorate. By then, it had gained control of large swaths of the governorates of Anbar, Diyala, Kirkuk, Ninewa and Salah al-Din in central Iraq, as well as parts of the Makhmur district in Erbil governorate in the KR-I. To combat IS and recover control of territory, security and armed forces of the central Iraqi authorities and the affiliated Popular Mobilization Units (PMU) and Tribal Mobilization Units (TMU), as well as the Peshmerga, the armed forces of the KRG, engaged in military offensives.[3] They were supported by a US-led international coalition, which conducted air strikes to support their operations and provided military equipment and training.[4] Between late 2014 and 2017, Iraqi forces gradually regained control of territory from IS. Supported by the US-led coalition they retook Mosul in July 2017.[5] On 9 December 2017, Iraqi forces declared "victory" over IS after retaking its last strongholds of Tal Afar in Ninewa governorate and Hawija in Kirkuk governorate in September and October, respectively. However, the armed group continued to be active in other ways, attacking civilians through assassinations and bombings, burning agricultural land and targeting checkpoints of Iraqi forces. They took advantage of the outbreak of COVID-19 in 2020 to escalate activities.[6] By June 2020, Iraqi security forces had launched anti-IS operations once more, particularly in the governorates of Kirkuk and Salah-al-Din; these were continuing at the time of writing.[7]

IS committed a catalogue of human rights abuses and violations of international law, including war crimes and crimes against humanity. At the height of its territorial expansion, the IS ruled over millions of Iraqis and controlled state infrastructure including schools, universities, hospitals, tax authorities and other parts of the civil service.[8] While some civilians may have voluntarily co-operated with IS, the armed group forced many state employees, such as doctors and other health workers, lecturers, teachers and civil servants, to continue working in their posts under its authority. It systematically targeted and killed civil servants and members of security and armed forces who refused to pledge allegiance to it. It punished men and women with flogging or imprisonment if it found them not adhering to strict codes of dress and behaviour in line with their own interpretation of Islamic customs; these included the expectations that women wear full head coverings, that they not leave their homes without a male guardian and that neither women nor men smoke. Residents of areas under IS control reported that its fighters sometimes confiscated their food and sometimes prevented them from accessing food the armed group had stockpiled. It forbade the use of mobile phones, satellite television and the internet, following which it raided homes to confiscate such equipment, often punishing the owners with imprisonment. IS started to prevent civilians leaving areas under its control in early 2015. As it lost ground to military offensives, it forcibly displaced thousands of civilians into zones of active hostilities to shield its own fighters. Its fighters deliberately killed civilians who were trying to flee the fighting, carried out

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[3] The Popular Mobilization Units (PMU), known in Arabic as al-Hashd al-Sha'abi, are militias affiliated to the central Iraqi authorities that were brought under a common umbrella in June 2014 by then Prime Minister Nouri al-Maliki in the context of the fight against IS. In February 2016, then Prime Minister Haider al-Abadi designated them as "an independent military formation" forming part of the Iraqi armed forces". See Amnesty International, *Iraq: Turning a blind eye: The arming of the Popular Mobilization Units* (Index: MDE 14/5386/2017; hereinafter: Amnesty International, *Turning a blind eye*).
The Tribal Mobilization Units (TMU), known in Arabic as al-Hashd al-Ashairi, are militias composed of fighters from Sunni tribes that are generally active only in their local areas. They played a role in the fight against IS and in securing their areas after they had been recaptured. While much less powerful than the PMU, some tribes within the TMU also received support from government authorities, including salaries and weapons. See Amnesty International, *Turning a blind eye.*

[4] See US Department of Defense, "Operation Inherent Resolve. Targeted operations against ISIL terrorists", www.defense.gov/News/Special-Reports/0814_Inherent-Resolve

[5] For more details see Amnesty International, *At any cost.*

[6] For more details, see Education for Peace in Iraq Center, *Iraq Security and Humanitarian Monitor: August 20 – August 27, 2020*, 27 August 2020, enablingpeace.org/ishm269; Information Management and Mine Action Program (iMMAP), *Iraq: iMMAP Humanitarian Access Response - ISIS Sleeper Cells Activities During COVID-19 Pandemic (Jan 2020 - Aug 2020),* 22 September 2020, bit.ly/3hTIE3N

[7] Office of the Prime Minister of Iraq, *The Commander-in-Chief of the Armed Forces, Mustafa al-Kadhimi, supervises the launch of Operations of Iraqi Heroes - Victory of Sovereignty, and inspects the participating military units*, 2 June 2020, pmo.iq/press2020/2-6-202001.htm (in Arabic); Iraq Ministry of Defence, *The commander of the headquarters of the joint operations in Kirkuk confirms the continuation of pre-emptive operations and inspections*, 21 September 2020, bit.ly/2ZZn87A (in Arabic).

[8] See, for example, Margaret Coker and Falih Hassan, "Iraq Prime Minster declares victory over ISIS", *The New York Times*, 9 December 2017, www.nytimes.com/2017/12/09/world/middleeast/iraq-isis-haider-al-abadi.html

execution-style killings against opponents and recruited and deployed child soldiers. In Mosul, for example, IS fighters occupied hospitals to avoid being targeted by Iraqi and coalition forces.[9]

Compounding the suffering of civilians, who made harrowing journeys when fleeing IS-held areas, central Iraqi, KRG and international coalition forces committed serious violations of human rights and international humanitarian law, including war crimes. During armed hostilities, Iraqi and coalition forces launched indiscriminate or disproportionate attacks that killed and wounded civilians using explosive weapons unsuitable for densely populated areas such as Mosul.[10] In operations to retake west Mosul alone, Amnesty International estimated that, between 19 February and 19 June 2017, attacks launched by Iraqi and coalition forces may have caused the deaths of as many as 5,805 civilians. Central Iraqi forces, including the PMU, and KRG forces also forcibly displaced civilians and destroyed their homes on a mass scale.[11]

Since 2014, central Iraqi and KRG authorities have arrested and prosecuted thousands of men and hundreds of boys under the age of 18 whom they suspect of being affiliated to IS. Those authorities clearly have a legitimate interest and responsibility to pursue accountability for the crimes IS has committed. However, they have perpetrated gross human rights violations in this pursuit. They have subjected many to torture and other ill-treatment; central Iraqi forces have also forcibly disappeared thousands.[12] Criminal courts, mainly in the capital, Baghdad, and, since 2018, Mosul, have sentenced thousands to life imprisonment or the death penalty under Iraq's anti-terrorism law in trials that have largely failed to comply with international fair trial standards; in particular, judges have regularly admitted as evidence "confessions" marred by allegations of torture and the testimony of anonymous informants.[13] In recent years Iraq has consistently ranked among the world's top five states carrying out the death penalty.[14]

Though repeated bouts of sectarian strife in the aftermath of the US-led invasion of 2003 forced many civilians from Iraq's diverse ethnic and religious communities to leave their homes, the scale of displacement since 2014 has been even greater. At some point between 2014 and 2017, an estimated cumulative total of 6 million Iraqis fled violence and sheltered in IDP camps, schools, mosques or unfinished buildings, or with host communities, across the country. Many lived in dire conditions, with little or no access to essential services such as medical care.[15] Thousands of residents of Mosul and surrounding areas in north-west Iraq fled across the border to Syria and took refuge in the Hol Camp.[16]

Over 4 million IDPs have returned to their areas of origin since the end of military operations. However, the rate of returns has generally been slow and approximately 1.4 million Iraqis remained internally displaced as of July 2020; of these, almost 55,730 lived in a total of 67 camps in different parts of Iraq.[17] With the outbreak of COVID-19 in Iraq in February 2020, its spread throughout the country in the following months (by mid-October 2020 over 410,000 cases had been recorded) and the imposition of movement restrictions by the Iraqi government to combat it, IDPs have faced increased challenges to accessing their rights. Humanitarian actors have said that the restrictions have exacerbated administrative obstacles to them accessing locations to deliver humanitarian aid and services.[18] In mid-October, camp closures had resumed in several governorates across the country, including Baghdad, Karbala and Nineweh.

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[9] For more details on IS crimes, see Amnesty International, *Punished for Daesh's crimes: Displaced Iraqis abused by militias and government* forces (Index: MDE 14/4962/2016; hereinafter: Amnesty International, *Punished for Daesh's crimes*); Amnesty International, *The condemned*; Human Rights Watch, *Flawed justice: Accountability for ISIS crimes in Iraq*, December 2017, www.hrw.org/report/2017/12/05/flawed-justice/accountability-isis-crimes-iraq (hereinafter: Human Rights Watch, *Flawed justice).*

[10] See, for example, Amnesty International, *At any cost.*

[11] See Amnesty International, *Punished for Daesh's crimes*; and Amnesty International, *The condemned.*

[12] See, for example, Amnesty International, *Punished for Daesh's crimes.*

[13] See Amnesty International, *Punished for Daesh's crimes;* Amnesty International, *The condemned*; and Human Rights Watch, *Flawed justice.*

[14] Amnesty International, *Death Sentence and Executions 2019* (Index: ACT 50/1847/2020), 21 April 2020

[15] IOM, *Iraq Displacement Crises 2014-2017*, 8 November 2018, reliefweb.int/report/iraq/iraq-displacement-crises-2014-2017

[16] UNHCR, *Syrian Arab Republic: Countries of Origin of Refugee Population (as of 30 June)*, 30 June 2016, reliefweb.int/map/syrian-arab-republic/syrian-arab-republic-countries-origin-refugee-population-30-june

[17] IOM, *Iraq: IDP Camp Directory - Comparative Dashboard & Camp Profiles Round XIII, February-March 2020*, 8 July 2020, reliefweb.int/report/iraq/iraq-idp-camp-directory-comparative-dashboard-camp-profiles-round-xiii-february-march

[18] OCHA, *Iraq: COVID-19 Addendum to the Humanitarian Response Plan 2020 (July 2020)*, 21 July 2020, www.humanitarianresponse.info/en/operations/iraq/document/iraq-hrp-2020-covid-19-addendum-en

4. ABUSIVE DETENTION AND UNFAIR TRIALS IN KR-I

> **"I was arrested five days after arriving in Khazir [IDP camp]. They [the Asayish] told me they wanted to talk to me for five minutes. Those five minutes lasted one year and eight months."**
>
> "Amer", a juvenile released from detention in Asayish Gishti's headquarters in Erbil.[19]

Between 2014 and 2017, the period when IS controlled Iraqi territory, the Asayish (the KRG's primary security and intelligence agency)[20] subjected hundreds of thousands of men – as well as boys considered of fighting age – who had left IS-held areas to a security screening process, the purpose of which was to determine whether they were associated with IS.[21] Many were screened after they arrived at KRG checkpoints or military positions near front lines. These IDPs were often searched first of all by the Peshmerga, the KRG's military force, who would then transfer them to the nearest Asayish checkpoint or base. In areas like Makhmour, Erbil governorate, during military operations to retake Ninewa, KRG forces were stationed jointly with Iraqi forces, including the PMU. The Asayish arrested and detained those they determined to be affiliated with IS, a process that was primarily based on whether the names of the men and boys appeared on "wanted lists" compiled by central Iraqi and KRG security forces. Some individuals passed through checkpoints where they were screened and determined not to be on a "wanted list" of IS affiliates, but were then arrested on suspicion of such connections at a subsequent checkpoint or after arrival at an IDP camp. Since 2014, the KRG authorities have put thousands on trial to answer charges based on their alleged affiliation with IS. While many have been acquitted, hundreds have been sentenced to prison terms.

This chapter examines the experiences of men and boys who were arrested by the Asayish between 2016 and 2017 on suspicion of affiliation to IS and who at the time Amnesty International interviewed them or their relatives, in 2018 or 2019, lived in IDP camps in the KR-I following release or had families who lived there. It looks into their experiences during detention, at trial and following release where applicable. It also considers the KRG authorities' compliance with international juvenile justice standards, given that boys as young as 14 were among those detained.

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[19] Interview with "Amer" (real name withheld) on 22 November 2018. Date of arrest also withheld.

[20] The Asayish is one of six security forces under the authority of the Kurdistan Region Security Council. Asayish branches can be found in all KR-I governorates, in both the capital cities of governorates and smaller towns and villages. Its mandate includes combating terrorism, threats to national security, drug trafficking and other serious offences.

[21] The KR-I was at one point hosting over 1.4 million IDPs. See KRG Ministry of Interior, *KRG hosts 40% of all IDPs and 97% Syrian refugees in Iraq*, undated, jcc.gov.krd/en/article/read/56

Hundreds of thousands of them would have been men and boys considered of fighting age. They would not have been able to reside in IDPs camps or elsewhere in the KR-I without going through screening by Asayish. At the height of the displacement influx this sometimes led to men and boys waiting in a part of the camp that was fenced off from the proper camp for weeks waiting for information given during screening to be cleared before they could formally enter camps . Similarly, any IDPs who headed to the cities in KR-I instead of going to camps would have to get a residency permit which requires screening by Asayish for IS affiliation. See, for example, Amnesty International, *Punished for Daesh's crimes.*

4.1 ARBITRARY DETENTION

Through the individual interviews conducted for this report in 2018 and 2019, Amnesty International documented the detention of 48 individuals – 35 men and 13 boys who were under the age of 18 at the time of their arrest – by the Asayish for suspected affiliation to IS. It interviewed three men and four boys who said they had been arrested at KRG checkpoints near front lines while fleeing IS-held areas between 2016 and 2017. It spoke to displaced family members of six other men arrested at such checkpoints during the same period. It interviewed 16 men and nine boys who said the Asayish had arrested them days or weeks after they had arrived at IDP camps in the KR-I between 2016 and 2017, despite having gone through screening at Asayish checkpoints prior to their arrival in the camps and been informed that they were "cleared". It spoke to relatives of nine other men who had the same experience. In all cases, those arrested were taken to the headquarters of the Asayish Gishti (General Security Directorate) in Erbil.[22] It further spoke to one man who was summoned by the Asayish while displaced in Erbil in 2017.

The Asayish either gave no basis for the arrest or simply stated that the individual's name was on a "wanted list". Little is known about these "wanted lists" other than that they contain the names of individuals in Iraq suspected of different degrees of affiliation to IS, based on information that is publicly available or provided by informants of varying reliability. The information may indicate that they had been involved with IS, either as a fighter or in a non-combat role, or that a relative – however distant – was involved with IS. Some have been arrested simply because their names are similar to names contained on a "wanted list".[23]

Several former detainees said they were told by interrogators that their arrest had been based on an informant's report. Others said that they were arrested after an individual from their extended family, community, tribe or area of origin spotted them in an IDP camp in the KR-I and shouted in the direction of Asayish officials stationed there to accuse them of being IS affiliates. According to interviewees, as well as previous documentation by Amnesty International, some informants have falsely accused individuals of being IS members because they had personal or tribal grievances against them or wanted to "cleanse" themselves of any perception of IS affiliation in the eyes of security forces as well as local and tribal authorities.

In one case, Asayish officers gave a particularly strong indication that the arrest they were carrying out was arbitrary. They told a man and one of his sons whom they were arresting in early October 2017 near Hawija, a city in the governorate of Kirkuk, that they were taking them into custody because the man's other son was missing and presumed to have joined IS.

"Sundus", aged 53, whose husband remains detained by the Asayish in Erbil, witnessed his arrest in early December 2016, two days after fleeing east Mosul and arriving at an IDP camp in the KR-I. She told Amnesty International that two Asayish officers arrested him without presenting an arrest warrant or otherwise providing an explanation: "[They] came and asked me, 'Where is your husband?' Then they saw him and one of them said to the other, 'He looks too old.' The other replied, 'No. Get him.' I started panicking and begged them not to take him. They said, 'We'll bring him back in two hours.' I fell on the ground and watched them take him."[24] According to a relative who was detained with Sundus' husband, he "confessed" to IS affiliation and was sentenced to a five-year prison term.

"Fares", aged 18 at the time, left his home area near Hawija, then under IS control, in November 2016 and headed towards areas in the Kirkuk governorate at the time under KRG control. He was screened for IS affiliation by KRG forces at the first checkpoint he reached and then released. However, as soon as he arrived at an IDP camp near Erbil, a relative claimed he was an IS member and he was arrested. He said:

When I left [home], I left at night. I joined a group of families who were fleeing. When we got to the Kurdish checkpoint, they were very nice. They separated out the men – there were three of us – and sent the women to the camps. The other two men were arrested but they let me go. When I got to the camp, as soon as I stepped foot in it, I saw my cousin. He glanced at me and started shouting, "Take him. He is a Daeshi [an IS member]." He did this because of an honour dispute in our family.25

"Fares" was eventually released eight months after his arrest. He explained that he was interrogated several times early on in his detention, during which he repeatedly explained the reason he believed his relative had accused him of being a member of IS.

"Shadi", aged 16 at the time of his arrest, left IS-held Hawija after IS had killed his father and two brothers and an air strike had killed his mother. He explained that, on arrival at a KRG checkpoint in the area of Debes in Kirkuk governorate in early November 2017, he was screened by the Asayish and told that his name was not on a "wanted list". He explained to Amnesty International what happened after he had made his way to an IDP camp in the KR-I:

[22] The Asayish Gishti is one of several directorates of the Asayish. It operates detention facilities used to hold suspects in terrorism and security-related cases, as well as those accused of drug crimes and other serious offences. Law No. 5 of 2011 of the KR-I sets out the long list of the Asayish's responsibilities, which include the protection of public and private liberties in accordance with the principles of democracy and human rights; the security of official institutions and individuals; the security of airports, borders, dams and oil establishments; gathering information on and confronting threats to internal security; countering organized crime, terrorism and drug trafficking; and "following up" on cases of refugees, residents and foreign visitors in the KR-I.
[23] For more details, see Amnesty International, *Punished for Daesh's crimes*.
[24] Interview with "Sundus" (real name withheld) on 20 November 2018. Date of arrest also withheld.
[25] Interview with "Fares" (real name withheld) on 23 May 2019. Date of arrest also withheld.

As soon as I arrived, [a cousin of mine] pointed at me and shouted that I was *Daesh* [IS].[26] The Asayish immediately came and arrested me. They said that they were taking us to the Asayish Gishti [headquarters] in Erbil… They put me in a car… My hands were handcuffed… I arrived at the Asayish centre. They took me to the second floor and put me in a common cell. I was not the only minor who was taken from the camp. I don't know how many were, but there were two others with me in the car. We didn't speak with each other because it was not allowed…

I was interrogated three times in [the Asayish] Gishti [headquarters] by three different interrogators… The third time I confessed that I was affiliated to *Daesh*. I confessed because the third interrogator showed me an electric device and threatened to use it on me. I couldn't bear the idea of being electrocuted so I told him, "I will confess to whatever you want." He asked me, "Are you *Daesh*?" I told him, "Yes".[27]

"Shadi" explained that he was held in the Asayish Gishti facility with approximately 115 detainees, among them boys under the age of 18 as well as adult men, for 52 days before being transferred to a juvenile detention facility in Erbil, where he stayed for a total of 14 months. During those 14 months, "Shadi" was taken to court for the first time in early August 2018, nine months after his arrest, where he was provided with a lawyer who spoke Arabic and explained to him that he would be representing him. "Shadi" was asked by the judge during the hearing whether he was a member of IS; he replied that he was not. He was nonetheless sentenced to nine months in prison, which meant he should have been released soon afterwards since he had already been held for nearly that duration. However, "Shadi" remained in the juvenile detention facility until he was taken to court again on 17 December 2018. He explained:

Suddenly, on 17 December 2018, they took me to the court with another lawyer who doesn't speak Arabic. I understood from the judge that it was the appeal court. The judge ordered my release… I was released in mid-January 2019.[28]

Amnesty International does not have access to the information on the basis of which the individuals mentioned above and the other detainees arrested by KRG authorities whose cases it documented were arrested. It appreciates that many of the accusations made might relate to crimes that are recognized under international law. However, the due process concerns it has recorded are significant and indicate that the detentions were often arbitrary.

Under Iraqi law officials must present a judicial warrant when conducting an arrest, apart from in exceptional circumstances, and inform the person being arrested of the reason for the arrest and of any charges against them.[29] In the cases documented by Amnesty International, those carrying out the arrests produced no judicial warrant. In an official response to Amnesty International dated 16 August 2020, the KRG authorities stated that "after the order of arrest from the court, the accused will be detained by the court and all the legal actions will be taken according to the Iraqi Code of Criminal Procedures No. (23), 1971" adding that "the KRG Ministry of Interior does not have the authority to arrest anyone without a court order". However, according to the testimonies gathered by Amnesty International, at no point did the Asayish provide any basis for the arrests of persons whose cases the organization documented other than, in some cases, to state simply that the individual's name was on a "wanted list". In no case did the Asayish present to any of the detainees an arrest warrant indicating that there was a court order for their arrest. Failure to abide by domestic legal requirements that protect against an unjust arrest means the arrests constitute an unlawful and potentially arbitrary deprivation of liberty.[30]

Arbitrary detention constitutes a violation of international human rights law.[31] The prohibition of arbitrary detention is a norm of customary international law. It cannot be the subject of treaty reservations and must be respected at all times, including in time of war or other public emergency.[32] International law and standards require that domestic legal procedures pertaining to arrest be followed and so, in the context of Iraq, failure to present an arrest warrant will make the arrest unlawful under both international and domestic law, unless very specific exceptions are satisfied.[33] In addition, anyone who is arrested or detained must be informed of the reasons why they are being deprived of their liberty.[34] A key purpose of this requirement is to enable an individual to challenge their detention if they believe it is unlawful or unfounded. Therefore, the reasons given must be specific. They must include a clear explanation of both the legal provision under which the individual is being held and the essential factual basis for the arrest or detention.[35]

Any deprivation of liberty must be provided for by law, necessary and proportionate to achieve a legitimate aim.[36] In the criminal context in order to be necessary and proportionate an arrest needs to be based on at least reasonable grounds to suspect that the person being arrested had committed a crime.[37] Without such suspicion an arrest could not be considered necessary, as other means would achieve

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[26] *Daesh* is the Arabic acronym of IS's former name, the Islamic State of Iraq and al-Sham (ISIS). *Daeshi* refers to someone from *Daesh*. Both words are generally considered to have derogatory connotations. They are not used by IS itself.
[27] Interview with "Shadi" (real name withheld) on 23 May 2019. Date of arrest also withheld.
[28] Interview with "Shadi" (real name withheld) on 23 May 2019. Date of arrest also withheld.
[29] Iraqi Code of Criminal Procedures, Articles 92-93. The "exceptional circumstances" are defined in Articles 102 and 103 of the same law as situations where a person commits an offence in front of witnesses, has escaped after being lawfully arrested, has been sentenced in his absence, is carrying arms, or is clearly intoxicated or confused.
[30] See UN Human Rights Committee, General Comment No. 35: Article 9 (Liberty and security of person), UN Doc. CCPR/C/GC/35, para. 12.
[31] International Covenant on Civil and Political Rights (ICCPR), Article 9(1): "Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law."
[32] UN Working Group on Arbitrary Detention, Deliberation No. 9, UN Doc. A/HRC/22/44 (2012), paras 37-75.
[33] See UN Human Rights Committee, General Comment No. 35: Article 9 (Liberty and security of person), UN Doc. CCPR/C/GC/35, para. 12.
[34] Article 9(2) of the International Covenant on Civil and Political Rights,
[35] UN Human Rights Committee, *Kelly v. Jamaica* (253/1987), UN Doc. CCPR/C/41/D/253/1987 (1991), para. 5.8.
[36] See, for example, UN Human Rights Committee, General Comment No. 35: Article 9 (Liberty and security of person), UN. Doc. CCPR/C/GC/35, para. 12.
[37] This requirement is explicitly contained in some international human rights instruments, such as Article 5 of the European Convention of Human Rights and Fundamental Freedoms. While Iraq is clearly not a state party to the convention, the requirement is an interpretation of international principles that are applicable in that country, too.

the aim sought, such as investigating further to collect more evidence. Further, in the absence of reasonable grounds the harm caused by an arrest would outweigh its benefit, and so it could not be considered proportionate. An arrest cannot be considered to be grounded in such reasonable suspicion when it is carried out on the basis of an obvious case of mistaken identity that should have been apparent to the arresting official, on the basis of guilt by association, or on the basis of clearly unreliable evidence.

The Anti-Terrorism Law of the KR-I, under which arrests of individuals suspected of affiliation with IS are made, is similar to Iraq's Anti-Terrorism Law, in that it provides a broad and vague interpretation of what constitutes affiliation to a "terrorist organization" be it membership or carrying out acts deemed to be furthering the aims of "terrorism".[38] The UN Office of the High Commissioner for Human Rights has stated that the vague definitions in both anti-terrorism laws have been "susceptible to subjective and overly discretionary interpretation".[39]

The UN Working Group on Arbitrary Detention has clarified that deprivation of liberty is arbitrary in the following contexts, among others.[40] An arrest or detention without a basis in law is arbitrary. In addition, an arrest or detention that is permitted under domestic law may nonetheless be arbitrary under international standards. Examples include where the law is vague, over-broad, or incompatible with other human rights.[41] The UN Human Rights Committee has clarified that the term "arbitrary" must be interpreted broadly to include elements of inappropriateness, injustice and lack of predictability.[42]

4.2 ABUSES IN DETENTION

4.2.1 PROLONGED DETENTION WITHOUT REFERRAL TO JUDICIAL AUTHORITIES

All of the 48 men and boys arrested by KRG forces on suspicion of links to IS whose cases Amnesty International documented said that, after initial interrogation by the Asayish Gishti at its headquarters in Erbil in 2016 or 2017, they were kept in detention facilities at the same location for weeks or even months without being referred to judicial authorities. During this time, they neither had any access to their families nor were aware of their families being notified of their arrest. All of the boys who were under the age of 18 at the time of their arrest said they were detained with adult detainees up until their first appearance before judicial authorities.

"Amin", aged 24, was arrested in an IDP camp in the KR-I after fleeing there from IS-held Hawija, in Kirkuk governorate, in early October 2016. The Asayish officer who arrested him only asked for his name at the time of his arrest. He then took "Amin" to a nearby Asayish station, where he was kept for several days before being transported, along with eight others, to the Asayish Gishti headquarters in Erbil. He told Amnesty International:

None of us had been shown an arrest order… They put me in a room with about 150 other people and no one asked about me again for about six months. During those six months they did not interrogate me once. In the prison, no one would talk to each other. Everyone was so terrified.[43]

Amin was acquitted in late April 2018 but only released in early October 2018. He told Amnesty International that he was not informed of the reason for this delay.

The reported delays in referral to judicial authorities violate guarantees in Iraq's constitution, which stipulates: "No person may be kept in custody or investigated except according to a judicial decision."[44] Failing to bring suspects promptly in front of judicial authorities contravenes the Iraqi Code of Criminal Procedures, which requires that, within 24 hours of their arrest, suspects are questioned by investigative judges, who can then order their continued detention.[45] Short delays in referring suspects to judicial authorities to assess the lawfulness of their detention may be explicable in the context of mass arrests following the exodus of thousands of IDPs in the

[38] Article 1 of the KR-I's Anti-Terrorism Law (Law No. 3 of 2006) defines "terrorism" as "organized use of violence, or threatening or encouraging or glorifying the use of violence to achieve a criminal act either by an individual or groups by random for purposes of spreading terror, fear, chaos among the people to sabotage the general system or jeopardize peace and safety of society and the Region or endanger the lives of individuals or their freedoms or security or holy places, and causing damage to the environment or natural resources or public utilities or public or private properties to achieve political, ideological, racist or ethnic aims". Article 1 of Iraq's Anti-Terrorism Law (Law No. 13 of 2005) defines "terrorism" as "Any criminal act carried out by an individual or organized group that targeted an individual, or group of individuals, or groups, or official or unofficial institutions, causing damage to public or private property with the aim of undermining security or stability or national unity or introducing terror or fear and panic in people or provoking chaos to achieve terrorist goals".
[39] Office of the UN High Commissioner for Human Rights (OHCHR), UNAMI, *Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL*, January 2020, reliefweb.int/report/iraq/human-rights-administration-justice-iraq-trials-under-anti-terrorism-laws-and
[40] UN Working Group on Arbitrary Detention, Fact Sheet No. 26, Section IV(A)-(B).
[41] UN Human Rights Committee, Concluding Observations: Ethiopia, UN Doc. CCPR/C/ ETH/CO/1 (2011), para. 15.
[42] UN Human Rights Committee, *Mukong v. Cameroon*, UN Doc. CCPR/C/51/D/458/1991 (1994), para. 9.8; *Fongum Gorji-Dinka v. Cameroon*, UN Doc. CCPR/C/83/D/1134/2002 (2005), para. 5.1; *Marinich v. Belarus,* UN Doc. CCPR/C/99/D/1502/2006 (2010), para. 10.4.
[43] Interview with "Amin" (real name withheld) on 22 May 2019. Date of arrest also withheld.
[44] Iraqi constitution, 2005, Article 37(1)(b).
[45] Iraqi Code of Criminal Procedures, Articles 123(a), and 109.

course of military operations to retake territories from IS, which strained the capacity of the criminal justice system. However, prolonged delays of weeks or months are clearly unacceptable.

As a state party to the International Covenant on Civil and Political Rights, Iraq is obliged not only to bring suspects before a judge promptly following their arrest, but also to try them within a reasonable period of time or release them.[46]

4.2.2 TORTURE AND OTHER ILL-TREATMENT

All of the 33 men and boys who were held in the Asayish Gishti headquarters in Erbil in 2016 and 2017 and interviewed by Amnesty International in 2018 or 2019 said that they were subjected to torture or other ill-treatment when interrogated about their affiliation to IS in a bid to make them "confess". All also described severely overcrowded facilities.

All the former detainees reported being beaten with fists, pipes or hoses, as well as being kicked. All said their Asayish interrogators told them that the beatings would stop if they "confessed" to being affiliated to IS. One man told Amnesty International that he suffered a broken arm and several broken ribs while another said he had to be treated in hospital in Erbil for a period of three months after suffering internal bleeding as a consequence of such treatment. Others said they lost consciousness as a result. One of the adult interviewees said that he was threatened with sexual violence against him and his female relatives.

"Shakir", aged 24, told Amnesty International that he fled his home in a village in the district of Shirqat, Salah al-Din governorate, in July 2016 with his mother and 23-year-old brother, but that they were stopped by PMU fighters near Makhmour, then under KRG control, who allowed his mother to carry on after separating the men from the women. He explained that they subjected him and his brother to beatings before handing them over to Asayish forces in Makhmour, who transferred them both to the Asayish Gishti headquarters in Erbil:

When we arrived at the PMU checkpoint, a man from [my home village] in Shirqat [district in the governorate of Salah-al-Din] told the PMU that we were *Daesh*. He did it in front of everyone else. He has a feud with my brother over a woman. The PMU immediately arrested us… Before the PMU handed us over to the Asayish, they took us to a deserted house and beat us until we bled. Then they told us, "If you don't confess, we will kill you and dump your bodies above these bodies." They pointed to the bodies of two men, one on top of the other. They said they would add us to the pile. We are not *Daesh*. We never were. But we were afraid. I confessed first and then my brother did.[47]

He added that Asayish interrogators subjected him to further beatings:

I was with my brother for one night [in Makhmour]. The next day the Asayish transferred us to the Asayish Gishti [headquarters] in Erbil. An Asayish officer interrogated me alone… I was handcuffed all the time but not blindfolded. There was one interrogator and he beat me with a stick. He kept beating me repeatedly all over my body. I told him I was not *Daesh* and that he could call to check that the man who reported my brother was lying. He called the man – the same one who reported us. The interrogator said that he was trustworthy because his brother was with the PMU. The next day the same person interrogated me again. The interrogation was on the floor above where I was held with the other prisoners. I confessed because I knew that he wasn't going to stop until I confessed.

"Shakir" said that, in July 2017, a year after his arrest, he was tried, convicted of having joined IS and sentenced to a year and six months in prison. He said that the trial was the first time he saw a judge or his lawyer, who was appointed by the court. He believes his trial was very short because he had "confessed". Amnesty International was not able to consult the verdict.

"Abu Ahmed", aged 46, fled Mosul, then held by IS, in mid-November 2016 and was arrested by the Asayish one day after arriving at an IDP camp in the KR-I. He was transferred to the Asayish Gishti headquarters in Erbil and released in early October 2018 after being acquitted following his fourth appearance before a court in Erbil. His interrogators told him that an informant had accused him of being an IS member. He told Amnesty International that he had no affiliation to the armed group and described his experience in custody:

They interrogated me so much. They told me: "Say you are a *Daeshi* and the beating will stop. Print your finger here to say you are a *Daeshi*." I refused, and they broke my left arm and several of my left ribs. I wanted the beating to stop, but I also knew I'd be punished forever if I falsely confessed to being a *Daeshi*. They used plastic pipes and thick hoses. There were two or three at a time torturing me. They told me they would rape my wife.[48]

When Amnesty International met "Abu Ahmed", his arm bore signs of deformity caused by the injury.

"Abu Ahmed" told Amnesty International that four of his relatives were arrested in the same IDP camp at different times and were held with him in the Asayish Gishti headquarters in Erbil: "Two of my brothers and two of my nephews were with me. They all confessed under torture. They each got five years [in prison]. I have not told their families. It would drive them crazy with grief."

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[46] ICCPR, Article 9(3).
[47] Interview with "Shakir" (real name withheld) on 23 May 2019. Date of arrest and name of home village also withheld.
[48] Interview with "Abu Ahmed" (real name withheld) on 20 November 2018. Date of arrest also withheld.

Detainees held at the Asayish Gishti headquarters in Erbil consistently described conditions there as severely overcrowded. Many said that, for periods of weeks or months, there were so many detainees squeezed into the same cell that they were only able to sit in a cross-legged position during the day and had to sleep in shifts, since it was only possible to lie down if someone else stood. Boys who were later transferred to juvenile detention facilities described better conditions there.

"Nadir", aged 23, was displaced with his family from Shirqat district, Salah al-Din governorate, during military operations and had been living in Erbil for over six months when he was summoned to the Asayish Gishti headquarters in Erbil in September 2017, along with his father. He was held for nearly five months there before appearing before a court, which acquitted him of charges related to an accusation that he had joined IS. He described to Amnesty International the cell in which he was held prior to appearing before the court in Erbil: "They put me in a very crowded room. We would sleep in shifts. I sat cross-legged for four months and 20 days. When you sleep, someone stands above you; then you switch. Otherwise there's no space. People were too scared to speak to one another."[49]

The Iraqi Code of Criminal Procedures prohibits the "use of any illegal means to influence the accused to secure his statement". It clarifies that "ill-treatment, threatening to harm, inducement, promises, intimidation, psychological influence… are considered illegal means."[50]

Further, the Penal Code provides that "any employee or public servant who tortures, or orders the torture of an accused, witness, or expert in order to compel that person to confess to committing a crime, to give a statement or information, to hide certain matters, or to give a specific opinion will be punished by imprisonment or detention. The use of force or threats is considered to be torture".[51]

Iraq is a state party to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the key international treaty concerning torture. The convention bans torture and other ill-treatment absolutely, in all circumstances and without exception. Beatings causing severe pain or suffering that are intentionally administered by state officials for the purpose of obtaining a confession amount to torture. Harsh conditions of detention, such as those resulting from overcrowding and poor sanitation, may also cause prisoners severe pain or suffering, in which case they would constitute cruel, inhuman or degrading treatment; if they were imposed for the purpose of eliciting confessions or punishing the detainees, they would amount to torture.[52]

4.2.3 VIOLATIONS OF JUVENILE JUSTICE STANDARDS

According to all of the 13 individuals who were under the age of 18 at the time of their arrest by the Asayish in 2016 or 2017 and whose cases Amnesty International documented in 2018 and 2019, they were held with adults in the Asayish Gishti headquarters in Erbil for varying lengths of time before being transferred to juvenile detention facilities. These transfers took place only after their first referral to judicial authorities or following a "confession" during interrogation by the Asayish.

Prior to referral to judicial authorities, boys held in the Asayish Gishti headquarters in Erbil had no access to or contact with their families and were not aware of their families being notified of their arrest. They were only able to receive visits from their families once they had been transferred to the juvenile detention facility in Erbil. In May 2018, the UN stated that in 2017 at least 345 children were held in juvenile detention facilities in the KR-I based on national security-related charges, mostly for their alleged affiliation to IS.[53]

As described above, boys held in the Asayish Gishti headquarters in Erbil said they were subjected to torture and other ill-treatment and forced to "confess" in interrogations there and that these "confessions" were subsequently used in court to convict them.

"Ali", aged 17 at the time, was arrested by the Asayish on suspicion of ties to IS at a camp in the KR-I in late March 2016. He told Amnesty International that he was held for over a year in the Asayish Gishti headquarters in Erbil, where he was forced to "confess" under duress, before he was referred to trial and later convicted under the KR-I's Anti-Terrorism Law, despite retracting his "confession", and sentenced to nine months in prison:

They only offered me a lawyer just before the court session started. The judge sentenced me to nine months even though I explained that I confessed under pressure. I told the judge all of that. By the time I went to court, all of my injuries and bruises had healed. They took me to see the judge one year later on purpose.[54]

Children accused of infringing the law are entitled to all fair trial rights that apply to adults, as well as to the additional juvenile justice protections set out under international human rights law and standards, including the UN Convention on the Rights of the Child, to

[49] Interview with "Nadir" (real name withheld) on 22 May 2019. Date of arrest also withheld.
[50] Iraqi Code of Criminal Procedures, Article 127.
[51] Iraqi Penal Code, Article 333.
[52] Compare the Report of the Special Rapporteur on torture on the Russian Federation, Un Doc. E/CN.4/1995/34/Add.1 (1994), para. 71, where the Rapporteur, commenting on conditions of detention in certain prison cells, states: "The conditions are cruel, inhuman and degrading; they are torturous. To the extent that suspects are confined there to facilitate the investigation by breaking their wills with a view to eliciting confessions and information, they can properly be described as being subjected to torture." Nigel Rodley, who was then Special Rapporteur, later explained that, without evidence of purpose, he could not make a positive finding of torture and legally described the conditions as cruel, inhuman and degrading; "torturous" then, it would appear, being an expression of the Special Rapporteur's revulsion rather than a legal finding. See Nigel Rodley, "The Definition(s) of Torture in International Law", *Current Legal Problems*, Volume 55, Issue 1, 2002, p. 482.
[53] UN Secretary-General, *Children and armed conflict*, 16 May 2018, UN Doc. S/2018/465, para. 76.
[54] Interview with "Ali" (real name withheld) on 23 May 2019. Date of arrest also withheld.

which Iraq is a party, and the UN Standard Minimum Rules for the Administration of Juvenile Justice (known as the Beijing Rules).[55] In particular, their treatment must reflect the fact that children differ from adults in their physical and psychological development and must take into account the best interests of the child.[56] Deprivation of liberty must be a measure of last resort, for the shortest appropriate period of time, and alternatives must be explored.[57]

Every person under the age of 18 years at the time of the alleged commission of an offence must be treated in accordance with the rules of juvenile justice.[58] These take into account a child's age throughout their interactions with the justice system, promoting the child's reintegration and the child's adoption of a constructive role in society.[59] Iraq is required by international standards to develop and adopt a wide range of measures to deal with children in conflict with the law in ways that do not resort to judicial proceedings.[60]

The UN Committee on the Rights of the Child has stated that any child who is arrested and deprived of liberty should be brought before a competent authority within 24 hours to examine the legality of detention.[61] The same committee recommends the legality of pre-trial detention is reviewed regularly, preferably every two weeks. "In case a conditional release of the child, e.g. by applying alternative measures, is not possible, the child should be formally charged with the alleged offences and be brought before a court or other competent, independent and impartial authority or judicial body, not later than 30 days after his/her pretrial detention takes effect."[62]

Parents or guardians should be present at all stages of the proceedings, including during questioning, unless their presence is not in the child's best interest.[63] The UN Committee against Torture has criticized the practice of subjecting children to police questioning in the absence of a guardian or lawyer[64] – sometimes using illegal methods, including threats, blackmail and physical abuse[65] – and has called for children to receive prompt access to an independent lawyer, an independent doctor and a family member from the outset of their detention.[66]

Iraq must take particular care to ensure respect for children's right to be free from compulsion to confess guilt or to incriminate themselves. Children may be led to confess or incriminate themselves because of their age and state of development, deprivation of liberty, the length of interrogation, their lack of understanding, the fear of unknown consequences or of imprisonment, or the promise of lighter sanctions or release.[67]

4.3 UNFAIR TRIALS

Men and boys referred to judicial authorities in the KR-I have been denied their right to an adequate defence, according to the testimonies provided to Amnesty International. All the 27 former detainees interviewed by Amnesty International who were tried following arrest in 2016 and 2017 said that they did not meet the lawyer appointed by the court to defend them until the day of the trial. Many said that, even then, the lawyer generally did not speak to them and that no interpretation service was provided so that they could understand the court proceedings in Kurdish, a language none of them spoke or understood. Some said that they told the court judge that they had "confessed" under duress, but no investigations were launched into their claims of torture and other ill-treatment. Several detainees said their trials took place in a single session that lasted no longer than 20 minutes.

"Abu Sami", aged 65, was arrested in October 2017 at a checkpoint run at the time by Asayish and Peshmerga forces near Debes in Kirkuk governorate after fleeing Hawija. He told Amnesty International:

They arrested everyone that crossed over [to the KR-I]. They said: "Your son is a *Daeshi*." My son has been missing since 2016. They took me in his place. There were hundreds of others where they kept us in Debes... They kept us for four or five days and then transferred us to the Asayish Gishti [headquarters in Erbil]. I was in prison for one year and three months. They kept me for a month before I saw a judge. The judge sentenced me. The lawyer did not speak to me. He only spoke Kurdish.[68]

Amnesty International was able to review a document issued by the Criminal Division of the Court of Cassation of the KR-I in Erbil in October 2018. The court stated that it had reviewed the case of "Abu Sami" and ordered his release due to a lack of evidence. It clarified that the decision of the Criminal Court of Erbil in March 2017 to convict him under Article 3(7) of the KR-I's Anti-Terrorism Law

[55] UN Convention on the Rights of the Child (CRC); UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), adopted by the General Assembly, 29 November 1985, UN Doc. A/RES/40/33.
[56] CRC, Article 3(1).
[57] UN Committee on the Rights of the Child, General Comment No. 10: Children's rights in juvenile justice, UN Doc. CRC/C/GC/10, para. 32.
[58] UN Committee on the Rights of the Child, General Comment No. 10, para. 37.
[59] CRC, Article 40(1); ICCPR, Article 14(4).
[60] CRC, Article 40(3); Beijing Rules, Rule 11.1; Principles on Legal Aid, Principle 10, para. 53(f).
[61] UN Committee on the Rights of the Child, General Comment No. 10, para. 83.
[62] UN Committee on the Rights of the Child, General Comment No. 10, para. 83.
[63] See UN Human Rights Committee, General Comment No. 32: Article 14 (Right to equality before courts and tribunals and to a fair trial), para. 42; UN Committee against Torture (CAT), Concluding Observations: Albania, UN Doc. CAT/C/CR/34/ALB (2005), para. 8(i).
[64] CAT, Concluding Observations: Austria, UN Doc. CAT/C/AUT/CO/4-5 (2010), para. 10; CAT, Concluding Observations: Belgium, UN Doc. CAT/C/BEL/CO/2 (2008), para. 16.
[65] CAT, Concluding Observations: Kazakhstan, UN Doc. CAT/C/KAZ/CO/2 (2008), para. 12.
[66] CAT, Concluding Observations: Israel, UN Doc. CAT/C/ISR/CO/4 (2009), para. 28; CAT, Concluding Observations: Belgium, UN Doc. CAT/C/BEL/CO/2 (2008), para. 16.
[67] UN Committee on the Rights of the Child, General Comment No. 10, para. 57.
[68] Interview with "Abu Sami" (real name withheld) on 23 May 2019. Date of arrest also withheld.

and sentence him to seven years in prison was in contravention of the Iraqi Code of Criminal Procedures as the conviction was based solely on "witness statements from a number of Peshmerga fighters".[69] It further clarified that, given that the defendant retracted in court the "confession" that he had given during interrogation, there was sufficient doubt to dismiss the evidence. Article 13 of the KR-I Anti-Terrorism law stipulates that a confession given under duress can be admitted as evidence in court only if it is substantiated by other evidence.

The KR-I's Anti-Terrorism Law was enacted in 2006 and expired on 17 July 2016, after the region's parliament decided not to renew it.[70] However, it continued to be applied to alleged crimes committed before 17 July 2016. Then, on 1 July 2018, the KR-I parliament issued Law No. 7 of 2018, which reactivated the Anti-Terrorism Law of 2006. Judicial and security officials in the KR-I have told Amnesty International that other relevant Iraqi legislation such as the Penal Code has been used to prosecute terrorism-related offences committed during the intervening period of 17 July 2016 to 30 June 2018.

According to international fair trial standards, all individuals charged with a criminal offence must be informed of their right to legal counsel.[71] This notice must be given far enough in advance of the trial to allow adequate time and facilities to prepare a defence. If they cannot understand the language of the court, they are entitled to an interpreter.[72]

4.4 ARBITRARY RESTRICTION OF MOVEMENT

Of the 33 former detainees residing in camps in the KR-I whom Amnesty International interviewed in 2018 and 2019, 10 said that they had been stopped and turned back at an Asayish checkpoint when attempting to enter Erbil and were, by extension, prevented from visiting other parts of the KR-I. Some were told at the checkpoint that a temporary ban had been imposed upon them and others were told that they were permanently banned from accessing the KR-I beyond the areas where their camp was situated. None of the released detainees were informed of this ban at the time of their release but rather found out when attempting to enter Erbil in search of employment or to visit relatives. All those who reported being stopped at the checkpoint told Amnesty International that they had attempted to obtain an explanation from Asayish officers at the checkpoint but were given none or met with threats of arrest if they persisted in their questions or did not turn back immediately. The rest of the released detainees interviewed told Amnesty International that they had not attempted to access the rest of the region due to fears of harassment and arrest at the checkpoint.

When Amnesty International met "Nadir" in May 2019 (see section 4.2.2), he told the organization that, following his acquittal by a court in Erbil in February 2018, the Asayish sent him to live in an IDP camp in Erbil governorate, along with other individuals released from detention. At the time, he was unable to access Erbil, where his family resided after being displaced. He said: "I tried two weeks ago, and they said, 'Go back. You're banned.' The officer told me that, if I kept asking questions or if I came back, he'd arrest me."[73]

A number of the interviewees mentioned other restrictions on movement. They said that, while it was possible for some camp residents to travel to nearby fields and villages to obtain a day's work, permission to do this was often denied to IDPs released from detention and suspected of IS affiliation. They explained the adverse impact of all these restrictions of movement on their access to employment and education.

The right of Iraqi citizens to freedom of movement is guaranteed in the Iraqi constitution.[74] International human rights law also provides for the right to freedom of movement.[75] Restrictions may be permitted when necessary to protect national security or public order, but any restrictions must be provided for in law, and be proportionate, non-discriminatory, and consistent with other human rights.[76] The UN Guiding Principles on Internal Displacement also stipulate that displaced persons have the right to move freely in and out of camps.[77]

[69] Article 3(7) of the KR-I's Anti-Terrorism Law allows for the indefinite imprisonment of anyone convicted of being affiliated to or a member of any group or organization whose activities are criminalized in the law.
[70] The law provided for the death penalty for anyone found guilty of committing an act of terror or joining, founding, co-ordinating or co-operating with a terrorist organization, or inciting, planning, financing or assisting in a terrorist act. It stipulated a life sentence for anyone found guilty of committing one of a range of criminal acts including causing destruction, kidnapping or financing a terrorist attack. It stipulated a sentence not exceeding 15 years for publishing terrorist propaganda and knowing of a terror act without notifying the authorities.
[71] ICCPR, Article 14(3)(g); UN Human Rights Committee, General Comment No. 32, para. 34; International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), Article 17(2)(d).
[72] ICCPR, Article 14(3).
[73] Interview with "Nadir" (real name withheld) on 22 May 2019. Date of arrest also withheld.
[74] Iraqi constitution, 2005, Article 44(1).
[75] ICCPR, Article 12(1).
[76] ICCPR, Article 12(3). See also UN Human Rights Committee, General Comment No. 27: Article 12 (Freedom of Movement).
[77] UN Guiding Principles on Internal Displacement, Principle 14.

Everybody has the right to be able to work allowing them to live in dignity.[78] Accordingly, Iraq is under a duty to take appropriate steps to safeguard this right.[79] This includes not unfairly depriving individuals of employment.[80] Any restrictions on access to employment on discriminatory grounds which has the intention or effect of impairing or nullifying the exercise of the right to work is prohibited.[81]

[78] International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 6; UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 18, para. 1.
[79] ICESCR, Article 6(1).
[80] CESCR, General Comment No. 13: Article 13 (The Right to Education), para. 6.
[81] ICESCR, Articles 2 and 6; CESCR, General Comment No. 13, para. 12(b)(i).

5. DISAPPEARANCES IN NINEWA

> **"I do not know if he is hungry, sick, bleeding or dead. All I know is they must be torturing him."**
>
> "Um Ahad", the displaced mother of a victim of enforced disappearance.[82]

Since 2014, a range of Iraqi military and security forces have arrested thousands of men – as well as boys considered of fighting age – suspected of affiliation to IS in central Iraq. They have carried out arrests during military operations against IS, at checkpoints, in IDP camps and elsewhere. Some of those who had left IS-held areas were arrested after being subjected to a security screening process, the purpose of which was to determine whether they were associated with IS. The Iraqi forces involved relied on the same or similar "wanted lists" as the Asayish to make their determination. The screening process was characterized by serious due process concerns, including the absence of basic safeguards to prevent ill-treatment. Thousands of men and boys with perceived ties to IS have been subjected to enforced disappearance following their arrest.[83]

This chapter examines the fate of men and boys who were arrested in Ninewa governorate by a range of Iraqi military and security forces on suspicion of IS links and whose relatives lived in IDP camps there at the time of their interview with Amnesty International. It then charts the difficulties that those relatives faced in their search to locate their loved ones.

5.1 ENFORCED DISAPPEARANCES

During its visits to three IDP camps in Ninewa governorate in 2018 and 2019, Amnesty International documented the cases of 67 individuals – 61 men, three women and three boys under the age of 18 at the time of arrest – who were arrested between 2017 and 2019 by Iraqi military and security forces on suspicion of ties with IS. It interviewed five male and 34 female relatives; 12 of the relatives reported the arrest and subsequent disappearance of more than one family member. In all 67 cases the authorities had failed to provide information on the fate or whereabouts of the individuals arrested, thereby subjecting them to enforced disappearance.

An enforced disappearance takes place when a person is arrested, detained or abducted against his or her will or otherwise deprived of their liberty by government officials or by organized groups or private individuals whose actions are condoned by the government in some way.[84] That deprivation of liberty is followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty. As a result of this conduct, the disappeared person is placed outside the protection of the law, impeding his or her recourse to legal remedies and guarantees of protection and placing him or her in a situation of complete defencelessness. This in turn makes him or her vulnerable to other human rights violations, such as torture, sexual violence or even murder.

Relatives who witnessed the arrests said, in every case, that the security forces failed to present a warrant or tell them where their loved ones were being taken. Some told Amnesty International that the security forces beat, mostly with fists or sticks, those they were arresting, then placed them in stress positions while handcuffed and blindfolded before dragging them away.

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[82] Interview with "Um Ahad" (real name withheld) on 20 May 2019

[83] The exact number of such enforced disappearances is unclear, but Amnesty International's research indicates it has reached several thousand at least. For further details, see, for example, Amnesty International, *Punished for Daesh's crimes*, and Amnesty International, *The condemned*.

[84] International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), Article 2.

In 33 of the 67 cases, the individuals were arrested during military operations that took place between February 2017 and July 2017 to retake west Mosul from IS control.

"Um Hamed" told Amnesty International that her son, then aged 44, was arrested in early July 2017 by members of the Iraqi army in west Mosul after Iraqi forces retook the Bab al-Tob neighbourhood in which they were residing and had not been heard of since:

When we were in our village before, we sold all our sheep before *Daesh* forced us to move into Mosul in October 2016. We went to Rijm Hadid [a west Mosul neighbourhood] and lived in an unfinished building under air strikes. The neighbours would give us food. When the army liberated Bab al-Tob [to which we had moved], they tried to take my son. My husband ran after them saying that we had our IDs, but they were already pulling my son by his neck… We just want to know if he is dead so we can move on.[85]

Similarly, "Um Sara" described to Amnesty International the arrest of her husband during the military operation to retake west Mosul:

At the end of May 2017 we were in al-Islah al-Zira'i [a west Mosul neighbourhood]. There were about 50 of us in the basement. We hadn't showered or eaten properly for two and a half months. We had not seen the sun. We heard an announcement saying, "Come out. It is safe." We knew it was not safe, but we went out anyway. We carried a white cloth the whole time. We walked from neighbourhood to neighbourhood then to the Old City. The army came out of nowhere. One of them said to the whole group, "I hear there is a leader among you." Two of them came out of nowhere and jumped on my husband. They grabbed him and said, "You're a terrorist leader." Then two others came. They were masked. They took him away. My daughters were all wailing like injured animals over their father.[86]

"Um Sara" said she had received no news about her husband since this moment. She later discovered that her husband had been accused by PMU members from her area of origin of being an IS leader, an accusation she refutes, and that the army had handed him over to the PMU after arrest. She explained to Amnesty International what happened after the arrest of her husband:

They [army] put us all on a bus. Every now and then the bus would stop and someone from the army would get on and call us names. Our bus was all women and children. They called us whores. They dropped us off in al-Hamdaniya [a district in Ninewa governorate] and we got a taxi to al-Qubba [a nearby village]… We went to my uncle's house. The PMU immediately came to the house. My uncle had to greet them and let them in. They sat there and swore at me for so long. Nobody could say a word. I had to cover my mouth and cry quietly. They told me… "They took your husband in place of your son." They told me one of the masked men was from our village, al-Qubba, and had identified him. The army had let the PMU take him.

In 11 of the 67 cases of enforced disappearance documented by Amnesty International, the individuals were arrested at checkpoints in Ninewa governorate when leaving IS-held areas. The checkpoints were run by one or, in some case, a combination of two of the following forces: the Iraqi army, the Military Intelligence, the Federal Police, the Emergency Response Division, the National Security Service and the PMU.[87] In some cases, they were arrested after being subjected to a screening in which their name was found to match one on a "wanted list" of individuals suspected of IS affiliation. In others, they were found not to be carrying identification documents. Their families explained that they did not have such documentation because, among other reasons, they had lost it while fleeing the violence of the conflict or being forcibly displaced by IS. Some families also destroyed documentation out of fear that it would be perceived as confirming their affiliation to IS.[88] Military and security forces generally assumed, however, that men and boys leaving IS-held areas without identification documents were attempting to hide their real names and must therefore be affiliated to IS.

"Um Ahad", the head of a household from Tal Afar who had been living in an IDP camp in Ninewa governorate since August 2017, told Amnesty International that her son, aged 17 at the time, was arrested in March 2017 by men in olive camouflage uniforms that she associated with the Iraqi army. She said that they found he was not carrying identification documents and discovered he had a relative who had IS affiliations:

When we left with the army in Badush [a village north-west of Mosul, in Ninewa governorate], there was a checkpoint. I don't know its name. They separated the men from the women. My son… didn't have his ID on him. They didn't put him through the computer. They just took him because they knew his uncle was a *Daeshi*. They took my cousin too. The armed men were wearing olive-coloured camouflage. My cousin came out 15 days later and said they had been together for five days. He doesn't know where they were held. He said that after the five days they took 10 to 15 men, among them [my son], and he never saw him again… I do not know if he is hungry, sick, bleeding or dead. All I know is they must be torturing him.[89]

"Um Ahad" has had no news of her son since she witnessed his arrest.

In 23 of the 67 cases, the individuals were arrested in IDP camps or in their areas of origin. Amnesty International documented the arrests of 14 individuals – 11 men and three women – on suspicion of affiliation to IS in the three IDP camps it visited in Ninewa

[85] Interview with "Um Hamed" (real name withheld) on 19 November 2018. Date of arrest also withheld.
[86] Interview with "Um Sara" (real name withheld) on 25 November 2018. Date of arrest also withheld.
[87] The Emergency Response Division is an Iraqi special forces unit under the Interior Ministry. The National Security Service is an Iraqi intelligence agency that reports directly to the Prime Minister.
[88] See Amnesty International, *The condemned.*
[89] Interview with "Um Ahad" (real name withheld) on 20 May 2019. Date of arrest also withheld.

governorate, all in 2018 or 2019. Nine of these individuals were arrested in Nimrud camp in May 2019 by the Tal Afar Directorate of the National Security Service: two men on 5 May and four men and three women on 13 May. The five others from the other two camps were arrested by local police in the area where Nimrud camp was situated.

Relatives of the 14 men and women said in each case that the security forces conducted the arrest at night, driving to the tent of the individual they intended to detain. According to both the relatives and camp managers Amnesty International interviewed in each of the three IDP camps, in not one of the 14 cases did the security forces inform any of them to where they were taking those arrested. The relatives had heard no news of those arrested since.

The wife of one of the men arrested in May 2019 told Amnesty International:

We were… all sleeping in the same tent. Suddenly, we heard men shouting my husband's name. It was 5 May 2019. Then, they stormed the tent. I don't remember how many men there were, but at least five. They first said that they were an organization, but then said they were with National Security [Service] from Tel Afar. They asked, "Who is [husband's name]?" They ordered him to bring his ID card and took him. I don't know where they took him. The men were wearing a mix of civilian clothes and military camouflage uniforms. I followed them, screaming. They blindfolded him and handcuffed him. I followed them all the way to the entrance where they put him in a pick-up… [They] did not show us any paper or document for his arrest. They just took him.[90]

Another relative of a man arrested in May 2019, a 66-year-old displaced man originally from Tal Afar, Ninewa governorate, told Amnesty International a few days later: "Last Monday, my nephew was arrested here in the camp. National Security [Service] from Tal Afar came at midnight and took him. There is never an arrest order. They don't event answer questions. They just have a list and call out names. When they come, you just hope you don't hear your name."[91]

These incidents appear to have violated a prime ministerial directive issued in 2017, which gave an order related to IDP camps to the effect that authorities should "take all necessary steps to prevent anyone taking weapons into camps" and that "it is forbidden for any armed personnel to enter the camps".[92] Amnesty International and UN bodies have previously reported violations of this directive.[93]

As a state party to the International Convention for the Protection of all Persons against Enforced Disappearance, Iraq is required to criminalize enforced disappearances, investigate and bring to justice any person who "commits, orders, solicits or induces" or attempts to commit an enforced disappearance.[94] However, since acceding to the convention in November 2010 it has not incorporated these provisions into national legislation. In September 2019, the Iraqi High Commission for Human Rights called for the Iraqi parliament to pass a draft law, first presented in 2015, to incorporate the provisions of the convention into national legislation. This remained pending at the time of writing. The convention notes that: "The widespread or systematic practice of enforced disappearance constitutes a crime against humanity as defined in applicable international law."[95] Because enforced disappearances can violate several human rights simultaneously, including the right to liberty and security of the person and the right not to be subjected to torture and other ill-treatment, they are referred to as "multiple" or "cumulative" human rights violations. An enforced disappearance is also considered to be a continuous crime, in as far as the disappeared person remains missing and information about his or her fate or whereabouts has not been provided by the state responsible.

5.2 ATTEMPTS TO FIND THE DISAPPEARED

The families of those arrested explained to Amnesty International the challenges they faced searching for their loved ones. Many talked about their fears of being arrested outside the IDP camps, particularly of being stopped at checkpoints. Some indicated that financial constraints limited their ability to travel outside the camps.

"Fadhel", aged 59, explained why he was unable to go searching for his son, who he said was arrested in August 2017: "My 18-year-old son, Mohammed, was arrested in Tal Afar by armed men in olive camouflage uniforms. They took him because we are Turkmen. He's just a child. He has his ID with him, but I know they have tortured him. I can go to look for him. I have my ID, but I'm worried they will arrest me. Anyone who leaves the camp is at risk of going missing."[96]

"Samira", whose husband was arrested in an IDP camp in May 2019, explained to Amnesty International the obstacles she encountered when trying to find about her husband's whereabouts: "On the morning of the [arrest], when the management came to the camp, we went to them and asked them about my husband. They told me there was nothing we could do. During the same raid,

[90] Interview with IDP (name withheld) in May 2019. The exact date of the interview and the name of the arresting authority in this instance are omitted for security reasons.
[91] Interview with IDP (name withheld) in May 2019. The exact date of the interview is omitted for security reasons. Date of arrest also withheld.
[92] Prime Ministerial Directive of 3 April 2017. On file with Amnesty International.
[93] See, for example, Amnesty International, *The condemned*, p. 20; Special Representative of the UN Secretary-General for Iraq, *Briefing to the Security Council by SRSG for Iraq Ján Kubiš*, 30 May 2018, reliefweb.int/report/iraq/briefing-security-council-srsg-iraq-j-n-kubi-new-york-30-may-2018-prepared-enar, p. 17; UNHCR, *Iraq: Monthly Protection Update (28 May - 1 July 2018)*, 1 July 2018, reliefweb.int/report/iraq/iraq-monthly-protection-update-28-may-1-july-2018
[94] ICPPED, Articles 3 and 6.
[95] ICPPED, Article 5.
[96] Interview with "Fadhel" (real name withheld) on 23 May 2019. Date of arrest also withheld.

they took another man... He is mentally ill. I am afraid to go to Tel Afar to ask about my husband. I am afraid of being stopped at the checkpoints; there is no security there."[97]

Some explained the particular challenges of obtaining any information about those detained by the PMU. "Hadeel", aged 28, was displaced with her husband, aged 33, and children to an IDP camp in Ninewa governorate after fleeing west Mosul during the military operations to retake the city from IS. She said that, in March 2017, the PMU rounded up the men from the camp for a random screening:

They took him at night. They gathered all the families in the camp and left the men outside. I kept looking for him but couldn't find him. His cousin saw him blindfolded, with his hands tied, being taken to a car by the PMU. My aunt told me to take my children and go. She went to Baghdad two weeks ago to ask about him and they [the authorities of a prison in Baghdad] told her he wasn't here… I spoke with [a local NGO]… It said that if the PMU had taken him they wouldn't give us any information.[98]

The International Convention for the Protection of all Persons against Enforced Disappearance codifies the right of relatives of those subjected to enforced disappearance to know "the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person".[99] This includes measures "to search for, locate and release disappeared persons and, in the event of death, to locate, respect and return their remains". The convention also provides that the state shall ensure victims have the right "to obtain reparation and prompt, fair and adequate compensation".[100]

The victims of enforced disappearance are not limited only to those who have been disappeared. The convention defines victims as "any individual who has suffered harm as the direct result of an enforced disappearance".[101] It is settled jurisprudence that an enforced disappearance may cause such severe mental distress as to breach the family members' right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment.[102] In Iraq, the victims of enforced disappearance may therefore include family members who have been subjected to severe mental distress as a result of their relatives' enforced disappearance.

[97] Interview with "Samira" (real name withheld) on 19 May 2019.
[98] Interview with "Hadeel" (real name withheld) on 26 November 2018. Name of local NGO omitted for security reasons on request of interviewee.
[99] ICPPED, Article 24(2).
[100] ICPPED, Articles 25(2) and 24(4).
[101] ICPPED, Article 24(1).
[102] See European Court of Human Rights, *Ashlakhanova v. Russia*, 18 December 2012, *Orhan v. Turkey*, 18 June 2002, and *Imakayeva v. Russia*, no. 7615/02, ECHR 2006-XIII, *Kurt v. Turkey*, 25 May 1998; Inter-American Court of Human Rights, Godonez Cruz Case, Compensatory Damages (Article 63(1) American Convention on Human Rights), Judgment of 21 July 1989, Inter-American Court of Human Rights (Ser. C) No. 8 (1990), paras 48-9; UN Human Rights Committee, *Celis Laureano v. Peru*, Communication 540/1993, Views, 25 March 1996, para. 8.5, *Katombe L. Tshishimbi v. Zaire*, Communication 542/1993, Views, 26 March 1996, para. 5.5, *Youssef El-Megreisi v. the Libyan Arab Jamahiriya*, Communication 440/1990, para. 5.4, *Mojica v. Dominican Republic*, Communication 449/1991, para. 5.7.

6. OBSTACLES TO A SAFE FUTURE

> **"In Iraq, life is about being exhausted until you die or someone kills you. Everyone is armed and everyone wants revenge."**
>
> "Abu Sami", a displaced man in an IDP camp in the KR-I.[103]

Displaced men, women and children perceived to be affiliated to IS face multiple obstacles in Iraq. The Iraqi authorities may have legitimate reasons for concluding there is such an affiliation in many cases. However, those interviewed for this report generally believed the perception of affiliation was unjustified.

The men and boys interviewed for this report who had been arrested and detained by the KRG authorities but later acquitted did not have confidence that their acquittal in the KR-I would prevent authorities in the rest of Iraq perceiving them to have ties to IS. They also feared that the mere fact of having been arrested by KRG authorities, whether or not they had then been fairly tried, convicted and served a sentence, put them at risk of arrest by the military and security forces in the rest of Iraq for alleged ties with IS once they had been released.

The women interviewed felt that the Iraqi authorities' perception that they were affiliated to IS stemmed from a number of factors, most of which lay outside their control. Displaced women who had male relatives – no matter how distant – who had been detained by the KRG authorities or detained or forcibly disappeared by the Iraqi authorities said they were stigmatized as affiliated to IS and often referred to as "IS families" by the authorities. Similarly, displaced women whose male relatives – whether affiliated to IS or not – went missing or were killed during military operations to retake areas from IS control said they were perceived the same way.

This chapter sets out the obstacles to a safe future faced by displaced men, women and children due to this perceived affiliation to IS, with particular focus on hindered or blocked access to civil documentation that is vital for freedom of movement, access to employment and other public services. It then sets out the fear of rearrests by Iraqi security forces of men and boys released from Asayish detention.

Finally, this chapter sets out the possible adverse impact of camp closure on IDPs with perceived ties to IS, including arbitrary arrests and subsequent disappearance from checkpoints near or in their areas of origin, as well as violence when returning in their areas of origin. While the closure and consolidation of IDP camps across Iraq has been continuous since millions of Iraqis have gradually returned to their areas of origin, this chapter addresses only the concerns of displaced men, women and children with perceived affiliation to IS as they are at heightened risk of the adverse impacts.

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[103] Interview with "Abu Sami" (real name withheld) on 23 May 2019.

6.1 PROBLEMS WITH CIVIL DOCUMENTS

Many displaced families who lived under IS control are now living without one or more of their civil documents, including identity cards, nationality cards, Public Distribution System (PDS) cards and housing cards; passports; and birth, death and marriage certificates.[104] In July 2020, the International Organization for Migration recorded that 49% of all IDPs in Iraq had reported that at least one member of their family was missing at least one essential civil document, concluding that further assistance was needed for families to obtain such documents.[105] These documents are vital for IDPs' ability to exercise their right to freedom of movement and access to employment, education, pensions and other state services and benefits. For IDPs, the absence of proper documentation also heightens the risk of harassment and arrests at checkpoint when seeking to move within the country (see chapter 5). Women whose children were missing their civil documents expressed particular concern regarding their future and access to formal education.

Iraqi authorities, especially security actors, present at civil status directorate offices in areas under central Iraqi authorities have hindered or blocked displaced men, women and children with perceived affiliation to IS from obtaining, renewing or replacing civil documents.

6.1.1 MISSING DOCUMENTS

While living under IS control, Iraqis generally could not obtain civil documents issued by Iraqi authorities, mainly because they were unable to travel in and out of areas under IS control. It was possible to acquire IS-issued documents, but many either did not seek to obtain these or, if they did so, then destroyed them when fleeing IS-held areas to avoid perception of affiliation to IS and consequently the risk of harassment, including arrest, by Iraqi and KRG forces. Civil documents issued by IS have been declared invalid by the Iraqi authorities and must be exchanged for ones issued by the state.[106] Some people also lost their documents as they fled IS-held areas.

The men and boys interviewed for this report who were detained by the KRG authorities said, in some cases, that they were missing their civil documents or, in other cases, that the Asayish confiscated them at the time of arrest and never returned them. A number of those arrested from IDP camps said their civil documents were at the camp's management office and left behind at the time of their arrest.[107]

Currently, Iraq's civil status directorate is not centralized or digitized and still relies on paper documentation, which means that IDPs lacking one of the four civil documents that are essential for them must travel to the civil status directorate office in their area of origin when attempting to renew them.[108] In order to renew one document a person must present another proving their identity.

6.1.2 SECURITY SCREENINGS AND ADDITIONAL PROCEDURES

According to IDPs, lawyers and international and local humanitarian and protection actors interviewed for this report, in order for an IDP to obtain or renew civil documents, security forces present at civil status directorates first screen applicants for IS affiliation by checking their names against a "wanted list" and subjecting them to an interrogation. This procedure is not mentioned in the law governing this process and is not applied to Iraqi citizens who are not displaced. If a person is found to be linked – no matter how distantly – to a person perceived to be affiliated with IS, they are much more likely than another individual without this perceived affiliation to be blocked entirely from obtaining or renewing their civil status documents. IDPs said that they feared that they or their relatives would be arrested during their screening process; women were particularly concerned about sons considered of fighting age.[109] An international humanitarian worker whose organization provides assistance to families with their legal documentation summed up the impact of failing this screening process: "Through the process of granting and denying families civil status identification documents, the authorities

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[104] See Amnesty International, *The condemned.*

[105] IOM, *Iraq: IDP Camp Directory - Comparative Dashboard & Camp Profiles Round XIII, February-March 2020,* 8 July 2020, reliefweb.int/report/iraq/iraq-idp-camp-directory-comparative-dashboard-camp-profiles-round-xiii-february-march

[106] See Minority Rights Group International, *Humanitarian challenges in Iraq's displacement crisis*, December 2016, www.minorityrights.org/wp-content/uploads/2016/12/MRG-report-A4_english-DECEMBER-2016_WEB-2.pdf

[107] According to interviews with management staff in several camps in both the KR-I and Ninewa governorate, some camp management offices retain the identification documents of IDPs residing in the camps and in place issue them with another document or small card with a bar code indicating the name of the head of the family, the tent number and the number of members of the family. This is used by IDPs to receive humanitarian assistance during distributions in the camp. An IDP who obtains permission to leave the camp must leave the bar-coded document or small card with the camp management in exchange for their identification documents. As a result, during their absence, family members in the camp may be unable to receive aid.

[108] The four key civil documents are the identity card, nationality card, Public Distribution System (PDS) card and housing card. The PDS card is a government-issued document that lists all members of the household and gives Iraqi citizens access to monthly rations of state-provided food items for a nominal fee. The PDS was established in 1990 in response to food shortages after the UN-imposed sanctions on Iraq. For more details, see Norwegian Refugee Council (NRC), *Barriers from birth: Undocumented children in Iraq sentenced to a life on the margin,* April 2019, www.nrc.no/resources/reports/barriers-from-birth (hereinafter NRC, *Barriers from birth*).

[109] Boys who have been chosen by security forces for screening have been as young as 11. Boys who are considered by security actors to be particularly tall and thus able to fight are often screened with adult men. See Amnesty International, *Punished for Daesh's crimes*, and Amnesty International, *The condemned*. See also Human Rights Watch, *"Everyone Must Confess": Abuses against Children Suspected of ISIS Affiliation in Iraq*, March 2019, www.hrw.org/report/2019/03/06/everyone-must-confess/abuses-against-children-suspected-isis-affiliation-iraq

basically decide who gets to have a normal life and who doesn't. Once an individual has been denied civil status documents based on perceived affiliation to IS, then there is no way forward."[110]

During the course of the research for this report, IDPs originating from the governorates of Salah al-Din, Ninewa, and Kirkuk described to Amnesty International that they were required to carry out additional procedures in civil status directorates in their areas of origin in order to obtain their civil documents. These procedures included having to produce a number of witnesses who would vouch that neither they nor members of their extended family were affiliated to IS or to present a document signed by a local *mukhtar* (community leader) or a document signed or stamped by local tribal or government authorities for the same purpose. Such procedures pose major challenges for IDPs as often they cannot safely approach members of their local community with such a request or even travel to do so without the documents they are needing to replace or renew. International and local human rights and humanitarian organizations have also highlighted the lack of consistency in policies and directives regarding issuing civil documents to persons with perceived affiliation to IS and expressed concerns that children from these families are at risk of statelessness.[111]

During the course of the research for this report, several displaced families in camps visited by Amnesty International researchers in Ninewa governorate reported that security forces at checkpoints informed them that all their identification documents needed to have been issued or renewed that year or the year before. This did not seem to have been a uniform practice across Iraq or one imposed on all Iraqis. According to a lawyer interviewed for this report, once an Iraqi identity card bears the photo of the holder as an adult, no further updates are necessary except to reflect a change in marital status. Displaced men and women with perceived affiliation to IS told Amnesty International that they felt Iraqi security forces were making such claims to allow them to screen and interrogate as many individuals as possible, thus putting IDPs at risk of harassment and arrest.

6.1.3 DISOWNMENT OF ABSENT MALE RELATIVES

Women IDPs who were interviewed for this report told Amnesty International that, as far as they knew, one way to obtain civil status documents if they were not cleared by the security screening at the civil status directorate was to disown absent male relatives who were perceived to be affiliated with IS. This applied to fathers, sons and husbands who had died or gone missing during the conflict and those who had been arrested or forcibly disappeared by KRG or Iraqi security forces during screening after fleeing IS-held areas. They believed that disowning them would also enable them to return to their area of origin at a decreased risk of revenge attacks against them and their children.

According to lawyer of an NGO based in Ninewa working with families with perceived ties to IS to obtain civil status documentation, the procedure derives from a tribal tradition in which a disownment is conducted verbally, but is otherwise unclear. The lawyer explained that women who face obstacles in renewing the civil documents of their children due to the absence of a husband who is perceived to be affiliated with IS could overcome this by filing for divorce then disowning the husband in court. They could then use a court document confirming they had carried this out to commence the process of declaring their husband missing and then, after a set period of time, to acquire a death certificate. In the meantime, the women could obtain a document acknowledging their status as head of the household and thereby allowing them to have civil documents issued or renewed for members of their family.[112]

The lawyer further explained that the women from these families were often reluctant to go through the disownment procedure because, in addition to the emotional stress, they felt they were essentially choosing to put a "permanent mark on the family, who would from then on always be regarded with suspicion by security forces and their community".[113] None of the women Amnesty International spoke to had agreed to disown their male relatives.

"Nahla", a member of a displaced female-headed family residing in an IDP camp in Ninewa governorate, told Amnesty International that she witnessed the death of her husband, who had joined IS, in what she believed to be a mortar attack in west Mosul. She did not, however, have a death certificate for him. She explained this to the security forces at the civil status directorate office in her area of origin in Salah al-Din governorate when she travelled to obtain civil status documents for herself and her children. They told her that, given the lack of death certificate, she would have to divorce her husband in order to be able to obtain documents for her children in their father's absence. Following that, she would have to go to court to formally disown him. She said this was too painful for her:

They want me to divorce my husband, even though he is dead, and then disown him. Then they will give [my daughter] her papers. They said I can do that in the court in Hamdaniya [a town south-east of Mosul in Ninewa governorate]. I cannot do that. How can you divorce a corpse? It is so heartbreaking. He's in a grave now. Why can't they forget him?[114]

"Um Hamed", a displaced widow, told Amnesty International that her son, aged 45, was arrested in June 2017 by Iraqi forces that she believed to be the Iraqi army, after their area in west Mosul was retaken from IS. She said that security forces dragged her son away as soon as they saw him without asking any questions (see section 5.1). She said she spent time in an IDP camp in the KR-I and then applied successfully to return to Mosul. Once living there, she said that officials at a distribution point in Ninewa governorate told her to

[110] Telephone interview with humanitarian worker (name withheld) on 26 May 2019.
[111] See NRC, *Barriers from birth*.
[112] See NRC, *Barriers from birth*.
[113] Interview with lawyer (name withheld) on 20 May 2019.
[114] Interview with "Nahla" (real name withheld) on 20 May 2019.

remove the names of her son and husband from the PDS card before they would allow her to collect her Public Distribution System (PDS) allowance.[115] She explained that she could not do that as she did not know whether her son was dead or alive. She said this forced her to return to live in an IDP camp in the KR-I:

Before coming [to the second camp in the KR-I], we went to Bazwaya [a village on the outskirts of Mosul] to follow up on our PDS [card], but they said I had to remove my son's and husband's names. My son is not dead, but they want us to remove him. They want us to erase him. What if he comes back?… My husband has been dead for one year and four months. I have two grandchildren [aged one and three] who have no civil status cards. They have nothing. It's like they don't exist. In Bazwaya, they made me sign a disownment document for my son just so we could get food. On 4 January 2018 we came here to this camp. Before that, we were in [another camp] for two months and applied to return and went back to live in Rijm Hadid [a neighbourhood in west Mosul] for three months. I wish we had never gone back.[116]

6.1.4 HARASSMENT AT CIVIL STATUS DIRECTORATE OFFICES

Displaced women heads of household interviewed for this report told Amnesty International that when attempting to renew, replace or obtain civil documents for themselves or particularly for their children, security and intelligence officers perceived them to be affiliated to IS and harassed and insulted them and their deceased or missing male relatives. Those whose male relatives were indeed affiliated to IS said that, during the screening procedure, they readily admitted this. Sometimes the treatment led the women to stop engaging in the process altogether.

"Nawal", a head of household, told Amnesty International that one of her sons, aged 16 the last time she saw him in August 2017, fled Badush [a village north-west of Mosul in Ninewa governorate] towards KRG-held areas before the area was retaken from IS by Iraqi forces. She had no knowledge of her son's whereabouts since but believed that he was likely to have been detained by KRG authorities given that his father had joined IS and died during the conflict. She said she travelled from the IDP camp in Ninewa where she was living to the civil status directorate office in her home area in Salah al-Din governorate to obtain new civil status documents for herself and four children. She said:

I went to Shirqat [a district in Salah al-Din governorate] in December 2018. I had to go to see Military Intelligence [within the civil status directorate office] first. They interrogated me. There were queues of women doing the same thing as me… He [a Military Intelligence officer] asked me, "Was your husband *Daeshi*?" I said, "Yes". He said, "Is he dead?" I said, "Yes". He said, "Good. I'm glad he's dead. That's good for you." He cursed my husband, but I don't want to repeat [the words]. Why do they have to curse them? They're corpses now. It's just to humiliate us…

Lawyers and local humanitarian staff working with local or international NGOs to provide legal assistance to IDPs in Ninewa governorate, including families with perceived ties to IS, told Amnesty International that they experienced continual harassment from security and intelligence officers in civil status directorate offices in several governorates when they sought to help IDPs obtain civil documents, Many said they were accused of "working for IS families". Some lawyers have been arrested and held for hours or days when arriving with displaced individuals they were working on behalf of before being released without charge, as a method of intimidation.

6.1.5 FINANCIAL CONSTRAINTS

According to camp management officials, humanitarian workers and IDPs who spoke to Amnesty International, displaced families must travel to the civil status directorate office in their area of origin in order to renew, replace or obtain civil documents. They are generally unable to benefit from the aid of NGOs that assist with such procedures because such NGOs can only operate in the governorate in which they are based and are limited to supporting persons who originate from that same governorate with legal representation.

"Nahla" (see section 6.1.3) told Amnesty International that she and her sisters, all heads of household, travelled from the IDP camp in Ninewa governorate in which they resided at the time of the interview to Salah al-Din governorate, the administrative division to which their area of origin belongs, to apply to obtain documents from the civil status directorate office there. They were told by the NGO offering legal assistance in their camp that they did not qualify for legal support as they were not from Ninewa governorate; its lawyers could therefore not represent them with the power of attorney and thereby obtain documents from a civil status directorate office in their place. The NGO indicated that, instead, they could be reimbursed for the costs of their travel once they had obtained the documents as long as they could prove they had travelled for this purpose. However, they were ultimately not reimbursed apparently because the NGO lacked sufficient funds. She said:

I paid 50,000 Iraqi dinars [approximately US$42] for the journey. [The NGO] said they cannot do it for us because we are from Salah al-Din. They can only do it for people from Ninewa. So, people like us are stuck in between. When I came back, I showed her the documents, but she

[115] PDS allowances are provided to Iraqi citizens who qualify for them through distribution points run by the Ministry of Trade throughout the country. See Iraqi Ministry of Trade, *Guidelines regarding the PDS card*, mot.gov.iq/upload/upfile/ar/142talemat_tmwen_8-8-2012.pdf
[116] Interview with "Um Hamed" (real name withheld) on 19 November 2018.

said there was no more funding for that programme. We had sold our aid to pay for the journey. It meant we had to wait for the next distribution [of aid in the camp] because we couldn't buy anything [any food sold to gather funds] back.[117]

One management official at one of the IDP camps visited by Amnesty International in the Ninewa governorate expressed concern regarding the lack of solutions presented by Iraqi authorities for families missing their civil status documentation, especially those unable to travel due to lack of finances or security concerns:

It is important to point out that families who are not from Ninewa have to travel to their area of origin to obtain documents. This is a deterrent and is often too scary or risky for families. It is not affordable for most. The best solution would be to have a civil directorate representative of the governorate coming to the camps once a week or at least once a month to facilitate this process.[118]

6.1.6 APPLICATION OF IRAQI AND INTERNATIONAL LAW

Restrictions of movement caused by lack of access to civil status documentation constitute a violation of rights guaranteed under the Iraqi constitution to move, travel and reside inside and outside the country.[119] The repeated obstacles that the Iraqi authorities have placed in the way of displaced families with perceived ties to IS obtaining new or replacement civil status documents may constitute a violation of their right to be recognized as a person before the law, as well as their rights to equality and non-discrimination.

The right to be recognized as a person before the law is enshrined in the International Covenant on Civil and Political Rights.[120] The UN Committee on the Elimination of Discrimination against Women has stated that governments should guarantee that "conflict-affected women and girls have equal rights to obtain documents necessary for the exercise of their legal rights and the right to have such documentation issued in their own names, and ensure the prompt issuance or replacement of documents without imposing unreasonable conditions" as well as to "ensure the timely and equal registration of all births, marriages and divorces."[121] As regards the displaced, the UN Guiding Principles on Internal Displacement specify:

The authorities concerned shall issue to them all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates. In particular, the authorities shall facilitate the issuance of new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions, such as requiring the return to one's area of habitual residence in order to obtain these or other required documents.[122]

6.2 RISKS IN AREAS OF ORIGIN

6.2.1 REARREST AND ILL-TREATMENT

All the men and boys released from detention in the KR-I who spoke to Amnesty International expressed fears that they would be rearrested by central Iraqi security forces and face torture or other ill-treatment and unfair trials if they sought to return to their homes in the governorates of Kirkuk, Ninewa and Salah al-Din. Their fears stemmed mostly from reports of the rearrest of relatives, friends and other men and boys who had been detained and released by KRG authorities as well as threats levelled at their families in their areas of origin. Those arrests had taken place at checkpoints leading to the individual's area of origin or shortly after their arrival in their home area and were carried out most commonly by the National Security Service, but also by other forces including the PMU, and Military Intelligence.

"Abed", who was detained in the Asayish Gishti headquarters in Erbil for nearly three years before being acquitted of affiliation to IS by a court in the KR-I due to lack of evidence, told Amnesty International that he would not attempt to go home to his village in Salah al-Din governorate because of the experience of three of his brothers. They had been arrested by the Asayish after fleeing IS-held areas and were detained for periods of between one year and four months and one year and six months before being released without charge. Along with their father, they were arrested by PMU members in 2017, only hours after returning to their village in Salah al-Din governorate. The whereabouts of the four men remains unknown. He said:

When they went home, my father went to greet them at the checkpoint. The PMU came and arrested them all, when my father was hosting a welcome lunch for my brothers. In Iraq, nothing is bigger and more dangerous than someone calling you *Daeshi*. One word and you're gone…

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[117] Interview with "Nahla" (real name withheld) on 20 May 2019. Name of NGO withheld for security reasons.
[118] Interview with camp management official (name withheld) on 19 May 2019.
[119] Iraqi constitution, 2005, Article 44(1).
[120] ICCPR, Article 16.
[121] UN Committee on the Elimination of Discrimination against Women, General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations.
[122] UN Guiding Principles on Internal Displacement, Principle 20(2).

All our families tell us, "Don't come back. Stay in the middle. It's better. Between hell and hell"… I used to have hope for a normal life. But now there are red sniper dots on all of us. I feel like I am being burned away.[123]

Amnesty International spoke to an officer in an Asayish directorate covering an area in the KR-I where IDP camps are situated. He said that they were aware of Iraqi forces rearresting individuals who had already been arrested and tried by KRG authorities, including released detainees who carried release documents issued by courts in the KR-I. He added that he and his colleagues were unsure whether the information regarding the arrest and trial of individuals in the KR-I was communicated to the Iraqi authorities, which would have allowed them to be removed from a "wanted list".[124] Two other Asayish officers based at an IDP camp in the KR-I told Amnesty International that they were aware of such rearrests and recognized that this was the reason why most people in the camp who had been detained in the KR-I, as well as families of individuals who had been or were still detained in the KR-I, were not returning to their areas of origin.[125]

A KRG official explained to Amnesty International that individuals who were released after a period of detention in the KR-I during which they had been tried and convicted or acquitted should be automatically issued with release documents. However, none of the former detainees interviewed for this report had been issued with such a document upon release. In some cases, they had managed to obtain it later through an NGO or family member who collected it from the court. Individuals released from KRG detention without charge would not be issued with a release document unless another body, such as a school, university or employer, requested an explanation of their absence.[126]

"Abu Ahmed", whose civil documents were confiscated when he was arrested by the Asayish in an IDP camp in the KR-I in 2016, explained that his civil documents were not returned to him when he was released in October 2018 after being acquitted by a court in Erbil (see section 4.2.2). He told Amnesty International that he was unable to travel to Mosul to replace his civil status documents for fear of being arrested by Iraqi forces at a checkpoint if found without documents:

They [the Asayish] took all my IDs [during the arrest] and now I have none. In Mosul, they do not care if you were acquitted. They believe in the arrest, not the acquittal… The lawyers at [the NGO] told me that it is not possible to have IDs issued in the [civil status] directorate offices in Mosul and most of the rest of Ninewa [governorate] because they are harassed and told, "You are working for *Daesh*".[127]

Amnesty International spoke to a member of a security force who was usually stationed at a checkpoint in Mosul; he originated from Tal Afar and was residing in an IDP camp in the KR-I at the time of the interview. He described how a PMU member at the checkpoint treated most people passing through:

They are very rough on people. They stop and question people on purpose just to humiliate them. They create processes and obstacles that don't exist, like asking them if they can prove where they are going. Sometimes if people say they are visiting relatives they make the relatives come and collect them just to scare them. Anybody who dares ask a question is slapped or taken away.[128]

A displaced man whose son was arrested in late 2018 by the local police of the area of the IDP camp in which they lived in Ninewa governorate told Amnesty International that another resident in the camp had reported that his son was affiliated with IS as part of a personal dispute. He said he and his family were unable to return to Tal Afar, their home area, due to fears of being arrested or attacked. He said the disappearance of his son meant the entire family would be perceived as affiliated to IS:

We cannot go back. Life there would mean facing constant threats. The people and the forces there do not want us, so even if we did go back they would remind us every day that our lives were in their hands. The PMU has confiscated our house. People are taken at checkpoints. By the time you find them – if you find them – the person will have been tortured already and broken. The only way to go back is knowing that there will be no more collective punishment. It's no use blaming one militia or another. The government must take action. All we know is… there is one order for all the different uniforms and that is to punish us.[129]

The International Covenant on Civil and Political Rights, which Iraq has ratified, states that "No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country."[130] This prohibition, which is sometimes referred to as the rule against double jeopardy, is of fundamental importance and well established in international law.[131]

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[123] Interview with "Abed" (real name withheld) on 23 November 2018. Name of home village also withheld.
[124] Interview with Asayish officer in Erbil governorate (name withheld) on 23 November 2018.
[125] Interview with two Asayish officers in an IDP camp in Erbil governorate (names withheld) on 23 November 2018.
[126] Meeting with KRG official in Erbil in May 2019.
[127] Interview with "Abu Ahmed" (real name withheld) on 20 November 2018.
[128] Interview with security force member (name withheld) on 23 May 2019.
[129] Interview with IDP (name withheld) on 20 May 2019.
[130] ICCPR, Article 14(7).
[131] See, for example, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Workers Convention), Article 18(7); American Convention on Human Rights, Article 8(4); Arab Charter on Human Rights, Article 19; Protocol 7 to the European Convention on Human Rights, Article 4; African Commission on Human and Peoples' Rights, Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, Section N(8).

6.2.2 VIOLENCE

In addition to the actions of security forces, former detainees and families of those arrested because of their perceived affiliation to IS were afraid of members of the communities living in their areas of origin committing violence against them in acts of revenge for the crimes of the armed group. Several of those interviewed by Amnesty International reported being driven out of their areas of origin when attempting to return to reside there.

"Um Mustafa", whose husband and two older sons had joined IS before being killed in an air strike in west Mosul in March 2016, told Amnesty International that the Asayish had arrested her only male relative left alive – her brother – in October 2017, a few days after their arrival at the camp in the KR-I. She said she attempted to return with her four young daughters, aged between nine and 15, and her son, aged 11, to her home area near Tal Afar in Ninewa governorate in June 2017, but she was driven out by local residents and PMU fighters:

I wouldn't dare go back. They threatened to [take] my son. I'm so afraid for him. We were in [the village] for 20 days in Ramadan 2017 [26 May – 24 June 2017] and the people and PMU kicked us out and destroyed the house. Ordinary people demonstrated to have us kicked out. There was an old woman who was chased out of the village with stones being thrown at her. She died here in the camp from heartbreak. I spoke to the mukhtar and asked him why they did this to us: "Why did they throw us out?" He said, "Come back." But I don't trust him. He told me, "I am glad your other sons are dead." [132]

"Um Ahmed", displaced from a village south of Mosul in Ninewa governorate, had resided in the IDP camp in which she was living since it opened in August 2017. She said her sons joined IS and went missing in 2016 and, for that reason, the tribal authorities in the village were not allowing her, her daughters, daughters-in-law or grandchildren – a total of 13 people – to return. She said:

Earlier this year, the village had a meeting and they said no *Daeshi* will come back. They mean us. They only discuss revenge, not forgiveness… We cannot move back. Last year, after Ramadan in 2018 [16 May to 14 June 2018], we tried to go back to the village. At the al-Ba'aj checkpoint [a town south-west of Mosul in Ninewa governorate], they [TMU members present with security forces] stopped us and said, "You only deserve the camps." To them that means being cast out… Anybody at the checkpoint who has lost someone to *Daesh* will take it out on us when they see us.

In May 2019, "Um Hassan" told Amnesty International that she had attempted to return to her home area near Tal Afar, Ninewa governorate, before going to live in Nimrud IDP camp but was not allowed to remain there by members of the PMU in her home area. She had been displaced from Tal Afar in August 2017 and at the time of her interview resided in the Nimrud IDP camp in Ninewa, which has now been closed. She said she believed being blocked from returning to her home area was punishment for her sons and husband joining IS, even though they were all killed during military operations to retake Tal Afar in August 2017. She discovered that her home had been confiscated by PMU fighters who were using it as a storage house:

When the army retook [control of] West Mosul, we went back to [home village]. We only stayed there for three hours before they [the PMU] made us leave. That night, at 11.30pm, they [the PMU] drove us out… My uncle told me we had to leave. He took us to al-Rashidiya [a district north of the city of Mosul in Ninewa governorate] and left us there in the street. We took some medicine and some clothes. We were filthy…

Women are imprisoned because of the men who act without thinking of us and other men who want to punish them. I realize how alone we are when it rains here. If they close this camp, I will only have God because nobody else wants us. Our house is taken. Our men are dead and they want to kill the rest of my children.[133]

Such attitudes and practices have led to resentment. Individuals interviewed for this report held the community in their area of origin as the main culprit behind their predicament. A number of men and boys released from detention in the KR-I and displaced to IDP camps mentioned that their photos had been shared on social media by other members of the community branding them as IS members, further exacerbating their risk of harassment, rearrest by security forces or revenge attacks by residents in their home areas.

All the IDPs, humanitarian workers, camp management staff and lawyers interviewed for this report underlined the importance of tribal reconciliation – central to preventing collective punishment of IDPs with perceived ties to IS after their return[134] – for long-term stability in governorates affected by the conflict, as have the Iraqi authorities. Efforts aimed at tribal reconciliation, including meetings between representatives of IDPs with perceived ties to IS, tribal and local authority figures, as well as statements by tribal leaders and at times local authorities, have been made, albeit in a sporadic manner, across a number of governorates. However, IDPs with perceived ties to IS told Amnesty International that they were aware that most tribal meetings were held to discuss who would not be allowed to return, rather than who would be. According to one humanitarian worker interviewed for this report, many tribal reconciliation efforts had not proven to be effective and often excluded families with perceived affiliation to IS, rendering these efforts useless for most displaced

[132] Interview with "Um Mustafa" (real name withheld) on 19 November 2018.
[133] Interview with "Um Hassan" (real name withheld) on 20 May 2019. Name of village in area of origin also withheld.
[134] See NRC, *Barriers from birth.*

families.[135] Some reconciliation efforts aimed at facilitating returns have required those seeking return to be screened and disclose information regarding other individuals affiliated to IS.[136]

During a focus group interview in November 2018 with displaced community leaders from Ninewa and Salah al-Din governorates residing in a camp in the KR-I, one of the men explained that, if reconciliation efforts were only seen as the responsibility of the communities in the areas of origin, much more time was needed for them to be effective and ensure that revenge attacks were discouraged, or even prevented altogether, and families felt secure enough to return to their areas of origin. He told Amnesty International: "*Daesh* is like a wound; it took a second to break the skin, but it will take much longer to heal. That is tribal reconciliation."[137]

In July 2019, the International Organization for Migration observed "an increase in the number of returnees living in severe or poor conditions", highlighting that nearly 3 million returnees lived in areas with severe safety and social cohesion conditions, mostly across the governorates of Ninewa and Salah al-Din.[138] Since March 2020, movement restrictions between governorates as well as the more general reduction of movement of humanitarian workers due to COVID-19 measures have meant that humanitarian activities targeting IDPs are related mainly to Iraq's public health objectives to prevent the spread of COVID-19. This has had the adverse impact of suspending reconciliation efforts aimed at reducing and eventually ending collective punishment of IDPs with perceived ties to IS and allowing for sustainable and safe returns.

6.3 RISKS DUE TO CAMP CLOSURES

Following the announcement by the Iraqi authorities of the conclusion of the armed conflict involving IS in December 2017, there was an initial wave of IDPs returning to their areas of origin. In principle, according to testimony gathered by Amnesty International from camp management staff, national and international humanitarian workers, and IDPs, a return process begins when a displaced family or individual makes a voluntary request to return to their area of origin to the camp management. As part of that request, they must provide a document stating they have security clearance from the relevant security and intelligence authorities in their areas of origin, meaning that they are assessed to have no affiliation to IS. After that the camp management can issue an exit document, which allows IDPs to travel through checkpoints and access government grants for returnees.

The IOM reported at the end of June 2018 that "more than 590,000 IDPs" had returned in 2018, but that the pace was "slowing down" as the remaining IDPs, numbering some 2 million, faced significant obstacles to return".[139] Since then, the central Iraqi government has taken several steps to encourage the return of IDPs to their areas of origin and "close the displacement file".[140] One of these has been to issue financial grants to individuals or families returning to their areas of origin.[141] Another has been to close and consolidate IDP camps in several governorates. In September 2019, the authorities in Ninewa stated that they intended to close all IDP camps in the governorate while maintaining they did not intend to force anyone to return to their areas of origin.[142] By the end of 2019, the Iraqi authorities had closed or consolidated at least 54 IDP camps in several governorates including Ninewa, Salah-al-Din, Anbar and Kirkuk.[143] Camp closures and consolidations continued into the first months of 2020, but then stopped as Iraqi authorities began to impose restrictions of movement to prevent the spread of COVID-19 – first detected in February – in the country. By mid-October, camp closures resumed at a rapid pace, and in multiple locations. Nonetheless, some IDPs have returned voluntarily to their areas of origin in the period since then. International humanitarian workers expressed concern to Amnesty International in August 2020 that the closure and consolidation measures were likely to resume, indications that have been echoed more recently by the Returns Working Group, an operational grouping of UN agencies, the International Committee of the Red Cross and international and national "to support voluntary, safe and dignified return" of IDPs.[144] Iraq's Ministry of Migration and Displacement announced in October 2020 that it had drafted a plan to end displacement and discussed it with the Ministry of Planning.[145] The plan, which remained under discussion as of x November 2020, clusters actions to address obstacles to the return of IDPs in five areas: security and political issues; reconciliation and

[135] Interview with humanitarian worker (name withheld) on 27 May 2019.
[136] Al-Monitor, "Iraqi tribes seek to heal enduring wounds of IS legacy", 22 May 2019, al-monitor.com/pulse/originals/2019/05/iraq-sunni-tribes-anbar-isis.html
[137] Focus group interview on 25 November 2018.
[138] IOM, *Iraq DTM Return Index: Findings Round Four (July 2019)*, reliefweb.int/report/iraq/iom-iraq-dtm-return-index-findings-round-four-july-2019
[139] IOM, *Returns Continue While Obstacles to Return Remain in Iraq*, 26 June 2018, iom.int/news/returns-continue-while-obstacles-return-remain-iraq-iom
[140] Iraqi Ministry of Migration and Displacement, *Ministries of Migration and Planning held extensive meeting to prepare plan to return all displaced persons to their home areas*, 6 October 2020, momd.gov.iq/Posts/Article?id=7834 (in Arabic); Iraqi Ministry of Migration and Displacement, *Minister for Migration discusses with Nechirvan Barzani mechanism for voluntary return of displaced persons and provision of necessary facilities with aim of ending displacement file*, 26 July 2020, momd.gov.iq/Posts/Article?id=7639 (in Arabic).
[141] Iraqi Ministry of Migration and Displacement, *Notice: Citizen inquiries about the mechanism for family inclusion in the return grant amounting to one and a half million Iraqi dinars*, 27 September 2020, momd.gov.iq/Posts/Article?id=7821
[142] Shafaq News, "Ninewa intends to close displacement camps and does not force anyone to return", 17 September 2019, bit.ly/3nwrehH (in Arabic).
[143] UNHCR, *Iraq: Snapshot on IDPs in formal camps - 2019 Summary*, 1 March 2020, reliefweb.int/report/iraq/iraq-snapshot-idps-formal-camps-2019-summary
[144] Telephone interviews with humanitarian workers (names withheld) on 25 August 2020. Returns Working Group, *Summary of Key Return Updates: Bi-weekly SitRep: 1st – 15th October 2020*, undated, iraqrecovery.org/RWG
[145] Iraqi Ministry of Migration and Displacement, *Ministries of Migration and Planning held extensive meeting to prepare plan to return all displaced persons to their home areas, 6 October 2020*, momd.gov.iq/Posts/Article?id=7834 (in Arabic).

social peace; infrastructure and public services; supporting the economy and creation of job opportunities; shelter rehabilitation and housing support.[146]

The first camp closures and consolidations took place in Ninewa governorate in September 2019 and already raised alarm bells; IDPs were reported to have been forcibly returned to their areas of origin despite serious humanitarian and security concerns.[147] Since then, while some IDPs have been able to return to their areas of origin after the closure and consolidation of IDP camps in several governorates, others have been subjected to secondary displacement; they have been forced to move to other camps or to informal settlements. Some had faced threats from their communities in their areas of origin, while others were blocked by local authorities from entering, despite having received clearance prior to departure from the camps.[148]

In May 2020, the UN Special Rapporteur on the human rights of internally displaced persons reported concerns about the closure and consolidation of IDP camps to the UN General Assembly, following a visit to Iraq:

During the second half of 2019, the Government of Iraq closed and consolidated camps by closing underutilized sections of camps and relocating residents within camps in several governorates, such as Anbar, Ninewa and Salah al-Din, often without any coordination with camp management and humanitarian actors providing camps with services or sufficient notice being given to camp residents. The Special Rapporteur was informed of instances where internally displaced persons were transported to their governorates of origin or relocated to other camps against their will, without receiving accurate information about their destination, and without adequate support being provided to receive them at the destination. Armed military and security actors have reportedly entered camps despite the civilian and humanitarian character of camps, screening the population and making arrests while disregarding procedural safeguards. As a result of the camp closures and consolidations, people were returned to areas that were unsafe or did not offer suitable conditions to receive them, and many underwent secondary displacement to camps in other governorates or informal settlements. Uncertainty about camp closures and consolidation has also posed challenges when providing education services in camps.[149]

In August 2019, the UN cited insecurity, lack of social cohesion and livelihoods, and destroyed or damaged housing as the reasons that hampered people's ability to return to their areas of origin and noted that the majority of those who continued to be displaced originated from Ninewa governorate.[150] A humanitarian needs assessment published by OCHA in November 2019 stated that data from July 2019 showed that "more than 88 per cent of IDPs living in camps do not intend to return to their areas of origin during the next 12 months".[151] An intention survey carried out in early 2020 by humanitarian organizations found that no IDPs in formal camps in Erbil governorate and only 2% of IDPs in formal camps in Ninewa governorate, the two governorates visited by Amnesty International for the purpose of this report, intended to return to their areas of origin. High percentages of IDPs in both governorates said they had concerns about safety in their areas of origin.[152] In October 2020, and following the camp closures in Baghdad and Karbala, nearly half of the displaced persons who were forced to leave the camps, were unable to return to their areas of origin, ending up in precarious settings, lacking basic necessities and health care, and at risk of further displacement, in the midst of the ongoing pandemic.[153]

Former detainees and families of those arrested because of their perceived affiliation to IS, as well as women heads of household whose male relatives went missing or died in the conflict involving IS and were thus perceived to have ties to IS, painted a similar picture to Amnesty International. They said that they felt the IDP camps in the KR-I and Ninewa governorate in which they were living were their only option for shelter given the risk of abuses they faced outside them, especially in their areas of origin. According to camp management staff and humanitarian workers interviewed in May 2019, families continued to arrive at the camps for a variety of reasons, but chiefly lack of security or financial stability in the areas where they previously resided.

Regarding the three camps visited by Amnesty International in Ninewa governorate, in September 2019, Nimrud camp was closed and Salamiya 1 and Salamiya 2 were consolidated into one camp. Iraqi authorities announced in September 2019 that the former residents of Nimrud camp had returned to their areas of origin.[154] However, this appeared to be only partially correct. Amnesty International had spoken to two women heads of household who had lived in the camp before its closure and said they had relocated to a camp in the KR-I as their concerns about the lack of security in their areas of origin remained.[155] In August 2020, Amnesty International followed up with a displaced man and a displaced woman who had lived in Nimrud camp before its closure and who had relocated to a nearby

[146] Returns Working Group, *Summary of Key Return Updates: Bi-weekly SitRep: 1st – 15th October 2020*, undated, iraqrecovery.org/RWG
[147] Amnesty International, *Iraq: Stop forced returns of hundreds of internally displaced people,* 28 August 2019, www.amnesty.org/en/latest/news/2019/08/iraq-stop-forced-returns-of-hundreds-of-internally-displaced-people/
[148] OHCHR, *Humanitarian Bulletin – Iraq,* August 2019, www.humanitarianresponse.info/en/operations/iraq/document/iraq-humanitarian-bulletin-august-2019
[149] UN Special Rapporteur on the human rights of internally displaced persons, *Visit to Iraq*, 13 May 2020, UN Doc. A/HRC/44/41/Add.1, para. 27.
[150] IOM, *Iraq Mission, Displacement Tracking Matrix (as of 31 August 2019),* iraqdtm.iom.int/IDPsML.aspx; OCHA, "Iraq", unocha.org/Iraq
[151] OCHA, *Humanitarian needs overview: Iraq*, November 2019, reliefweb.int/sites/reliefweb.int/files/resources/iraq_hno_2020.pdf
[152] REACH, in partnership with the Iraq Camp Coordination and Camp Management (CCCM) Cluster, *Intentions Survey: IDP Areas of Origin, March 2020*, 15 June 2020, reliefweb.int/report/iraq/intentions-survey-idp-areas-origin-march-2020
[153] Norwegian Refugee Council, *Iraq's camp closures leave 100,000 people in limbo*, 9 November 2020, www.nrc.no/news/2020/november/iraqs-camp-closures-leave-100000-people-in-limbo/
[154] Iraqi Ministry of Migration and Displacement, *Minister: "We have closed four camps for IDPs and returned them to their places of origin"*, 22 September 2019, momd.gov.iq/Posts/Article?id=7313 (in Arabic).
[155] Telephone interview with IDPs (names withheld) on 4 September 2019.

consolidated IDP camp in Ninewa governorate. They said that they did not plan to return to their area of origin due to security concerns stemming from the fact that their son had disappeared since he was arrested in August 2017 (see section 5.2).[156]

Referring more broadly to the impact of the closure or consolidation of IDP camps in Ninewa governorate, OCHA reported the following concerns in October 2019:

Humanitarian actors are endeavoring to track movements, a process that is easier with families moving camp-to-camp. However, of the 10,176 Ninewa families who have left for non-camp settings, partners have been able to account for only 4,755 families. Anecdotal evidence suggests that that a high number of households who have left camp settings for non-camp displacement currently live in critical shelter. This finding applies to both returnees, who have returned to destroyed residences, and to non-camp IDPs, who may occupy abandoned buildings or sleep in the tents they have taken from the camps.[157]

According to one international protection worker, such transfers of IDPs posed major challenges for humanitarian organizations trying to track IDPs and respond to their needs because not all the departing IDPs went to another camp or to their areas of origin, meaning that they ended up "falling through the cracks".[158] During its visit to Nimrud camp, Amnesty International had met families with perceived ties to IS who, while lamenting the deteriorating conditions in camps, the dwindling frequency of aid and the risk of arrest there, still regarded the possible closure of the camps as disastrous because, for them, it was the only viable solution for shelter, as it was neither safe nor sustainable to return to their areas of origin.

In July 2020, published assessments carried out by humanitarian actors in June 2020 of IDPs still displaced in Ninewa governorate found that "reasons for remaining displaced were related to fear from the past events in 2014 and the current security situation", adding that "there have been concerns in the humanitarian and development community over the principled character and durability of new returns and potential consequences for humanitarian needs and social cohesion in areas to which families have returned or been secondarily displaced."[159]

Attempting to end displacement through the closure and consolidation of camps has been a blunt approach and makes IDPs with perceived IS affiliation who are unwilling or unable to return to their areas of origin particularly vulnerable to secondary displacement, often forcing them to live in precarious shelters such as unfinished or abandoned buildings. Humanitarian organizations often struggle to track the whereabouts of such IDPs, making it difficult for them to provide much needed humanitarian assistance.

Those who remain in the camps may find themselves further stigmatized. According to one humanitarian worker interviewed in August 2020, IDPs who remain displaced in camps are generally categorized into three categories: IDPs whose home has been destroyed and who have no shelter to return to, IDPs who lack the financial means to maintain themselves and their families and therefore rely solely on humanitarian aid, and IDPs who are perceived to be affiliated to IS. According to them, if closure and consolidation efforts continue, IDPs in the first two categories could be persuaded to leave camps given the existence of humanitarian programmes in urban areas and areas of origin as well as government grants to returnees, but IDPs perceived to be affiliated to IS may end up being the only families who remain in the camps.[160]

A member of staff of the management of a camp in the KR-I told Amnesty International:

I do not think that anybody wants to be here in the camps… But the longer they stay, the more they will be stigmatized. Not everyone here is IS-affiliated but there are many female-headed households who have no other option. Because their husbands are absent, the tribe in their areas sees them as *Daesh* families.[161]

As per international humanitarian law, displaced persons have the right to voluntary return in safety to their homes as soon as the reason for their displacement ceases to exist.[162] The UN Guiding Principles on Internal Displacement specify that, whatever the original circumstances of the displacement, the competent authorities have the responsibility to help establish conditions for, and to facilitate, the safe, voluntary return of the displaced to their homes and to choose their residence.[163] Under the UN Guiding Principles, the authorities also have the duty to help displaced persons recover their property and possessions and, where this is not possible, to obtain appropriate compensation or another form of just reparation.[164] By failing to guarantee the rights of all internally displaced Iraqis to return safely to their places of origin, regardless of the background of their family members, the Iraqi authorities are not meeting their obligations to those concerned.

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[156] Telephone interview with IDPs (names withheld) on 3 August 2020.
[157] OCHA, *Iraq: Humanitarian Snapshot (September 2019)*, 11 October 2019, humanitarianresponse.info/en/operations/iraq/infographic/iraq-humanitarian-snapshot-september-2019
[158] Telephone interview with humanitarian worker (name withheld) on 25 August 2020.
[159] REACH Initiative, *Rapid Assessment on Returns and Durable Solutions, Markaz Al Baaj Sub-district - Al Baaj District - Ninewa Governorate, Iraq, June 2020*, 31 July 2020,reliefweb.int/report/iraq/rapid-assessment-returns-and-durable-solutions-markaz-al-baaj-sub-district-al-baaj
[160] Remote interview with an international humanitarian worker on 25 August 2020.
[161] Interview with camp management official (name withheld) on 23 May 2019.
[162] International Committee of the Red Cross (ICRC), Customary International Humanitarian Law, Rule 132.
[163] UN Guiding Principles on Internal Displacement, Principles 14 and 28(1).
[164] UN Guiding Principles on Internal Displacement, Principle 29(2).

7. CONCLUSION AND RECOMMENDATIONS

7.1 CONCLUSION

> **"I want to live in a country where the government punishes me for my own crimes, not the crimes of others."**
>
> "Abu Fathi", a displaced man in an IDP camp in Ninewa.[165]

IS has without doubt inflicted unspeakable suffering on civilians inside and outside areas it controlled in Iraq, its acts at times amounting to war crimes and crimes against humanity, and continues to pose a threat to civilian lives in the country to this day. In the face of this, the KRG and Iraqi authorities have had an unquestionable duty to protect the physical security of all civilians on their territory and to ensure that IS perpetrators are held accountable. In the name of this duty, however, both authorities have been short-sighted in subjecting thousands of displaced men, women and children with perceived ties to IS to serious violations of human rights. They have, for instance, failed to date to hold accountable members of Iraqi or KRG security forces responsible for acts such as torture or other ill-treatment, or enforced disappearances - a failure that entrenches a selective approach to accountability and contributes to sustaining a general context of impunity. Such failure and other actions of the authorities have played a significant role in stigmatizing this community in particular, and the broader community of IDPs in Iraq.

KRG authorities have subjected men and boys they suspected of IS ties to prolonged arbitrary and abusive detention after flawed screening processes that often rely unquestioningly on informants' reports of IS ties. Courts in the KR-I have convicted these men and boys under the region's vaguely worded Anti-Terrorism Law in trials that failed to comply with international fair trial and juvenile justice standards, including relying on torture-tainted "confessions" as evidence. Those released from KRG detention, whether acquitted, convicted or released without charge, have faced obstacles to a secure future. They have often struggled to obtain or renew civil status documentation because of punitive procedures and are unable to return to their areas of origin for fear of harassment, violence and rearrest by Iraqi security forces.

In areas under the control of Iraq's central authorities, displaced men, women and boys arrested for perceived ties to IS by Iraqi security forces have been subjected to enforced disappearance. Families of the disappeared in governorates such as Ninewa fear arrest themselves as they try to locate their loved ones. The same is true for displaced women heads of household whose male relatives were killed or went missing during the military operations by Iraqi government forces to retake IS-held areas. These families have also struggled to obtain or renew civil status documents because of punitive procedures. When attempting to return to their areas of origin, they have faced harassment and attacks or have been turned back at checkpoints by tribal and security authorities.

For the men, women and children with perceived ties to IS interviewed for this report, as is the case for thousands of others in a similar situation across Iraq, the resentment and threats of revenge for IS crimes against them by security actors and members of their home communities are inescapable. To them, it is a continuation of the violations to which they or their loved ones have been subjected in the name of the fight against IS. The cycle of violence, discrimination and marginalization has left them with little faith in the authorities and scant hope for a safe future and feeling marked for life.

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[165] Interview with "Abu Fathi" (real name withheld) on 20 May 2019.

The authorities in Iraq, as part of a bid to usher in a post-IS phase of peace and rebuilding, have sought to end protracted displacement by closing and consolidating IDP camps in several governorates. While facilitating voluntary returns of IDPs to their areas of origin is welcome, attempting to end displacement through the closure and consolidation of camps has been a blunt approach and makes IDPs with perceived IS affiliation who are unwilling or unable to return to their areas of origin particularly vulnerable to secondary displacement, often forcing them to live in precarious shelters such as unfinished or abandoned buildings. Humanitarian organizations often struggle to track the whereabouts of such IDPs, making it difficult for them to provide much needed humanitarian assistance.

The resumption of closing and consolidating IDP camps in October 2020, is particularly worrisome as it risks causing further displacement, and pushing thousands into a situation of precarity in the midst of a pandemic. It is welcome that the Iraqi authorities have been developing a plan to address obstacles to the return of IDPs, but that plan should be designed and implemented in such a way that IDPs are given a meaningful choice about their future and that, if they elect to return to their areas of origin, those returns are dignified, safe and sustainable. The authorities should also take concrete steps now to effectively address the collective punishment of IDPs with perceived ties to IS and guarantee that no one is punished for the crimes of others or for crimes for which they have already been punished. The authorities must also ensure that any measures to hold perpetrators accountable are carried out in a comprehensive manner, so as to address internationally recognised offences committed by all parties to the conflict, during and in the aftermath of the conflict, including by Iraqi and KRG security forces. Above all, they have the chance to avoid perpetuating the sort of state actions that have been highlighted as the seeds of previous cycles of violence in the country and give themselves a sustainable basis to overcome the destructive legacy of IS.

7.2 RECOMMENDATIONS

Consequently, Amnesty International is urging the KRG and Iraqi authorities to implement the following recommendations. They are important in and of themselves, but also to prevent further stigmatization of vulnerable IDPs.

TO KRG AND IRAQI AUTHORITIES

PREVENT REARRESTS FOR SAME ALLEGED OFFENCE

- Ensure effective communication between the regional and central authorities regarding information pertaining to the arrest, conviction, acquittal and release of individuals arrested and/or tried in different areas of Iraq.
- Ensure that no person who has been arrested by one authority is arrested in relation to the same alleged offence by the other authority if no new evidence has come to light.
- Ensure those most responsible for crimes under international law are brought to justice through fair trials without recourse to the death penalty.

END ARBITRARY DETENTION, TORTURE AND OTHER ILL-TREATMENT, AND UNFAIR TRIALS

- Ensure that arrests are made only on grounds permitted under international human rights law.
- Promptly inform each individual of their rights and the reason for their arrest.
- Ensure that all those deprived of liberty have immediate access to their family and lawyers and are registered in a centralized register of detainees accessible to their lawyers and families at all times, upon request and without delay.
- Ensure that detainees are provided with the means to communicate with their families and to inform them of their place of detention.
- Inform families of the fate, whereabouts and legal status of all persons in their custody and respond to all outstanding requests for such information.
- Ensure detention is limited to the minimum amount of time necessary to promptly bring a person to trial.
- Immediately bring an end to the practice of torture and ill-treatment and ensure detainees are held in conditions that are dignified and conducive to detainees' mental and physical wellbeing.
- Respect and facilitate the right of all detainees to challenge the lawfulness of their detention.
- Respect and facilitate the right to prompt access to a lawyer of one's choice.
- Ensure that detainees are promptly brought before an independent judicial authority.

ENSURE FAIR AND IMPARTIAL PROSECUTIONS

- Carry out a prosecutorial strategy that aims to hold accountable all parties responsible for crimes committed during, and in the aftermath of the conflict, so as to include, in addition to trials of IS suspects, members of Iraqi and KRG security forces who responsible for serious violations including enforced disappearances, torture and other ill-treatment. These trials should be held in line with international fair trial standards, without recourse to the death penalty, and allow victims to seek redress.

TO KRG AUTHORITIES

UPHOLD RIGHT TO FAIR TRIAL

- Ensure that sufficient time and resources are provided for the adequate preparation of a defence.
- Ensure that the accused, through their lawyer, has the opportunity to challenge all the evidence against them, and to introduce evidence to challenge the prosecution's case.
- Ensure that interpretation to and from Kurdish is provided where required so that the accused can understand the entirety of the proceedings and communicate with their lawyer.
- Ensure that statements obtained through torture or other coercion are declared inadmissible as evidence in any proceedings.
- Ensure anyone released after being acquitted or convicted is promptly and without hindrance provided with official documentation that clearly states that they have been acquitted or otherwise released following a judicial decision.

UPHOLD INTERNATIONAL JUVENILE JUSTICE STANDARDS

- Respect the best interests of the child as a primary consideration in all decisions concerning children.
- Ensure that in the cases of children deprivation of liberty is a measure of last resort, for the shortest appropriate period of time, and alternatives are considered in every case.
- Ensure that any child who is arrested and deprived of liberty is brought before a competent authority within 24 hours to examine the legality of detention.
- Ensure that the child's age is taken into consideration throughout their interactions with the justice system and that they are treated in an age-appropriate manner, avoiding environments which are intimidating, hostile and insensitive to their age.
- Ensure that parents are present throughout interviews and hearings. Where it is not in a child's best interest that a parent be present then an alternative appropriate adult should be appointed.

TO IRAQI AUTHORITIES

END ENFORCED DISAPPEARANCES AND DEATH PENALTY

- End the practice of enforced disappearance.
- Ensure that all those deprived of liberty are held in officially recognized and supervised places of detention.
- End the use of the death penalty.

RESPECT THE RIGHTS OF IDPS

- Preserve the civilian and humanitarian character of IDP camps by preventing all armed actors, including security guards, military and militia personnel, from entering them, in line with the Prime Ministerial Directive of 3 April 2017.
- For so long as armed actors do operate in IDP camps, immediately ensure that they are not allowed to enter the camps at night and that their access to the camps is monitored and regulated.
- Issue a public statement making clear that all Iraqi families have the legal right to obtain civil documentation regardless of their relatives' perceived affiliation with IS.
- Review internal intelligence procedures to remove existing obstacles to obtaining documentation for families with perceived ties to IS.
- Guarantee, including through effective monitoring and oversight, that all staff working in civil status directorate offices, including staff members and security officers, ensure that families with perceived ties to IS, or lawyers working on their behalf, are not threatened with arrest and/or legal repercussions for seeking to obtain new or replacement civil documents.
- Ensure that legal protection organizations can, without hindrance, provide power of attorney to IDPs rather than requesting their presence in person at civil status directorate offices.

- Ensure that all Iraqi civilians are able to voluntarily return to their places of origin or habitual residence without having to face threats or harassment; and any member of Iraqi forces, tribal authorities, local authorities or militias found to be responsible for such threats or harassment are held accountable.
- Ensure that IDPs are not forcibly returned to their areas of origin when they do not feel safe to do so and uphold the right of IDPs who are unwilling or unable to return to seek alternative solutions to their displacement, including by facilitating their integration or relocation in another area of Iraq.
- Support tribal reconciliation and ensure that discussions on IDP returns incorporate tribal representatives. Discourage tribal authorities from imposing discriminatory orders or agreements that block the return of families with perceived IS ties.
- Ensure that Iraqi forces, including the PMU, as well as tribal and local authorities, do not carry out house demolitions. Conduct investigations into instances of destruction of homes and other infrastructure with the aim of holding perpetrators accountable.
- Ensure restitution of returnees' homes and property or, where this is not possible, provide adequate compensation for losses.

AMNESTY INTERNATIONAL IS A GLOBAL MOVEMENT FOR HUMAN RIGHTS. WHEN INJUSTICE HAPPENS TO ONE PERSON, IT MATTERS TO US ALL.

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MARKED FOR LIFE

DISPLACED IRAQIS IN CYCLE OF ABUSES AND STIGMATIZATION

It is nearly three years since Iraqi authorities declared victory over the armed group calling itself the Islamic State, following a conflict that displaced millions. Through field and remote research between 2018 and 2020, Amnesty International has found that central Iraqi authorities, along with the Kurdistan Regional Government, have subjected internally displaced people with perceived ties to the armed group – often due to factors outside their control – to arbitrary detention, torture, unfair trials and enforced disappearance. They have also blocked or hindered access to civil documentation essential for employment, education and free movement.

These actions have increased the stigmatization of internally displaced people. As the closure of camps providing them refuge is resumed by Iraqi authorities, they risk ending up in precarious shelters or being returned to their areas of origin despite the fears of some that they will be unsafe there.

To prevent further cycles of abuses, Iraq's authorities must guarantee that no one is punished for the crimes of others; that all Iraqis can obtain civil documentation; and that the whereabouts of those disappeared is revealed. The internally displaced must be given a meaningful choice about their future and any returns must be dignified, safe and sustainable.

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