



IOM International Organization for Migration
المنظمة الدولية للهجرة



A Preliminary Assessment of Housing, Land and Property Right Issues Caused by the Current Displacement Crisis in Iraq

Land Property and Reparations Division (LPR)

Department of Operations and Emergencies (DoE)

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Acronyms

CPA	Coalition Provisional Authority
GoI	Government of Iraq
FDG	Focus Group Discussion
HLP	Housing, Land and Property
IDP	Internally displaced person
ISF	Iraqi Security Forces
ISIL	Islamic State of Iraq and the Levant
KRG	Kurdish Regional Government
KRI	Kurdish Region of Iraq
MoMD	Ministry of Migration and Displacement
RAC	Return Assistance Center
UNAMI	UN Assistance Mission for Iraq

Photo Credit: Carly Fuglei, Sheikan IDP camp in Dohuk, January 2015.

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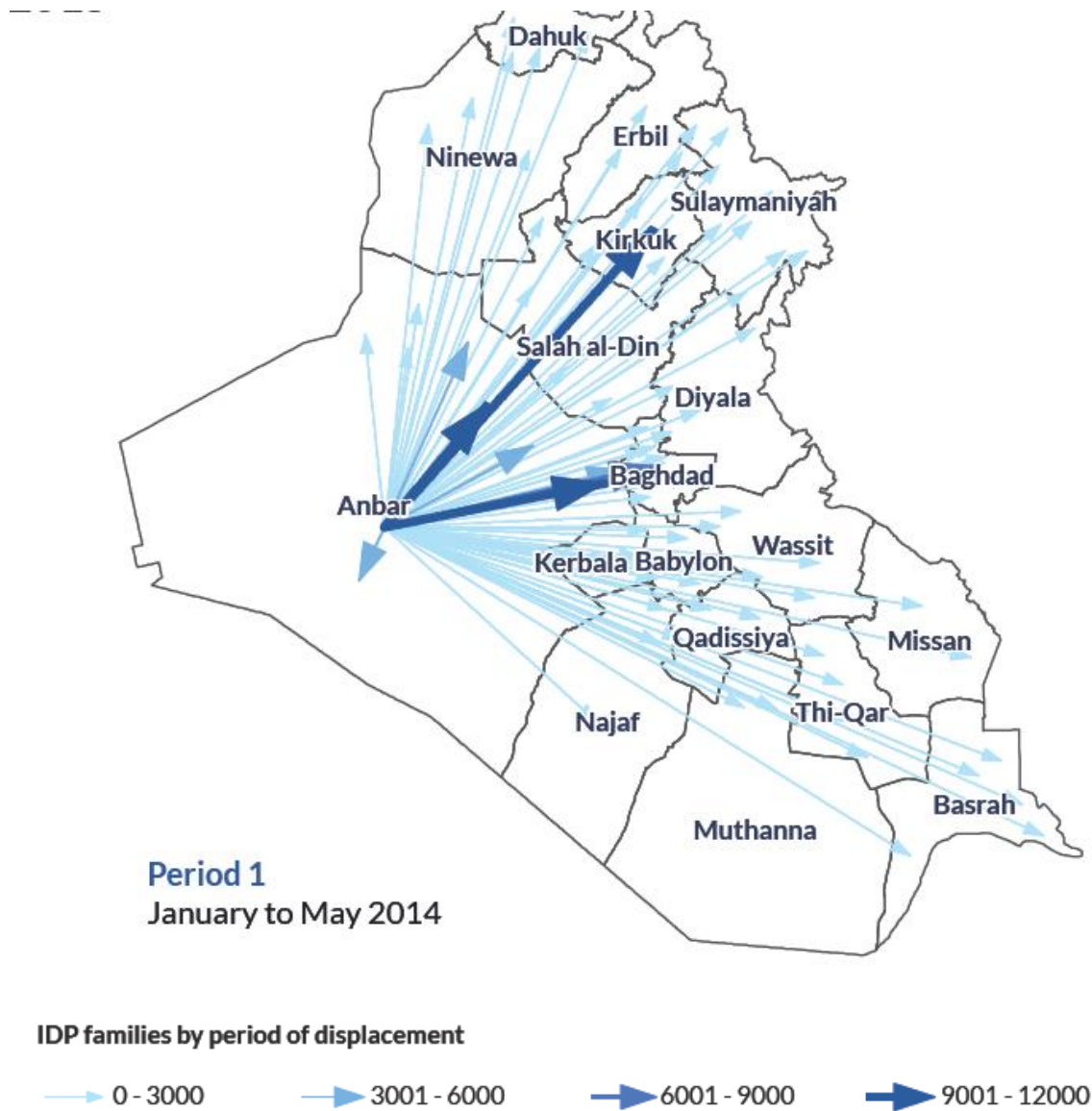
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The opinions expressed in the report are those of the author and do not necessarily reflect the views of the European Union.



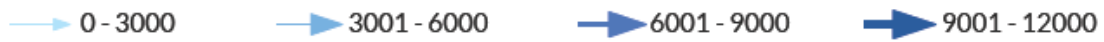
Displacement Flows and Waves in Iraq, January 2014 to August 2015¹

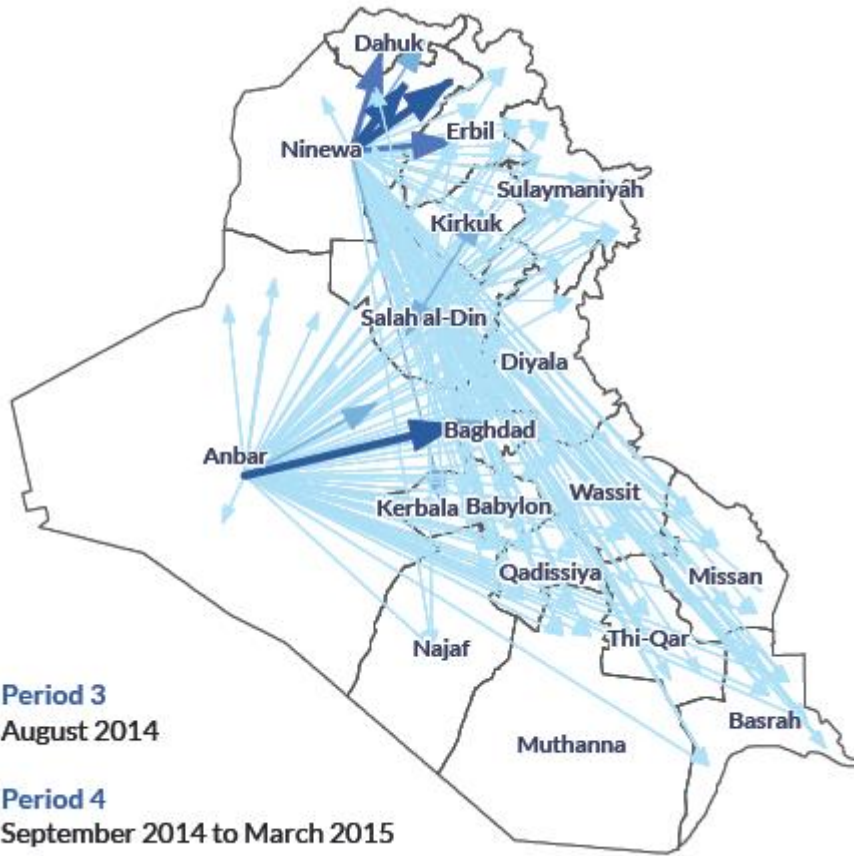


¹ IOM Displacement Tracking Matrix Round XXVI - August 2015, available at <http://iomiraq.net/dtm-page>



IDP families by period of displacement



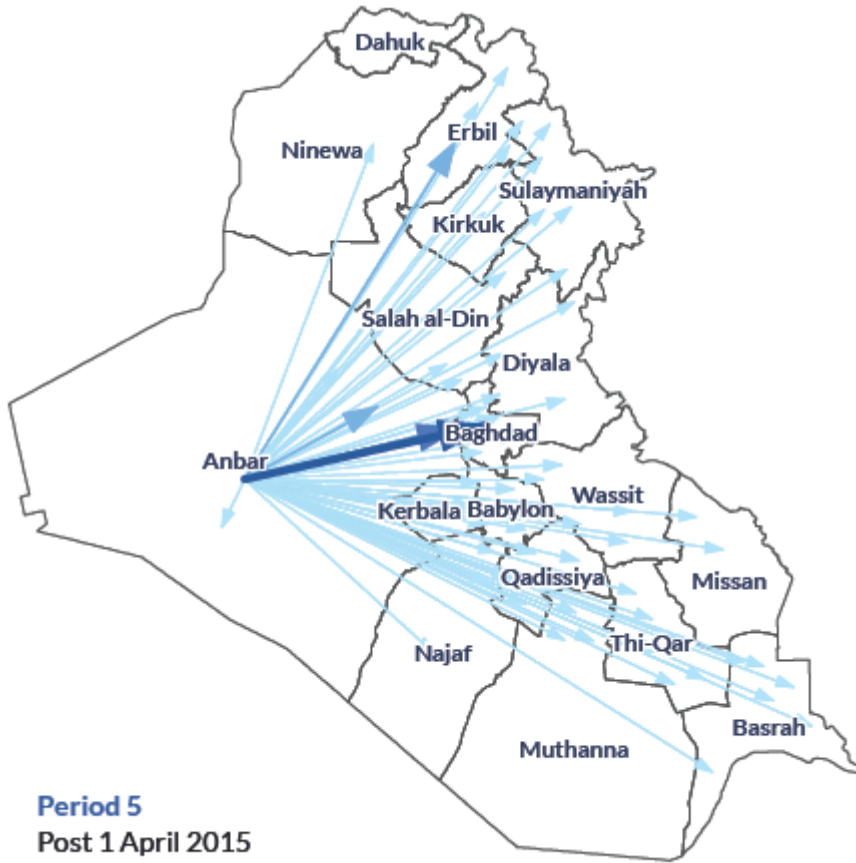


IDP families by period of displacement





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IDP families by period of displacement

→ 0 - 3000

→ 3001 - 6000

→ 6001 - 9000

→ 9001 - 12000



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A Preliminary Assessment of Housing, Land and Property Right Issues Caused by the Current Displacement Crisis in Iraq

Executive Summary

This report, produced by the IOM Land Property and Reparations (LPR) Division under the EU funded Hjira Amina Programme² implemented by IOM Iraq, presents the findings of a 3 month preliminary assessment into the extent and type of housing, land and property (HLP) right violations committed by the so-called Islamic State in Iraq and the Levant (herewith ISIL) and associated groups³ in Northern Iraq since December 2013.

The findings presented in this report are the outcome of 20 focus group discussions (FGDs) with 240 Internally Displaced Persons (IDPs) in 6 locations covering the Kurdish Region of Iraq (KRI) and Central and Southern Iraq between December 2014 and February 2015. The main findings bring to light the widespread extent and scope of HLP destruction and confiscation in all territory seized and controlled by ISIL and associated groups, which can be summarized as follows:

- Widespread destruction, looting and confiscation of property belonging to the displaced population
- A systematic approach to the illegal rental and sale of confiscated property areas under control of ISIL and associated groups.
- Widespread destruction of cultural heritage and religious sites in areas under ISIL control
- Targeted destruction and appropriation of government infrastructure, including the state's land administration infrastructure
- The systematic confiscation and destruction of property records of the displaced population
- The widespread loss of property documentation and personal identification documents among the displaced population.

In addition, many instances of prior ethnicity-based property right discrimination were reported by Christian, Kurdish Shabak and Yezidi participants displaced from the Ninewa Plains.

These current grievances add a new layer to a historical pattern of HLP rights violations in Iraq, which stem from three earlier and distinct waves of displacement between 1968 and 2008.⁴ Even prior to the ISIL advance, Iraq's population had been greatly affected by widespread property destruction, competing property claims, a critical shortage of adequate housing as well as the proliferation of informal settlements.

In addressing past HLP violations, the Iraqi government has been known to take a proactive stance by instituting property-recovery policies. These currently make a distinction between those who were displaced

² The EU funded HIJRA AMINA programme aims at assisting the Government of Iraq (GoI) and the Kurdistan Regional Government (KRG) in developing capacities in migration management by building on IOM's comprehensive capacity building programme, implemented in Iraq since 2003. In the context of the current migration crisis, HIJRA AMINA programme continues to boost migration management capacities of the Iraqi central government and KRG. Recent developments in the Iraqi migration context have led to a drastic shift in the capacity building needs and the HIJRA AMINA programme now focuses especially on capacitating the GoI and KRG institutions to contribute to the formulation and implementation of a strong and coordinated emergency response.

³³ Official terminology used by the UN. Also known as the Islamic State (IS), the Islamic State of Iraq and Syria (ISIS), and by its Arabic acronym Da'esh (from *ad-Dawlah al-Islāmiyah fil-'Irāq wash-Shām*)

⁴The first under the Ba'athist regime between 1968 to 2003, the second from the US invasion in 2003 until the bombing of the Shiite Al-Askaria Mosque in Samara in 2006, and the third from sectarian violence most pronounced in 2006-2008



during authoritarian regime of Saddam Hussein (between July 1968 and April 2003) and those who were displaced in the post-invasion period. However, immense institutional challenges and bottlenecks have plagued these processes since their inception; consequently, the vast majority have not received any redress for the loss or damage to their housing, land and property.

With the addition of currently ongoing HLP right violations, current systems for redress are clearly overstretched and under capacitated. Without swiftly addressing these multiple HLP challenges, Iraq will struggle to provide the country's displaced with durable solutions, which in turn will severely impede socio-economic recovery, social cohesion and reconciliation in the country.

To this end, IOM strongly recommends to:

1. Carry-out a broader survey amongst the IDP population to confirm the initial findings presented in this report;
2. Conduct an institutional assessment of the land management institutions in the areas affected by the current crisis, including the land dispute resolution mechanisms in place;
3. Carry-out an assessment of the Baghdad Central Property Registry to determine to what extent the records held for the areas affected by the current crisis are up-to-date;
4. Facilitate consultations between the Ministry of Justice, the Ministry of Finance and Iraqi Property Claims Commission (IPCC) to effectively address the low enforcement rate of final IPCC decisions in areas not affected by the recent violence;
5. Support the Ministry of Migration and Displacement to utilize already decentralized structures to offer IDP Assistance services in the areas where IDPs are currently residing to assist with the issuance of property documents and, where needed, personal IDs;
6. Ensure rapid re-establishment of land management institutions in areas where return starts to happen and, where possible, ensure that there is a dedicated service where IDPs can come for support with access to their homes, land and businesses;
7. Develop an integrated policy to deal with both past and present HLP issues in the areas affected by the latest displacement crisis, possibly as part of a broader recovery plan for those areas;
8. Design a specific policy to restore and reconstruct cultural heritage buildings and monuments destroyed by ISIL and associated groups; and
9. Conduct an assessment into the currently available Housing Stock in Iraq, with a focus on ISIL-affected areas.



Introduction

This report presents the findings of a 3 month preliminary assessment into HLP rights violations which have occurred during the multilayered humanitarian emergency currently affecting Iraq, as reported by displaced populations themselves. Since January 2014, the continued violence by ISIL and associated groups has caused a displacement crisis which is massive in both size and complexity. After the swift capture of large swathes of Iraq's Anbar Governorate in December 2013 and January 2014, the militants proceeded to take control over much of Ninewa, Salah Al-Din, Kirkuk and Diyala Governorates in Northern Iraq. This blitz offensive included the take-over of the country's second largest city of Mosul in June 2014, which caused an unprecedented exodus of the city's minority population.

Previously among the most ethnically and religiously diverse regions in country, the areas under control of ISIL and associated groups have seen widespread executions, torture and forced displacement of the vast majority of the local minority population and anyone else resisting the group's ideology. Most of affected Iraqis have so far remained internally displaced. Between January 2014 and August 2015, IOM tracked 3,171,606 internally displaced persons (IDPs) dispersed across 103 districts and 3,522 distinct locations in Iraq, including an estimated 875,562 individuals in the Kurdistan Region of Iraq (KRI) alone (28% of the overall displaced population).⁵ Although the Iraqi Security Forces (ISF) and Kurdish Peshmerga forces, supported by international coalition airstrikes, have recently recaptured territories along the internal boundaries with Iraqi Kurdistan as well as in and around the city of Tikrit, recent setbacks to the counter-offensive have included ISIL's capture of the capital city of Anbar Governorate Ramadi in May 2015. Civilian casualties since January 2014 are estimated to be in the high thousands and represent the highest total since the height of Iraq's sectarian conflict in 2006-2007.⁶

The advance of ISIL and associated groups is marked by extreme human rights abuses against members of religious minority groups and persons considered non-conforming to their extremist interpretation of Islam. The assault has led to the mass exodus of Yazidis, Christians, Kurdish Shabak and members of other ethnic and religious groups from the Ninewa plains in Northern Iraq, where these groups have lived for centuries.⁷ Areas under ISIL and associated groups control have also seen pervasive and intense levels of housing, land and property (HLP) rights violations, including large scale destruction of public and private property, widespread secondary occupation, illegal sales and rentals of IDP's property, and the systematic destruction of the region's oldest cultural and religious sites. Furthermore, many of the displaced have lost access to their civil and HLP documentation during their often abrupt escape. Others did not own property documents even prior to displacement. These widespread grievances add to pre-existing HLP challenges in Iraq, which include a decade-long history of land confiscation, competing property claims, and an acute lack of housing. While the Iraqi Ministry of Justice has begun freezing real estate transactions in areas under the control of ISIL and associated groups in August 2014⁸, the HLP situation of the displaced poses great obstacles to the eventual conception of durable solutions. Addressing these must be an integral part of any post-conflict reconstruction strategy.

This reports aims to provide policy-makers and practitioners with an initial understanding of the extent and type of HLP concerns, claims and grievances existing amongst displaced families and within the communities

⁵ IOM Displacement Tracking Matrix Round XXVI - August 2015, available at <http://iomiraq.net/dtm-page>

⁶ UN Report A/HRC/28/18. 15.03.2015. "Report of the Office of the United Nations High Commissioner for Human Rights on the human rights situation in Iraq in the light of abuses committed by the so-called Islamic State in Iraq and the Levant and associated groups"

⁷ UN Report A/HRC/28/18. 15.03.2015. "Report of the Office of the United Nations High Commissioner for Human Rights on the human rights situation in Iraq in the light of abuses committed by the so-called Islamic State in Iraq and the Levant and associated groups"

⁸ Aina News Agency. 25.08.2014. "Iraq Voids Real Estate Sales in ISIL Controlled Areas" <http://www.aina.org/news/20140825012457.htm>



they come from, and puts forward recommendations for policy makers to intervene in the area of housing, land and property in Iraq. Preceded by extensive prior desk research, the 20 focus group discussions and personal interviews were conducted with 240 internally displaced persons in Northern and Southern Iraq. Whilst all efforts were made to select participants in a way representative of the overall displacement dynamics (place or origin, ethnic-religious background, age, gender) due to time and safety constraints the assessment provides an initial rather than a definite understanding of the reported HLP grievances. Nonetheless, this study provides first insights into the unfolding housing, land and property rights violations in the crisis-affected areas of Iraq, and provides an initial assessment of current HLP-related dynamics on the ground.

Study Objectives

The objectives of this study are two-fold:

1. Obtain a clear understanding of the HLP issues that have arisen in the context of the 2014 displacement crisis in Iraq and how they are likely to impact on future durable solutions for the displaced populations
2. Contribute to future planning for durable solutions for the displaced populations through the formulation of policy recommendations on how to address the HLP issues identified in the study.

Methodology

The inception and execution of the present study was informed by IOM’s long standing expertise on HLP issues in Iraq, which started with technical assistance to Iraq’s Property Claim Commission (IPCC) in 2003 and continued with technical assistance on land conflicts in the Kirkuk and Ninewa Governorates until 2012.⁹

Research began with a comprehensive literature review, which then informed the design of interview questions and focus group discussion (FGD) guidelines. Interviews and FGDs were conducted with displaced populations in 5 locations throughout Iraq, but with a specific focus on the KRI as the main site of displacement. Every participant was interviewed individually before the FGD in order to obtain information on personal circumstances regarding HLP issues, before wider community dynamics were elucidated through FGD’s facilitated by IOM’s Rapid Assessment and Response (RART) teams in the region. The following topics were discussed:

- | | | |
|---|---|---------------------------|
| <ol style="list-style-type: none"> 1. Individual displacement history 2. Property and land ownership before displacement | } | Individual
Interview |
| <ol style="list-style-type: none"> 3. Housing, Land and property situation since displacement 4. Existing conflict mediation and property dispute before the current wave of displacement 5. Expectations for prospective housing, land and property solutions upon return | } | Focus Group
Discussion |

Both the individual interview sheet as well as the FGD guidelines can be found in **Annex 1**.

⁹ Peter van der Auweraert, 2009. “Recommendations for Resolving the Remaining Land and Property Issues in the District of Kirkuk”, see <http://www.iom.int/files/live/sites/iom/files/What-We-Do/docs/Iraqi-Property-Claims-programme.pdf>



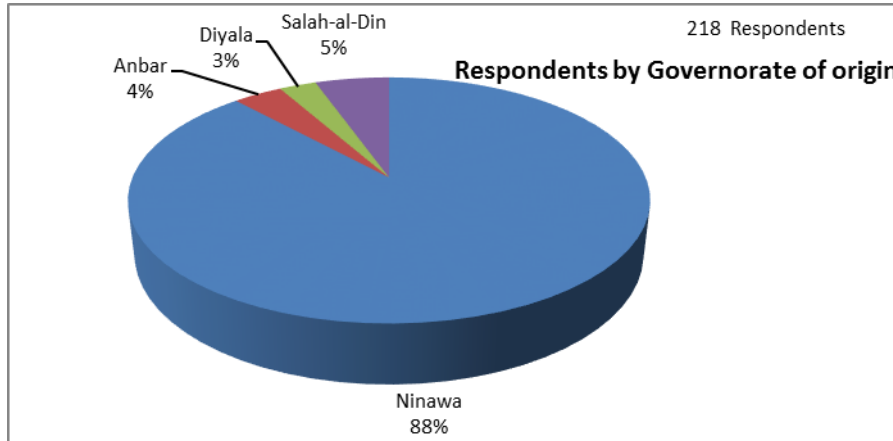
Between 30 November 2014 and 15 February 2015, a total of 20 FGDs were conducted in Erbil (5), Dohuk (7) and Sulaymaniyah (3) in the KRI, and Baghdad (3), Najaf (1) and Basra (1) in Central and Southern Iraq. In close coordination with the respective local authorities, FGDs and interviews were conducted with IDPs taking shelter in diverse settings, and included participants from Arbat camp (Sulaymaniyah), Sharya and Bajid Kandala camps (Dohuk), and well as participants residing in informal settlements and rented houses, such as in Dukan and Bazyan subdistricts (Sulaymaniyah), Akre district (Dohuk) and Sader, Al-Adhanya and Sheikh Maroof districts (Baghdad), as well as Abbasya district (Najaf) and Casino Lebanon district (Basra). Overall, 240 participants took part in this study.

Location of FGD	# of IDP families registered ¹⁰	# of FGDs
Erbil	29,464	5
Sulaymaniyah	15,070	3
Dohuk	77,528	7
Baghdad	16,870	3
Basrah	3,125	1
Najaf	11,541	1

Participants were chosen to represent the variety of locations of origins of the internally displaced population (Ninewa Governorate, followed by Salah al-Din, Anbar and Diyala Governorate), their ethnicity (Arabs, Kurds, Turkmen, Yazidis) and the various religious affiliations (Shia, Sunni, Yazidis, Christians, Shabaks) of the displaced population. However, while these criteria were clearly communicated, the selection of participants was ultimately undertaken by external IOM partners, such as IDP camp managers and NGOs providing shelter to IDPs. As a result, this assessment cannot claim a representative sampling of participants. As can be seen in Figure 1 below, 89% of participants originated from Ninewa Governorate. The higher number of participants from Ninewa however reflects the fact that the majority of the post-June 2014 displacement population originates from this area.¹¹

¹⁰ Figures are taken from the respective IOM DTM Governorate Displacement Snapshot Profiles from September 2014, when methodology for this study was devised, available on <http://iomiraq.net/dtm-page>

¹¹ IOM Displacement Tracking Matrix Round III - August 2014



In total, research participants comprised of 45 displaced women and 175 displaced men. Despite great emphasis on achieving a balanced mix between female and male participants, this was difficult to achieve in practice due to both time constraints and the fact that participants were mobilized by external partners.

These limitations in the sampling method alongside the qualitative character of the study make it difficult to generalize findings and draw definitive conclusions. Nevertheless, all findings represented in the report were separately corroborated by at least two participants during FGDs in separate locations, and hence offer valuable insights into the HLP situation of the displaced. In many instances, despite other immediate concerns on part of the displaced, the opportunity to discuss and highlight HLP grievances was welcomed and for many presented a much needed recognition of the multi-dimensional nature of their conflict-induced grievances.

As the social context of focus groups has a significant influence on the amount of disclosure and group conduct, and being sensitive to such dynamics, great emphasis was paid to creating a safe and accommodating space for free-flowing discussion and exchange among participants. Every participant was ensured of their anonymity, and no full names were recorded. While efforts were made to encourage every participant to speak about their experiences, some focus groups were dominated by very vocal participants. Only in one instance was it deemed most sensible to terminate a FGD following in-group disagreements.

Background

Brief Overview over Current Crisis

Iraq has endured decades of authoritarianism under the Ba'ath regime (1968-2003), followed by the US-led invasion in 2003 and a difficult transition marked by political upheaval and recurring sectarian violence resulting in thousands of civilian casualties.¹² It is estimated that 3.8 million Iraqis were displaced from their homes from 2003 to 2008 alone, with the majority of them becoming displaced in 2006 and the first half of 2007 which saw a spike of sectarian violence after the bombing of the Shiite Al-Askaria Mosque in Samarra. As a consequence the enduring political upheaval and displacement, Iraqis have for decades been unlawfully

¹² UN Report A/HRC/28/18. 15.03.2015. "Report of the Office of the United Nations High Commissioner for Human Rights on the human rights situation in Iraq in the light of abuses committed by the so-called Islamic State in Iraq and the Levant and associated groups"



denied their property rights, either for political, ethnic or other reason. Most of these dynamics have continued unabated in the post-2003 period.

Since December 2013, conflict and displacement have dramatically escalated with the emergence of the extremist group so-called Islamic State of Iraq and the Levant (ISIL) and associated groups in Northern Iraq, after crossing into the country from Syria. ISIL's campaign in Iraq launched in Anbar Governorate in late December 2013 and found its first major peak in the blitz offensive to capture Ninewa's provincial capital Mosul, the second largest city in Iraq and home to Kurdish, Turkmen and Christian minorities, on 9th June 2014. The fighting sparked a mass exodus of civilians from the city, with reports of as many as 500,000 people fleeing within two days. The ISIL offensive was marked by extreme human rights abuses and large-scale killings.¹³

ISIL forces stormed Yezidi-majority town of Sinjar in Ninewa Governorate on 2nd August 2014, causing 200,000 of its majority Yezidi population to flee, while hundreds were killed.¹⁴ Around 50,000 Yazidis were subsequently besieged by ISIL militants while taking refuge on nearby Mount Sinjar, with many dying of thirst and starvation. The extremist group also engaged in the mass-scale abduction and enslavement of an estimated 5,000 Yezidi women and girls taken at gunpoint. The extreme severity of these war crimes was underscored by a 2015 OHCHR report stating that "evidence points to the intent of ISIL to destroy the Yezidi as a group when perpetrating these acts, which may constitute genocide".¹⁵ By 6 August, an estimated 200,000 Christians and members of other ethnic and religious groups had fled from al-Hamdaniya, Ba'shiqa, Bartella, Tel Keif, and other towns and villages in the Ninewa Plains before they were taken over by ISIL.¹⁶

The advance of ISIL and associated groups has been marked by the systematic targeting of religious and ethnic minority communities of Northern Iraq, such as Christians, Kaka'i, Shabak, Turkmen and Yezidis. This has resulted in the removal of entire ethnic communities from their homelands in which they have lived for centuries.¹⁷ The group has also engaged in enduring attacks and killings of those perceived to be affiliated with the Iraqi Government, or in any other way deemed disloyal. All areas affected have seen large-scale and wanton destruction of property and livelihoods and serious impairment of access to basic, life-sustaining services.¹⁸ Property rights violations are an integral part of the group's war strategy, and continue to take place unabated.

Displacement Patterns

The current crisis can be divided into five distinct waves:¹⁹

1. Up to 536,760 people were internally displaced between late December 2013 and the end of May 2014 in Anbar governorate, following intense fighting in Fallujah and Ramadi

¹³UN Report A/HRC/28/18. 15.03.2015. "Report of the Office of the United Nations High Commissioner for Human Rights on the human rights situation in Iraq in the light of abuses committed by the so-called Islamic State in Iraq and the Levant and associated groups"

¹⁴ Minority Rights Group International. February 2015. "Between the Millstones: The State of Iraq's Minorities Since the Fall of Mosul" http://www.minorityrights.org/13031/reports/MRG_Rep_Iraq_ONLINE.pdf

¹⁵UN Report A/HRC/28/18. 15.03.2015. "Report of the Office of the United Nations High Commissioner for Human Rights on the human rights situation in Iraq in the light of abuses committed by the so-called Islamic State in Iraq and the Levant and associated groups"

¹⁶UN Report A/HRC/28/18. 15.03.2015. "Report of the Office of the United Nations High Commissioner for Human Rights on the human rights situation in Iraq in the light of abuses committed by the so-called Islamic State in Iraq and the Levant and associated groups"

¹⁷ Minority Rights Group International. February 2015. "Between the Millstones: The State of Iraq's Minorities Since the Fall of Mosul" http://www.minorityrights.org/13031/reports/MRG_Rep_Iraq_ONLINE.pdf

¹⁸ UNAMI. July 2014. "Report on the Protection of Civilians in the Non International Armed Conflict in Iraq: 5 June – 5 July 2014" http://www.ohchr.org/Documents/Countries/IQ/UNAMI_OHCHR_POC%20Report_FINAL_18July2014A.pdf, p7

¹⁹ IOM DTM Report Round XXVI- August 2015. <http://iomiraq.net/dtm-page>



2. At least 714,234 people were internally displaced in June and July 2014 after armed groups, among which ISIL, took control of Iraq's second city of Mosul and fighting spread across Ninewa and the **central governorates of Salah Al Din, Diyala and Kirkuk**, as well as other cities in **Anbar governorate**
3. Over 844,900 people were internally displaced after August 2014, the majority of whom fled heavy fighting between ISIL and Kurdish Peshmerga in **Ninewa governorate**, primarily in the Sinjar area
4. Post 1 September: Another 570,510 people have been internally displaced between 1 September 2014 and March 2015, especially from Anbar governorate and Salah Al-Din governorate.
5. Post 1 April: Following the outbreak of the Ramadi crisis at the beginning of April 2015, more than a quarter of a million individuals (505,152) were displaced from Anbar governorate.

Between January 2014 and August 2015, IOM identified 3,171,606 internally displaced individuals (528,601 families) dispersed across 103 districts and 3,522 distinct locations in Iraq.²⁰ Nearly all IDPs (87%) come from the three districts where ISIL and associated groups have advanced the most: Anbar Governorate (40% with 1,281,276 individuals), followed closely by Ninewa governorate (33% of the whole displaced population, with 1,034,358 individuals) and Salah al-Din Governorate (14% with 429,744 individuals).²¹ The KRI alone hosts an estimated 875,562 displaced individuals, which accounts for 28% of the overall displaced population.²² The majority of the internally displaced population in the KRI is concentrated in Dohuk governorate. In addition, the UN estimates that in total 2.2 million Iraqis in need are living in areas under ISIL control.²³

The Old and the New: Unresolved HLP Issues Stemming from Earlier Displacement Crises

The 2014 crisis is, unfortunately, not the first large-scale displacement crisis that has beset Iraq. In the past four decades, the country has seen at least three earlier waves of displacement (and return), the consequences of which remain partially unresolved today:

- **Between 1968 and 2003**, the former Saddam regime forcibly displaced hundreds of thousands of Kurdish and Turkmen Iraqis from their homes in northern Iraq as part of its "Arabisation" policy in that area. Simultaneously, the regime encouraged thousands of Arabs from central and southern Iraq to settle in the north to manipulate the country's demographics in its favour.²⁴ This Arabisation policy

20 IOM DTM Report Round XXVI - August 2015. <http://iomiraq.net/dtm-page>

21 IOM DTM Report Round XXVI - August 2015. <http://iomiraq.net/dtm-page>

22 IOM DTM Report Round XXVI - August 2015. <http://iomiraq.net/dtm-page>

23 Minority Rights Group International. February 2015. "Between the Millstones: The State of Iraq's Minorities Since the Fall of Mosul" http://www.minorityrights.org/13031/reports/MRG_Rep_Iraq_ONLINE.pdf, p24

24 Human Rights Watch. August 2004. "Claims in Conflict: Reversing Ethnic Cleansing in Northern Iraq" <http://www.hrw.org/reports/2004/iraq0804/iraq0804.pdf>



also included the infamous Al-Anfal campaign against the Kurds (1987-1989) which caused the death of an estimated 100,000 people and the physical destruction of an estimated 4,000 Kurdish villages.²⁵ As a consequence, over a million Iraqis were displaced, mainly in Kirkuk and Ninewa.

- **From June 2003 to 2006**, i.e. from the US-led invasion of Iraq to the bombing of the Shiite Al-Askaria Mosque in Samara in 2006, Iraq saw the return of many victims of the forced displacement policies under Saddam's rule. While this was undoubtedly a positive "regime-change dividend" it also caused new displacement, as returnees pushed secondary occupants out of their properties, the latter frequently left with nowhere else to go.²⁶ During this period an estimate of 200,000 people were internally displaced.
- **From 2006 to 2007**, Iraq was beset by out of control sectarian violence set off by the bombing of the Shiite Al-Askaria Mosque, which resulted in more forced displacement with an estimated 1.55 million to 1.68 million individuals, or approximately five and a half percent of the entire Iraqi population, leaving their homes in search of security and protection.²⁷ Most affected groups included i) Sunnis from Shia majority areas, ii) Shia from majority Sunni areas, iii) Sunnis and Shia settled by the Ba'ath in Kurdish areas and vi) minority groups from both Sunni and Shia areas.²⁸

With the current crisis included, Iraq now counts 3,171,606 IDPs, in addition to 2 million Iraqi refugees living mostly in Syria, Jordan, the Gulf States, Lebanon and Egypt.²⁹ None of these earlier HLP related challenges have been fully resolved, and going forward the Iraqi Government will hence need to deal with the consequences of the different displacement waves together, with recent problems and challenges having imposed themselves on top of earlier issues still waiting for a solution today. In the HLP area, the following historical issues are still pending:

- **Unresolved restitution and compensation claims pending before the Iraq Property Claims Commission (IPCC).** The IPCC was established in 2003 to provide redress to victims of the land and property rights violations committed by the authoritarian regime of the former Saddam era. Its exclusive jurisdiction extends to all land and property takings that took place for political, religious or communitarian reasons between 17 July 1968 and 9 April 2003 but does not cover damages for property that was destroyed or damaged property during that period e.g. in the Al-Anfal campaign.³⁰ Eligible claimants have the choice between requesting restitution or compensation, while the Commission can impose financial compensation in cases where restitution is impossible. By the end of the filing deadline, the IPCC had received 167, 097 claims, with over 55,000 coming from the Kirkuk and Ninewa Governorates alone.³¹ As of 18 February 2010, the total number of final decisions stood

²⁵ Human Rights Watch. August 2004. "Claims in Conflict: Reversing Ethnic Cleansing in Northern Iraq" <http://www.hrw.org/reports/2004/iraq0804/iraq0804.pdf>

²⁶ Migration Policy Centre, October 2014. "35 years of forced displacement in Iraq: Contextualising the ISIL threat, unpacking the movements", http://cadmus.eui.eu/bitstream/handle/1814/33151/MPC-PB_2014-04.pdf?sequence=1 p.4

²⁷ USIP. April 2011. "Refugees and IDPs after Conflict: Why They Do Not Go Home" <http://www.usip.org/sites/default/files/SR268Fagen.pdf>, p7

²⁸ Sassoon; J. 2009, The Iraqi refugees – The New Crisis in the Middle East, London: I. B Tauris, p12

²⁹ IOM DTM Report Round XVII - March 2015. <http://iomiraq.net/dtm-page>

³⁰ Article 3 of Law 13/2010

³¹ Iraq e-Government Portal, 31.05.2011. "Property Claims: 16 700 cases resolved in less than a year", <http://www.egov.gov.iq/egov-iraq/index.jsp?sid=3&nid=33&y=2011&m=4&d=31&lng=en>



at around 43,300, i.e. only about 25% of the total caseload.³² By March 2015, the number of final decisions had exponentially risen to 169,005³³, yet their enforcement has been critically lacking. IPCC staff attributed this very low enforcement rate to the time-intensive claim review process, the volatile security situation in many of the most affected areas (Anbar, Diyala, Ninewa and Salah al Din Governorate) and the lack of necessary financial resources to pay out compensation packages.³⁴ As a result, only 13,753 decisions (representing a mere 8.2% of all submitted cases) have been enforced as of March 2015.³⁵ Another 168 cases are currently under review by the Judicial Committee. When IOM and UNAMI were carrying out work on land disputes in the Kirkuk and Ninewa Governorates in 2012, the vast majority of claims in those two locations were either unresolved or, if resolved, not enforced. It is doubtful that in the intervening period much has changed in this regard. Enforcement issue is a problem across Iraq.

- **Grievances related to the cancellation of agricultural contracts and the application of Article 140³⁶ of the Iraqi constitution.** This affects the Kirkuk and Ninewa governorates in particular and relate to attempts to undo the Arabization policies of the former Baath Party regime, which in turn have created significant new grievances amongst especially the Sunni Arab population in those governorates. When IOM was working together with UNAMI between 2009 and 2011 to find comprehensive solutions to the various outstanding HLP issues in the Kirkuk and Ninewa governorates, the cancellation of agricultural contracts, in essence long-term lease agreements that were concluded between individual (small-scale) farmers and the Iraqi state in the Baath Party era, appeared as one of the more contentious issues in an overall complicated and conflictual HLP landscape. To the extent that the IOM team has been able to ascertain this in the current security situation, this issues remains at the forefront of Sunni grievances and needs to be addressed equitably if and when the time to end the current displacement crisis is there.
- **Land and property disputes related to other post-2003 displacement.** Since 2003, the Government has taken a number of initiatives to deal with HLP issues that arose since the fall of the regime. They include Council of Ministers Decree 262 of 2008 which in addition to providing each returning IDP-family with a small grant also foresaw the payment of a short-term rental subsidy to registered IDPs in Baghdad vacating the returnees' properties they were occupying irregularly.³⁷ Trying to address the occupation of properties left behind by IDPs on a larger scale, Prime Minister Order 101 of 2008 stipulated that secondary occupants were the cause for protracted displacement. The Order hence required secondary occupants to vacate those occupied properties within one month as of 1 August 2008.³⁸ In accordance with this order, the Ministry of Migration and Displacement (MoMD) established return centres in Baghdad to facilitate the recovery of property of returning families. It is doubtful, however, that the latter order ever saw much enforcement, while early reports regarding

³² Peter Van der Auweraert, Iraq updates its approach to former regime-related land and property claims, available at <http://terraonullius.wordpress.com/2010/03/11/iraq-updates-its-approach-to-former-regime-related-land-and-property-claims/>

³³ The reason for the difference in number of overall filed cases and final decisions is that several decisions can be taken for one single case due to the possibility of filing an appeal against first-instance decisions taken by the IPCC judicial committees.

³⁴ Figures were provided during a meeting of IOM and IPCC staff in Baghdad in March 2015.

³⁵ Information obtained during meeting between HIJRA AMINA team and PCC in Baghdad on 25 March 2015.

³⁶ Outlined in next document section.

³⁷ USIP. 2009. "Land, Property, and the Challenge of Return for Iraq's Displaced", <http://www.usip.org/sites/default/files/SR221.LandPropertyChallengeofReturnforIraqsDisplaced.pdf>

³⁸ UN OCHA. 16.11.2011. Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, http://www.brookings.edu/~media/Projects/IDP/201102_WK_Iraq.PDF, p8



the Council of Ministers Decree highlighted considerable problems with its implementation.³⁹ In addition, many post-2003 displaced Iraqis never returned to their places of origin to begin with. Of those who returned, a 2009 UNHCR survey reported that an estimated 15 per cent of returned IDPs and 56 per cent of repatriated refugees were unable to access their property due to second occupancy.⁴⁰ Hence, a considerable number of properties have likely remained occupied by others, which will require a solution if and when the time for durable solutions for this group comes.

- **Lack of adequate housing:** historically, Iraq has been suffering from a chronically depleted and inadequate housing stock for many years. In 2009, UN HABITAT reported that Iraq had a housing shortage of at least one and a half million units,⁴¹ while the shortfall for 2016 was predicted to be closer to two million units.⁴² The biggest need thereby is housing for the lower-mid and low income segment of the Iraqi population.⁴³ The difficulties many families face to access affordable housing in Iraq has been one of the factors that explains the rapid occupation of properties left behind by displaced Iraqis, for example during the sectarian violence that plagued Baghdad in 2006 and 2007.
- **Occupation of public buildings and land:** the different waves of displacement and return in combination with an insufficient housing stock in Iraq has led to the widespread phenomenon of the occupation of public buildings and land by IDPs, returnees and the poor more broadly. While recent figures are not available, UNHCR estimated in 2008 that over 250,000 IDPs were occupying public property.⁴⁴ Those living in public buildings or on public land live under constant threat of eviction by local authorities and hence to the risk of secondary displacement. An overall policy to end the adverse consequences of displacement in Iraq will also need to find a solution for this particular issue.
- **Existence of informal settlements, especially around urban centers in Iraq:** caused by the same factors as the occupation of public buildings and land, and indeed, overlapping with this issue, Iraq has seen a considerable rise in informal settlements since 2003 (compounding unplanned urban expansion that started already before 2003). Frequently, populations in those settlements, which include IDPs as well as urban poor, have to cope with little or no access to water and a general lack of adequate sanitation, electricity, schools or health centers as well as secure tenure.⁴⁵ Again this is an issue that needs to be addressed in the overall frame of resolving displacement in Iraq.

The Disputed Territories and Article 140

In Northern Iraq, HLP grievances are further compounded due to the ongoing power-sharing negotiations between the Iraqi Government and the Kurdistan Regional Government over the “disputed territories”

³⁹ NRC. 2010. “Iraq: Little new displacement but around 2.8 million Iraqis remain internally displaced” <http://www.internal-displacement.org/assets/library/Middle-East/Iraq/pdf/Iraq-March-2010.pdf>, p.13

⁴⁰ UNHCR. 11 December 2009, “UNHCR reiterates concern about involuntary returns to Iraq amid violence”, <http://www.unhcr.org/4b222efe9.html>

⁴¹ UN-HABITAT, 27.07.2009. « Iraq: Country Program Document 2009-2011 »

⁴² Mohammed Khan (NRC). February 2015. Situation Analysis Iraq: Housing, Land and Property, unpublished.

⁴³ Reuters. 16.09. 2013. “Iraq faces chronic housing shortage, needs foreign investment – Minister”

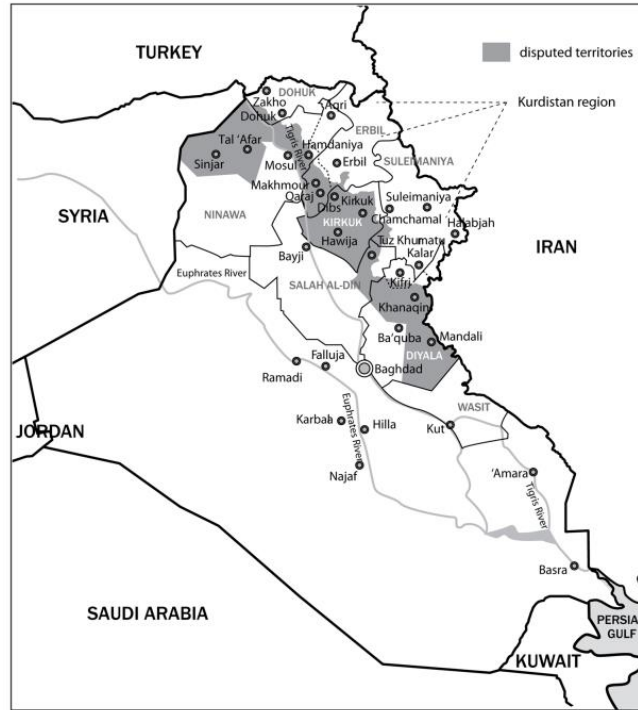
<http://www.reuters.com/article/2013/09/16/iraq-housing-idUSL5N0HC2GD20130916>

⁴⁴ NRC. 2010. “Iraq: Little new displacement but around 2.8 million Iraqis remain internally displaced. A profile of the internal displacement situation” <http://www.internal-displacement.org/assets/library/Middle-East/Iraq/pdf/Iraq-March-2010.pdf>, p11

⁴⁵ NRC. 2010. “Iraq: Little new displacement but around 2.8 million Iraqis remain internally displaced. A profile of the internal displacement situation” <http://www.internal-displacement.org/assets/library/Middle-East/Iraq/pdf/Iraq-March-2010.pdf>, p12



separating the Kurdish region from the rest of Iraq. They include Makhmur, Kifri, Khaniqin (Diyala District), Shaikhan and Hamdaniya, and Sinjar (Ninewa District) highlighted in grey in the map⁴⁶ below; and represent the areas most affected by the Arabisation policy vigorously pursued by the Saddam regime after its ascent to power in the 1960s.



This map has been produced by the International Crisis Group. It is a modified version of a similar map appearing in Crisis Group Middle East Report N°60, OI for 'Sul-Tawara'a Genral Bagdada' Iraq and the Kurds (28 October 2008). Only the northern boundary of the disputed territories has been adjusted to add more detail.

Question of land ownership and governance in the disputed territories is contested and has become subject to strong politicization. The unclarified situation affects minority populations disproportionately as they have strong historical ties to these disputed areas of Kirkuk and Ninewa, including Al-Hamdaniya, Bashiqa, Tilkaef, Sheikhan, and Sinjar. Particularly affected is Iraq’s Yazidi community mainly concentrated in Sinjar District in the Ninewa plains. Prior to the current crisis, the region was under the administration of Ninewa Governorate. However, the Kurdish Regional Government (KRG) claimed it on cultural and historical grounds as part of their administrative territory.⁴⁷ Many Yazidi participants stated that the contested administrative affiliation of the region effectively barred from formal property ownership in the area.

Article 140 of Iraq’s 2005 Constitution set a deadline to decide the belonging of the territories by referendum among its inhabitants until 2007, preceded by normalization (Kurdish victims of ‘Arabization’ policies under the Saddam regime to return home and Arabs brought into the northern areas to be compensated and returned to their places of origin, mainly in southern Iraq) and a population census, to be overseen by the government-

⁴⁶ International Crisis Group. 2011. Iraq and the Kurds: Confronting Withdrawal fears, p35

⁴⁷ WHO. 2007. “United Nations coordinated efforts to aid Sinjar bombing victims”, http://apps.who.int/iris/bitstream/10665/116547/1/EMRPUB_2007_EN_1366.pdf?ua=1



established “Committee to Implement Article 140 of the Constitution”.⁴⁸ However, the 2007 referendum deadline lapsed without progressing beyond the “normalization” phase and the issue remains in a state of suspended animation.⁴⁹ The Iraqi government has recently agreed to complete the implementation of article 140 by 8th September 2015,⁵⁰ and is reported to have allocated 102 billion dinars to the Article 140 Committee in the country’s 2015 budget. The level of success of this renewed initiative, if remaining a priority in the current security context, will be of central importance in tackling prior HLP grievances in the region which so disproportionately affect Iraq’s minorities.

Main Findings

1. Systematic Sale and Rental of confiscated Private Property

During focus group discussions in all six locations covered, participants emphasized that ISIL systematically rents and sells properties forcibly usurped from their rightful owners. In confiscating properties in areas under their control, ISIL and associated groups primarily target religious and ethnic minorities in what is part of a systematic strategy to expel these communities permanently from their homes.⁵¹ In addition to members of minority communities, the confiscation of property also affects persons affiliated with the Iraqi government and its security services, and anyone otherwise deemed disloyal to ISIL.

When ISIL overtook Mosul in June 2014, Christians were given the choice to pay a special tax for non-Muslims (jizya), convert to Islam or abandon their homes within three days. It is estimated that the city’s Christian community has been effectively and fully disbanded as a result. As a participant from Mosul stated, “all Christian houses in Mosul that are under ISIL hands now have writing on their walls saying “property of Islamic State”.⁵² This corroborates widespread reports that the overtake of Mosul was swiftly followed by marking Christian properties with a spray-painted ن” (ن, or “N”, is the first letter of the Arabic word for Christian: *Nasrani* or *Nazarene*) in preparing for their seizure.⁵³

Participants further stressed that most if not all Christian properties in Mosul have been usurped and transferred to individuals loyal to ISIL and associated groups. As a former resident of Mosul explained, “not one house owned by a Christian in Mosul was not taken over and looted by IS members and all their belongings stolen, down to the last broomstick...Some IS fighters have even moved into the Christians' homes themselves, using everything in those houses as if they were their own.”⁵⁴ Participants, corroborated by emerging news reports, cited the Christian neighbourhoods of Al Arab, Shurta, Nour, Muhandiseen,

⁴⁸ Anderson, L. undated. “The Disputed Territories of Northern Iraq”,
https://www.academia.edu/1542286/the_Disputed_Territories_of_Northern_Iraq

⁴⁹ Bartu, P. 2010. “Wrestling with the integrity of a nation: the disputed internal boundaries in Iraq” *International Affairs* 86: 6, pp. 1331

⁵⁰ Shafaq News. 07.01.2015. “Baghdad allocates 102 billion dinars for the Committee of Article 140”,
<http://english.shafaq.com/politics/12784-baghdad-allocates-102-billion-dinars-for-the-committee-of-article-140.html>

⁵¹ Minority Rights Group International. February 2015. “Between the Millstones: The State of Iraq’s Minorities Since the Fall of Mosul”
http://www.minorityrights.org/13031/reports/MRG_Rep_Iraq_ONLINE.pdf

⁵² FGD with Nowruz University students, Dohuk, 27.01.2015

⁵³ The Daily Lede. 19 July 2014. “ISIL reportedly marking Christian homes in Iraq for future confiscation”
<http://thedailyledblog.wordpress.com/2014/07/19/ISIL-reportedly-marking-christian-homes-in-iraq-for-future-confiscation/>

⁵⁴ BBC News. 19 December 2014. “Mosul diaries: Poisoned by water” <http://www.bbc.com/news/world-middle-east-29600573>
<http://www.bbc.com/news/world-middle-east-29600573>



Majmouah, Thaqafiyah, Faisaliah, Zohour, Dawas, Jawsaq and Dandan as among the most affected by systematic property confiscations and sales.⁵⁵

Property belonging to Shiite Muslims and Kurdish Shabaks, some of whom are Sunni Muslims, has also been confiscated and rented or sold on for profit by the group. Shia Turkmen and Shabak homes in Mosul have been marked with the letter 'R' signifying 'Rwafidh' (Protestants or rejecters).⁵⁶ According to journalistic sources, this real estate is mainly in the Atshanah, Karamah, Quds, Nour, Bab Shams and Nour neighbourhoods of Mosul.⁵⁷ As a participant from Mosul summarized current developments, “all the houses of the Christian, Yazidis and Shabak have been taken by ISIL and their allies”.⁵⁸

While religious and ethnic minorities in the territories occupied by ISIL - Turkmen, Kurdish Shabaks, Christians, Shias and Yazidis; framed as apostates and the latter also as polytheists - have been one of the primary targets of systematic property confiscation, ISIL also targets anyone else considered not in line with their ideology. This primarily concerns members of the Iraqi army, police and security forces, government officials, politicians, judges and public prosecutors and those who had previously worked with the US armed forces.⁵⁹ As a recent news report stated, “ISIL confiscates the houses of the people who were previously employed in the police, courts, and security forces. These houses, and any furniture in them, are confiscated by the Sharia (legal or religious) court set up by ISIL.”⁶⁰ As an intimidation tactic, ISIL has also used its control over property by methodically targeted lawyers with phone calls and visits to their homes, especially in Tikrit and Mosul. They are given the choice to pledge to never to practice law again or have their homes confiscated.⁶¹ In the same fashion, doctors are forced to continue offering their services even under ISIL rule.

Some IDPs also declared that they received calls from ISIL members threatening them to confiscate and sell their properties if they do not pay ransom or return to areas under ISIL control,⁶² which is consistent with other news reports outlining systematic follow-ups to ensure not a single “abandoned” property goes uninhabited:

“Militants go from house to house asking for documents to prove that the person there is the legal full-time occupant. If they suspect that the real owners have fled they are given ten days to return; if they don’t come back their house is confiscated without compensation and given to somebody more loyal to ISIL... This sort of threat is one of the ways ISIL ensures that its new state doesn’t become depopulated.”⁶³

In some instances, the confiscation and sale of property not only occurred after ISIL and associated groups brought areas under its control, but seems to be plotted beforehand, as the experience of a well-to-do, now

⁵⁵ Niqash. 09.10.2014. “Money-making plots: extremists now in real estate business in Mosul”. <http://www.niqash.org/articles/?id=3552>

⁵⁶ The Christian Post, 2014. “Christians not wealthy enough to flee Mosul after death threat renounce faith for Islam “Just to stay alive”. <http://www.christianpost.com/news/christians-not-healthy-enough-to-flee-mosul-after-death-threat-renounce-faith-for-islam-just-to-stay-alive-123659/>

⁵⁷ Niqash. 09.10.2014. “Money-making plots: extremists now in real estate business in Mosul.” <http://www.niqash.org/articles/?id=3552>

⁵⁸ FGD at Dohuk University, 27.01.2015

⁵⁹ Niqash. 09.10.2014. “Money-making plots: extremists now in real estate business in Mosul.” <http://www.niqash.org/articles/?id=3552>

⁶⁰ The Independent, 13 April 2015. “Life under ISIL: An explosion at the gates, sleeper cells attacking from within” <http://www.independent.co.uk/news/world/middle-east/life-under-ISIL-how-the-jihadis-poke-their-noses-into-everything-and-govern-all-aspects-of-life-in-the-territory-they-have-taken-10114646.html>

⁶¹ Global Post, 26 Dec 2014. “The Islamic States is waging war on technocrats” <http://www.globalpost.com/dispatch/news/regions/middle-east/iraq/141223/the-islamic-state-waging-war-technocrats>

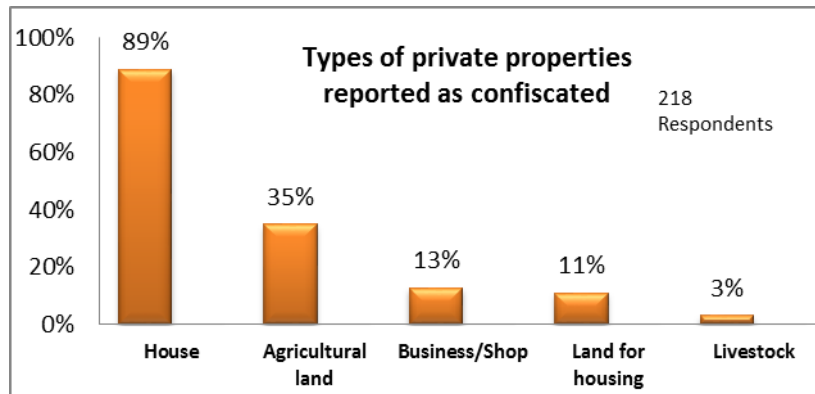
⁶² FGD in Sulaymaniyah, 13.01.2015

⁶³ Cockburn, P. 18 Dec 2014 “If only they would leave: Patrick Cockburn reports from Northern Iraq”. London Review of Books, 18 Dec 2014, <http://www.lrb.co.uk/v36/n24/patrick-cockburn/if-only-they-would-leave>



displaced farmer from Al-Hamdaniya, Ninewa Governorate, illustrates: “ISIL contacted me by phone to request agricultural land of about 10.000 m2 in preparation of their take-over, which took place exactly a month later. I refused then but could not stay once they arrived.”

The extensive scope of confiscations, which includes all types of private property that has been left behind by those fleeing ISIL, has widely been verified during the discussions in all six locations covered. While 89% of participants indicated that their houses/apartments had been confiscated, another 35% reported having been deprived of their agricultural land. Another 13% reported their shops or business looted and/or confiscated (see table below):



In discussions, participants emphasized that ISIL is renting and even selling confiscated properties of the displaced not only to the group’s loyal fighters but to any interested inhabitant of their self-declared Islamic Caliphate. In Mosul, according to participants, such property transactions take place in multiple ways: ISIL militants directly “gifting” or renting them to loyal fighters and supporters at a discounted price, or offering them for sale or rent to the general populace of Mosul through open public auctions.⁶⁴ For those who rent seized property, payments are made directly to ISIL, who in turn issues payment receipts.⁶⁵

ISIL has also engaged in the bulk sale of usurped property in areas it controls outside of Mosul. As per information FGD participants gathered through phone calls to former Arab neighbours, in Sinjar District ISIL sells whole blocks of up to 10 houses for 1 million Iraqi dinars (approx. 858 USD). These prices are offered only to ISIL fighters and supporters.⁶⁶ Several participants stressed the “bulk sale” character of many of these transactions, stating that ISIL sells whole neighborhood in all of Sinjar district, and Al Jazeera and Qahtaniyah in particular.⁶⁷

Participants from Mosul agreed on the fact that in general Sunni Arabs moving into confiscated property originate from neighbouring towns and districts, but also other governorates and even from abroad.⁶⁸ According to participants from Mosul, people from Hazer and neighbouring governorates have settled down in Mosul under the full protection of ISIL and associated groups. In reference to the now empty houses of IDPs, participants stated that ISIL either rents them to Arabs from other governorates or uses them as home for

⁶⁴ FGD in Al Khakr, Baghdad, Feb 2015

⁶⁵ FGD in Shariya Camp, 27.01.2015

⁶⁶ FGD at Dohuk University, 27.01.2015

⁶⁷ FGD in Bajid Kandala Camp, 29.01.2015

⁶⁸ FGD with Nowruz University students, Dohuk, 28.01.2015



their own fighters.⁶⁹ These claims are supported by a brief HLP assessment conducted by UNHCR in November 2014, which found that ISIL distributed land plots in Saadia (Diyala district) as a “gift from al Baghdadi” to families that supported the militants by having their sons to join the ranks.⁷⁰

It has also been reported that ISIL has evicted Kurdish Shabaks from lands around Mosul and brought 218 families from Ramadi and Beiji (Anbar governorate) to live in Kurdish-Shabak properties surrounding Mosul,⁷¹ and around 350 Sunni Arab families to live and settle down in Hamdaniya, nearby Mosul.⁷² A female Yazidi student from Mosul recounted how “ISIL took our house and gave it to another family which came from Tikrit city,”⁷³ while a Yazidi woman displaced from Qahtaniyah stated that “ISIL is getting Arabs from other locations to fill the empty houses that we were forced to leave behind”.⁷⁴

Participants from Sinjar district highlighted the same dynamics: In the Yazidi Al Jazeera village in Sinjar District, several Sunni Arab families from Rabiyya sub district - located 40 km away from Al Jazeera – have allegedly moved into houses left behind by the displaced and converted local schools into mosques.⁷⁵ This was described as an effort on behalf of ISIL to settle Sunni Arabs from neighbouring districts in former Yazidi communities.⁷⁶ As expressed by a Yazidi participant, “in Sinjar district generally the property is rented and sold to our former Arab neighbours from nearby and from close proximity, especially Rabiyya, or directly to IS fighters.”⁷⁷ A Yazidi man originally from Wadiya, Sinjar, similarly described that ISIL actively settles Sunni Arabs there, mainly from the Baiji area.⁷⁸ In Zummar, ISIL fighters coming from Algeria and Tunisia, are occupying and have paid for houses of IDPs.⁷⁹

While the majority of participants from outside of Mosul explained that many if not most of these property sales are conducted without issuing any sale contract or registry papers,⁸⁰ IDPs from Mosul highlighted that ISIL has also distributed property documents to the people they sell or rent houses to.⁸¹ Several participants from in and around Mosul stated that “IS even has an office where property of IDPs is being sold to Arabs.”⁸² . Indeed, according to one participant, ISIL has recently created a property directorate in Mosul city⁸³ and occupants moving into confiscated properties are provided with new ownership documents issued by the group.⁸⁴ These testimonies are consistent with a recent *Minority Rights Group International* report which states that “in some of the cases documented by local human rights organizations, occupiers produced forged documents claiming that the properties had been sold to them.”⁸⁵ According to Iraqi journalistic sources, ISIL has also seized all revenue of the Sunni Muslim endowment body in Mosul, which manages local Sunni Muslim

⁶⁹ FGD at Dohuk University, 27.01.2015

⁷⁰ UNHCR HLP Quick Assessment

⁷¹ Rudaw, 21 Nov 2014. “ISIL evicting Kurdish Shabaks from lands that are given to Arab loyalists”
<http://rudaw.net/english/middleeast/iraq/21112014>

⁷² Morning FGD in Shariya Camp, 27.01.2015

⁷³ FGD at Dohuk University, 27.01.2015

⁷⁴ Afternoon FGD in Bajid Kandala, 29.01.2015

⁷⁵ Morning FGD in Bajid Kandala Camp, 29.01.2015

⁷⁶ FGD in Shariya Camp, 27.01.2015

⁷⁷ Afternoon FGD in Bajid Kandala, 29.01.2015

⁷⁸ Morning FGD in Shariya Camp, 27.01.2015

⁷⁹ FGD with Nowruz University students, Dohuk, 27.01.2015

⁸⁰ Inter alia, FGD at Dohuk University, 27.01.2015

⁸¹ FGD at Dohuk University, 27.01.2015

⁸² Afternoon FGD in Shariya Camp, 27.01.2015

⁸³ FGD with NGO representatives, Erbil, 03.12.2014

⁸⁴ FGD with Nowruz University Students, Dohuk, 27.01.2015

⁸⁵ Minority Rights Group International. October 2014. “From ISIL to Catastrophe: the situation of minorities in Iraq”,
<http://www.minorityrights.org/download.php?id=1468>, p.20



mosques and shrines and any property belonging to them. The local endowment body is thought to own hundreds of individual homes and buildings as well as commercial property in different parts of the city and on its outskirts, which are now claimed by ISIL and associated groups.⁸⁶

Findings also strongly suggest that usurped properties across ISIL-held areas are systematically turned into a source of revenue, presumably to fund the group's activities and to pay off its rank of fighters. Participants unanimously mentioned such property sales and rentals as a crucially important source of income for IS. While it is hard to arrive at a clear indication of the scope and extent of this source of revenue stemming from the illegal renting and selling of such property, an October 2014 report estimates that money made from renting and selling real estate in Mosul might "possibly amount to more than the money it makes from selling oil and oil derivatives on the black market there."⁸⁷

In response, all participants stressed the need for the Iraqi government to cancel all kind of property document issued in the conflict zones after the crisis began in June 2014.⁸⁸ Participants also stressed that all possible measures should be taken to preserve evidence in support of the property claims of displaced persons. In recognizing that the reported moving in of new occupants into properties unlawfully seized by ISIL potentially presents a great obstacle to their return, especially if the former and rightful owners do not possess the documents to prove their property claim, participants called on the Iraqi authorities to secure, back up and protect all registered data on property title and transactions. The claim for reparations and compensation for the confiscation and illegal sales and rental of their properties was made resoundingly by all affected study participants.

2. Widespread Destruction and Looting of Private Property

Looting and Destruction

Findings clearly corroborate the well-publicized claims that ISIL also engages in systematic looting and destruction of private and public property in areas under their control. Findings indicate that the area most affected by deliberate property destruction inflicted by ISIL is Ninewa Governorate, and in particular Sinjar district and Zummar sub-district.

Around 15 participants, all of them Yazidi from Northern Sinjar district, had returned to their areas of origin since the liberation of the area by Kurdish forces in December 2014 to check on family property as well as solicit information on missing relatives. While Southern Sinjar is still inaccessible, those returning to the Northern part estimated that between 20 – 30% of the housing stock in the region has been completely destroyed, while another 30% have been heavily damaged.⁸⁹ None stayed for more than 10 nights at a stretch, and as of January 2015, no-one had plans a permanent return. IDPs confirmed that no families have gone back to their places of origin, only individuals, but that even those going back to check on their properties and home towns have returned to the place of displacement.⁹⁰ Overall, the UN estimates that there are currently 1,000

⁸⁶ Niqash. 09.10.2014. "Money-making plots: extremists now in real estate business in Mosul". <http://www.niqash.org/articles/?id=3552>

⁸⁷ Centre for Security Studies, ETH Zurich. December 2014. "The Neo-Caliphate of the "Islamic State", <http://www.css.ethz.ch/publications/pdfs/CSSAnalyse166-EN.pdf>

⁸⁸ FGD in Baghdad, Al-Adhamania, 12.01.2015

⁸⁹ Afternoon FGD in Bajid Kandala Kandala, 29.01.2015

⁹⁰ FGD at Dohuk University, 27.01.2015



civilian returnees from Dohuk in the villages of Sinuni sub-district, all of them men checking on their belongings.⁹¹

A participant who had briefly returned to check on his property in Sinuni village, Sinjar district, reported that all property was destroyed and that the new occupants had also taken over the agricultural land around the village. He also witnessed general damage of housing and buildings and reported cars being stolen.⁹² His house had been completely looted his crop and livestock taken away by ISIL fighters. In Hathein village alone, another participant counted 350 houses as completely burnt down.⁹³ A female participant originally from Jazeera village reported that her husband had briefly returned only to realise that all of their 8 shops have been looted.⁹⁴ Similarly, a participant from Khanasour stated that “*Daesh* has stolen more than two hundred tons of wheat in my village, and our neighbors suddenly became our enemies because they have assisted in the looting.”⁹⁵ A male participant who returned to Jazeera village from 13 to 23rd Jan 2015, wearily explained: “I went back home in early January 2015 to the top of the mountain overseeing my home. Most houses and even some mosques have been simply bulldozed. Some others have been bombed. I also saw IS putting looted property on their trucks as they left the area, probably to be sold”.⁹⁶ Another participant from Al-Jazeera reported that even the community’s graveyards had been demolished by the occupiers. As she put it, “they even try to destroy the dead, to make us vanish from earth completely.”⁹⁷ Overall, participants indicated that the most damaged and destroyed towns and villages in Sinjar district are the following: Dogore (also called Hathein), alongside with Qani village, Hardan Village, Zarab village, Kharshani village, Surana village, Jeibal compound, Burek compound, Dohla compound, Zinune, Khanasour and Qahtaniyah.⁹⁸ In addition, on the 30th of August 2014, IS fighters set the Yazidi village of Khotan, Hareko and Kharag Shafsrsky on fire; thought to have caused the complete destruction of its housing stock.⁹⁹

A commonly encountered problem reported both by participants from Northern Sinjar District who had returned intermittently as well as others who had received such information by word of mouth from Kurdish forces, reported widespread booby-trapping of the left-behind housing stock. According to several sources, ISIL has become known for their policy of booby-trapping houses in towns they are forced to retreat from¹⁰⁰ and deploying IEDs in urban areas, putting returnees at grave risk.¹⁰¹

As a female participant from Jazeera, Sinjar, reported a family friend returning to Sinjar only to “open the door of his house – this is when a bomb exploded which was behind his front door, and killed him immediately”. Another woman returning to check on property in Sinjar in early January 2015 “saw wires coming out from the door of our family’s house. Once you open the door, it will blow up and kill you as well.”¹⁰² Participants agreed that the wiring of property has taken place on a large scale in Sinjar District, and that a comprehensive de-

⁹¹ Protection Cluster Sinjar IDP Return Contingency Plan, 31.01.2015, unpublished.

⁹² FGD at Dohuk University, 27.01.2015

⁹³ Morning FGD in Bajid Kandala Camp, 29.01.2015

⁹⁴ Morning FGD in Bajid Kandala Camp, 29.01.2015

⁹⁵ FGD at Shariya Camp, 26.01.2015

⁹⁶ Morning FGD in Bajid Kandala Camp, 29.01.2015

⁹⁷ Afternoon FGD in Bajid Kandala Camp, 29.01.2015

⁹⁸ Morning FGD in Bajid Kandala Camp, 29.01.2015

⁹⁹ Minority Rights Group International. February 2015. “Between the Millstones: The State of Iraq’s Minorities Since the Fall of Mosul” http://www.minorityrights.org/13031/reports/MRG_Rep_Iraq_ONLINE.pdf, p14

¹⁰⁰ Minority Rights Group International. February 2015. “Between the Millstones: The State of Iraq’s Minorities Since the Fall of Mosul” http://www.minorityrights.org/13031/reports/MRG_Rep_Iraq_ONLINE.pdf, p22

¹⁰¹ See, inter alia, Institute of War, Iraq Situation Report: September 1-2, 2014, <http://www.understandingwar.org/backgrounder/iraq-situation-report-september-1-2-2014>

¹⁰² Morning FGD in Bajid Kandala Camp, 29.01.2015



mining effort need to get underway before they can consider return.¹⁰³ These findings are echoed in a recent news report which stated that “the villages around Zummar show the scars of ISIL occupation...many houses were blown up by ISIL fighters as they retreated. Other buildings were booby-trapped with cleverly-hidden explosive devices to await families coming home.”¹⁰⁴ Booby-trapping was also reported by FGD participants from the Assyrian town of Bashiqa in Ninewa Governorate.¹⁰⁵

Many participants from Sinjar district expressed their urge to leave a country where they feel less and less at home. Participants asked for international protection if they stay in Iraq and for refugee status if they go abroad, as “ISIL has expropriated all Yazidi property in Iraq and we will not ever see it again.”¹⁰⁶ As one elderly woman from Jazeera Village, Sinjar, explained: “We want international protection, otherwise we will not return. If not we will strive for resettlement in Europe or the United States. We cannot trust that something like June 2014 will not happen again.”¹⁰⁷

In Mosul ISIL elements announced their intention to take the city two weeks before the actual take-over via phone calls and a social media campaign.¹⁰⁸ Findings indicate the level of property destruction inside Mosul is not as substantial as in the villages outside of the city, where the level of destruction is much higher “because it was easier for ISIL to do this in small towns.”¹⁰⁹ Another participant from Mosul reported that his two houses and car were now under the control of ISIL. He got the news through neighbours who call him to let him know what was happening with his property.¹¹⁰ In Bashira, Mosul, neighbours called one participant and explained that all agricultural land had been taken by ISIL.¹¹¹ Another trend is the conversion of shops and civilian and public property into military operation bases. A displaced man from Al Hamdaniya, Ninewa Governorate, had owned a plastic factory in his city. Said that terrorist groups are currently using his factory for the manufacture of explosive and car bombs.¹¹²

ISIL has also recently opened a special market to sell property it looted from Assyrian homes and churches in Mosul. The market, called “Spoils of the Nazarenes,” sells televisions, refrigerators, microwave ovens and other electronic devices, as well as furniture and artwork. Prices range from 50,000 to 75,000 Iraqi Dinars (\$42 to \$63).¹¹³ As a Christian participant from Mosul had been informed by a former neighbor, looted household items such as Plasma TVs with a value of 100,000 Iraqi Dinar are being resold as a “kaffir” Plasma TV for only 20,000-30,000 Iraqi Dinar on Mosul’s many markets.

Mosul has also been especially affected by the systematic destruction of property belonging to individuals associated with the Iraqi government and security forces. According to an UNAMI report, on 11 and 12 July 2014, “IS blew up more than 15 houses belonging to former police and army elements in Hamma al-Aleel area, southern Mosul, and in Mosul City. On 29 August, IS blew up three houses in southern Mosul belonging to officers of the Minister of Interior, and on 4 September, six houses of members of the ISF in Qayyarah, south of

¹⁰³ Morning FGD in Bajid Kandala Camp, 29.01.2015

¹⁰⁴ E Kurd. 6 Feb 2015. “The conflict in Iraq becoming a tale of two regions”, <http://ekurd.net/the-conflict-in-iraq-becoming-a-tale-of-two-regions-2015-02-16>

¹⁰⁵ FGD with NGO representatives, Erbil, 03.12.2014

¹⁰⁶ FGD at Shariya Camp, 26.01.2015

¹⁰⁷ FGD at Shariya Camp, 26.01.2015

¹⁰⁸ FGD with Nowruz University students, Dohuk, 27.01.2015

¹⁰⁹ FGD in Harsham Camp, Erbil, 02.12.2014

¹¹⁰ FGD with Nowruz University Students, Dohuk, 27.01.2015

¹¹¹ FGD Nowruz University Students, Dohuk, 27.01. 2015

¹¹² FGD in Baghdad, Al-Sadr, Feb 2015

¹¹³ Aina News Agency. 02.02.2015. “ISIL Opens Market in Mosul for Stolen Assyrian Property” <http://www.aina.org/news/20150202135108.htm>



Mosul. On the same day, ISIL blew up the house of a member of the local council in Waizat located south east of Mosul, because he had refused to swear fealty to the organization.”¹¹⁴

Participants from Anbar Governorate also emphasized the damage to housing and urban infrastructure caused by Iraqi and Kurdish forces in areas where it is engaged in fighting ISIL. Anbar’s largest city Fallujah was described as having suffered disproportionately by ISIL and ISF cross-fire. In August 2014, the destruction of 200 industrial plants, 137 stores and 98 houses in Fallujah was reported internationally.¹¹⁵ According to media reports, the neighbourhoods of al-Hay al-Sinaie and Nazzal are especially affected.¹¹⁶ Further, the old market and the Shorja market in Ramadi, the hub of Anbar district, were heavily bombed by ISF army aircraft in their fight against ISIL.¹¹⁷

Indeed, the liberating parties have also been accused of HLP right violations. Since December 2014 and liberation of territories formerly held by ISIL, including Zummar in Ninewa, an increasing number of reports of revenge attacks committed particularly against members of the Sunni community in areas liberated from ISIL control have emerged.¹¹⁸ In February 2015, Human Rights Watch reported that 500 homes had been destroyed in Zummar after it was liberated from ISIL in December 2014, stating that “scores of buildings have been reduced to rubble, apparently by air strikes and shelling. Several homes had been torched, or had collapsed walls and blown-out windows indicating they had been blown up from the inside”.¹¹⁹ The report also stipulates that Arab villages such as Barzan and Shikhan have been reduced to ashes and rubble, suggesting they have been targeted in revenge for suspected collaboration with ISIL, while former Arab residents have allegedly been barred from returning to their homes in majority Kurdish areas.¹²⁰ Several participants from Anbar Governorate also outlined how their houses have been destroyed by Iraqi Army Air Strikes in their fight against ISIL, causing immense damage.¹²¹ Confiscation and destruction of houses was also reported to have been inflicted on civilians by Shia Militias in Diyala and Salahedin Governorates, who were accused of selling participants’ furniture, cars and all their belongings on the black market.¹²²

Nonetheless, many participants from minority communities also agreed that once the security situation allows they would return to their homes in order to regain control of their land and property. Among the displaced Kurdish Shabak and most of the Yazidi participants, the emphasis on resettlement was however very pronounced.¹²³ To facilitate local integration, a Kurdish Shabak student explained, “we want compensation for what we have lost to start a new life in Kurdistan or abroad.”¹²⁴

¹¹⁴ UNOCHA & UNAMI. September 2014. “Report on the Protection of Civilians in Armed Conflict in Iraq: 6 July – 10 September 2014” http://www.ohchr.org/documents/countries/iq/unami_ohchr_poc_report_final_6july_10september2014.pdf, p.8

¹¹⁵ AL Monitor. August 2014. “8 months in, clashes in Anbar continue”, <http://www.al-monitor.com/pulse/originals/2014/08/anbar-infrastructure-destroyed.html###ixzz3BV81KTUU>

¹¹⁶ EA Worldview. August 2014. “Iraq Feature: Fallujah: Insurgent-Occupied City is “Out of a Picture at End of World War II” <http://eaworldview.com/2014/08/iraq-feature-fallujah-insurgent-occupied-city-picture-end-world-war-ii/>

¹¹⁷ Al Monitor. August 2014. “8 months in, clashes in Anbar continue” <http://www.al-monitor.com/pulse/originals/2014/08/anbar-infrastructure-destroyed.html###ixzz3BV81KTUU>

¹¹⁸ Al Monitor. August 2014. “8 months in, clashes in Anbar continue” <http://www.al-monitor.com/pulse/originals/2014/08/anbar-infrastructure-destroyed.html###ixzz3BV81KTUU>

¹¹⁹ Human Rights Watch. 25 Feb 2015. “Iraqi Kurdistan: Arabs Displaced, Cordoned Off, Detained” <http://www.hrw.org/news/2015/02/25/iraqi-kurdistan-arabs-displaced-cordoned-detained>

¹²⁰ Human Rights Watch. 25 Feb 2015. “Iraqi Kurdistan: Arabs Displaced, Cordoned Off, Detained” <http://www.hrw.org/news/2015/02/25/iraqi-kurdistan-arabs-displaced-cordoned-detained>

¹²¹ FDG in Sulaymaniah, Bayzan Sub-District, 13.01.2015

¹²² FDG in Sulaymaniah, Dukan Sub-District, 14.01.2015

¹²³ FDG with Nowruz University Students, Dohuk, 28.01. 2015

¹²⁴ FDG with Nowruz University Students, Dohuk 28.01. 2015



3. General Loss of Civil and Property Documents

Situation in Site of Displacement

Participants unanimously noted the widespread loss of civil and property documentation among the displaced in the site of displacement. Lack of documents was most frequently reported by Yazidi IDPs originating from Sinjar district, Ninewa Governorate, who repeatedly highlighted that their community has historically been subject to entrenched discrimination curtailing a fair access to formal property ownership as well as Iraqi national ID cards even prior to the 2014 crisis (see below). IDPs from Sinjar district estimated that up to 80% of the displaced do not have any personal documents at the site of displacement. Those living south of Mount Sinjar, the area that was first attacked by ISIL, were largely unable to take any documents with them.¹²⁵

Most Christian and Kurdish IDPs from Mosul indicated that they possessed official property records prior to their displacement, but due to the quick and unexpected advance of ISIL many left their documents behind. The majority of the families lost their documents because they fled at night and/or under direct threat of death if they did not leave their houses immediately. Several participants from Mosul also reported being stripped of their documentation on their way through unofficial check-points set up by IS, especially at “Al Shallalat” check point which was the only exit way allowed for Christians fleeing Mosul.¹²⁶ This finding is corroborated by a February 2014 Minority Rights International report which stated that “there have also been numerous reports of families being stopped at ISIL-run checkpoints near Mosul, where they were forced to hand over any valuable possessions, including property documentation.”¹²⁷ Similarly, OCHCR reports that following the ISIL take-over of the city of al-Hamdaniya on the 6th of August, approximately 150 Christian families were unable to flee in advance. Before expelling them, members of ISIL took possession of all their valuables and identity documents.¹²⁸

For most displaced participants from Anbar Governorate, displacement took place in different phases and proceeded less rapidly. As a participant from the region explained, “we could anticipate what was coming so we collected person documents as quickly as possible. We are not suffering from the loss of documents to the same extent as those fleeing from the ISIL advance in Mosul and Sinjar”.¹²⁹ Overall, data obtained from all study participants indicated that nearly half of all respondents - 42% - lost their property documentation (see table below), while 15% lost both their ID documentation and property documents. The table does not include the percentage of participants who did not possess official property documentation in the first place (a situation which affects most of the Yazidis).

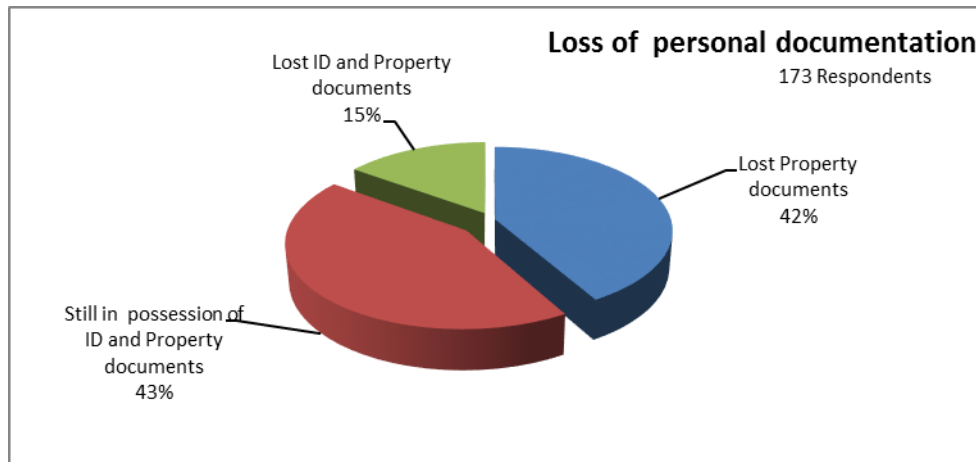
¹²⁵ FGD in Shariya Camp, 26.01 .2015

¹²⁶ FGD in Basra, 15.02.2015

¹²⁷ Minority Rights Group International. February 2015. “Between the Millstones: The State of Iraq’s Minorities Since the Fall of Mosul” http://www.minorityrights.org/13031/reports/MRG_Rep_Iraq_ONLINE.pdf, p22

¹²⁸ UN Report A/HRC/28/18. 15.03.2015. “Report of the Office of the United Nations High Commissioner for Human Rights on the human rights situation in Iraq in the light of abuses committed by the so-called Islamic State in Iraq and the Levant and associated groups”

¹²⁹ FGD with NGO representatives, Erbil, 03.12.2014



Participants also reported problems in getting documents re-issued or replaced, which requires proof of identity which for many is difficult to obtain in the place of displacement: In particular, they mentioned the existence of problems and obstacles with respect to the registration process of the Ministry of Migration and Displacement.¹³⁰ A February 2015 UNHCR Operational Update details that “a new central office of the Directorate of Civil Identity (ID) has been opened in Sheikhan, in northern Ninewa Governorate and that the central office established three sub-offices in Al Qosh, Zilkan and Zummar”.¹³¹ While these offices receive applications from IDPs for the issuance of new or the replacement of expired or lost ID cards, none of the participants reported access to any such facility at the time of the study.

In Iraq, however, documentation is essential to the exercise of certain key rights, including being able to register as an IDP or returnee and to access basic services and financial assistance.¹³² Lack of identification makes a number of services unavailable to IDPs and restricts their movement: unable to register with the Ministry of Migration and Displacement without civil documentation.¹³³ According to a recent NRC briefing paper, the situation regarding the reissue of civil documentation initially suffered from unclear geographic mandates of the respective Alternative Civil Status Affairs Offices set up in Baghdad and Najaf in July 2014. It also states that as of January 2015 IDPs have been directed back to the Civil Status Directorates in their home Governorates which many cannot access safely.¹³⁴

This already precarious situation is further exacerbated by the frequently encountered inability among participants to formally prove housing, land and property ownership due to loss of documents. This could complicate durable solutions to displacement as IDPs cannot prove official claims to what they have left behind and in the worst case scenario lead to systemic homelessness among affected returnees. The loss of property documents poses particular challenges to subgroups of IDPs, such as single women and minorities, whose civil status or rights were not recorded to the same extent as other citizens’ even prior to

¹³⁰ FGD at Ankawa Mall Camp, Erbil, 02.12.2014

¹³¹ UNCHR. 15.02.2015. “Iraq: UNHCR IDP Operational Update”, http://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR_Iraq-Operational_Update_IDPs-1-15Feb2015.pdf

¹³² http://www.brookings.edu/~media/Projects/idp/201102_WK_Iraq.PDF, p.16

¹³³ Minority Rights Group International. February 2015. “Between the Millstones: The State of Iraq’s Minorities Since the Fall of Mosul” http://www.minorityrights.org/13031/reports/MRG_Rep_Iraq_ONLINE.pdf

¹³⁴ Mohammed Khan (NRC). February 2015. Situation Analysis Iraq: Housing, Land and Property, unpublished.



displacement.¹³⁵ Participants expressed the strong need for ownership documents to be reissued by the Iraqi Government, with less stringent evidentiary guidelines.¹³⁶

4. Destruction and Appropriation of Property Records and Land Registries

Most government departments and institutions in the areas under ISIL control have been the explicit target of looting, destruction and systematic appropriation of its archives, with grave consequences for Iraq's land administration systems. Participants from all governorates outlined how ISIL has taken over government infrastructure for their own purposes, installing own personnel to oversee the implementation of the group's version of Sharia law, which is also put to use to justify the illegal seizure of property from "apostates". Police stations and Ministry of Interior's facilities have been symbolically destroyed by ISIL in all the occupied areas.¹³⁷ Other government buildings have been taken by IS in both Sinjar and Mosul and are now used as either as military positions or military bases.¹³⁸ In Mosul all religious and government buildings, as well as schools that are not destroyed are currently under the control of ISIL.¹³⁹

Official land and property deeds in Iraq are registered with Land Registration Office (also known as Cadaster Office), which belongs to the Ministry of Justice. As reported by UN Habitat in November 2014, a number of Land Registry Offices have been looted, taken over or destroyed. It is not known how many property records have been lost.¹⁴⁰

Participants from Mosul explain how IS had transferred all original property documents archived at the local Property Registration Office to an unknown destination, a former police man stating that "officials have told us that no files are left in the building."¹⁴¹ He also noted that ISIL burned all documents inside Mosul's many courts when it took over the city in June 2014, and explained that the Land Registration Office had been an early target, and is now under the full control of ISIL and associated groups.¹⁴²

The same was echoed during the FGD held with IDPs in Baghdad. All participants agreed for that ISIL had greatly damaged properties registration offices under their control, and that they confiscated all official registration documents.¹⁴³

Strategic appropriation of Land Records

Members of ISIL actively infiltrated Mosul's local property registers before the actual takeover of the city in June 2014. As outlined by a Iraqi based news agency Niqash, "even before they occupied Mosul fully, the IS group and their allies were trying to control local property registers...When the IS group entered Mosul, they

¹³⁵ Brookings Institute and University of Bern. October 2008. "Protecting Internally Displaced Persons: A Manual for Law and Policymakers", <http://www.unhcr.org/50f955599.pdf>, p.158

¹³⁶ FGD in Shariya Camp, 27.01.2015

¹³⁷ FGD in Sulaymaniyah, 15.01.2015

¹³⁸ Afternoon FGD in Shariya Camp, 26.01.2015

¹³⁹ FGD with Nowruz University Students, Dohuk, 28.01.2015

¹⁴⁰ UN-HABITAT. November 2014. "Housing, Land and Property Issues Among IDP's settled in Basra, Dohuk, Erbil and Baghdad" http://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/assessments/UN-HABITAT_HLP%20Rapid%20Assessment%20Infosheet%2026Nov2014%20%23.pdf

¹⁴¹ Morning FGD in Banjid Kandala Camp, 29.01.2015

¹⁴² FGD in Barhaka Camp, Erbil, 01.12.2014

¹⁴³ Baghdad, Al-Ahmania, 12.01.2015



already knew a lot of detailed information about the city's real estate [because] IS already had agents inside the local authority's real estate registration offices. Local security forces knew about this, and before they left Mosul in June, made regular announcements about arresting members of extremist groups who had in their possession property records and other official items from the registration office."¹⁴⁴

As a participant from Mosul recounted, the control over property registries is being put to strategic use in ensuring that anyone who has fled will lose access to their property: "In Mosul, IS transferred all documents from courts and legal entities they can reach to unknown locations, so all lands and buildings deeds are lost for both ownership of persons or government. What they do now is to hide those documents and start negotiating and compromising with IDPs via phone, asking to provide proof of the ownership of the house or property which is impossible to obtain."¹⁴⁵

Many of the displaced entrust their properties to a relative or neighbor. Participants reported how ISIL increasingly resorts to pressuring those relatives or neighbors to provide proof of the ownership of IDPs properties, which are not available. As a participants from Quaraqosh outlined: "Sometimes those entrusted people go through through personal relations with staff of governmental entities who might have keys or access so they can provide them with needed documents. But if those needed documents cannot be produced, Daesh strips away your belongings from you."¹⁴⁶

However, it is worthwhile to note that most of the participants who formally own property expressed their trust in Central Property Registry in Baghdad to help them replace their property documentation and hence prove their ownership claims. Out of all FGD participants, only one person, a former judge from Mosul, voiced doubt over whether the Central Land Registry could re-issue documentations, remarking that many had also lost their ID and would hence be unable to prove their identity: "All property deed information is sent back to the Land Registry in Baghdad, and a copy of each document is available in the center, in the current situation IDPs have no personal identification documents, so they can't proof their own identities to begin with."¹⁴⁷ Most of the participants confirmed the Iraqi government has documentation for all properties saved in the country-wide property database located in Baghdad, and that the re-issuing of documents will hence be straightforward.¹⁴⁸

However, the destruction of much of the land administration and land records in the conflict-related areas indicates the difficulties which IDPs and refugees are likely to encounter in recovering ownership records. The transfer of records to the Land Central Registry is currently uncertain and has to be verified as soon as possible. The current functionality of the Central Land Registry, and its capacity to re-issue property documentation for those affected by HLP rights violations due to the current conflict, needs to be urgently assessed.

¹⁴⁴ Niqash. October 2014.

¹⁴⁵ FGD with NGO representatives, Erbil, 03.12.2015

¹⁴⁶ FGD with NGO representatives, Erbil, 03.12.2014

¹⁴⁷ FGD with NGO representatives, Erbil, 03.12.2014

¹⁴⁸ Inter alia, FGD in Al-Adhamania, Baghdad, 12.01.2015



Box 1 – Report on the Central Land Registry in Baghdad (UNDP, 2009)

“Transfers in Iraq are recorded at the Central Land Registry Office, where the system has not changed much in the last century. Recent movement toward a modern database and a new headquarters building indicate Iraqi government awareness of the need to improve the system, but such improvements must be done with great care to ensure that new bottlenecks and opportunities for corruption are not created.

The entire records system is currently managed manually, which has both advantages and disadvantages. Though the system of manual retrieval can be slow, the records are accessible and are in an ordered system. Additionally, from an anti-corruption perspective, it is much harder to fraudulently insert a written record into preexisting written records, than it is to do so in a computerized database. There is, however, significant room for improvement in terms of efficiency.

Some of the records are in poor condition, and the building where the records are stored is poorly maintained with broken windows, few doors, and little electrical power. The location in Al Kilani Square (Bab Al Sharqi) has frequently been subject to fighting as well as attempted militia takeover. There is anecdotal evidence that members of the public are sometimes unable to visit this office, where all property transfers must be recorded. Based on the deficiencies in the building, the Ministry of Justice submitted a supplemental budget request of \$8,300,000 in 2008 to be used for improving conditions and efficiency at the land registry.

There are multiple levels of record keeping with redundancy built into the system. The main records at the Central Land Registry Office are over 90% preserved, but records at more than 10 of the 91 regional offices were completely destroyed by fire. So far, two offices have requested and received copies of their records in order to reconstitute their books, but there is still a great amount of uncertainty about transfers in certain locations, especially in the south.

Overall, lack of leadership and fear of retaliation have slowed the land registry’s work. If there appears to be error in the process, the office will not record the transfer. They currently have a backlog of approximately 35,000 transfers waiting for permanent recording and have requested that a commission of senior judges be formed to review these transactions for legitimacy.”¹⁴⁹

5. Prior Land Dispute Resolution Mechanisms

Participants from Mosul reported that until the escalation of sectarian violence in 2006 property disputes did not exceeded tolerable levels and that the recourse to the court system was generally possible as “there were strong laws and good dispute resolution systems in place between populations”.¹⁵⁰ One participant reported that local Sheikhs often resolved inter-community disputes, especially in less complex cases.

Participants from Mosul however reported increased difficulties with the Land Registry of the Ministry of Justice since 2006.¹⁵¹ As outlined by news reports, the real estate market situation in Mosul has been in disarray since the murder of the head of the local government offices that supervised property registration in the district in mid-2006, after which “employees grew more fearful...the department was eventually closed

¹⁴⁹ UNDP. Iraq. 2009. Governance in Iraq: Selected topics.

¹⁵⁰ FGD in Baharka camp, Erbil, 01.12.2015

¹⁵¹ FGD Baghdad, Al Khakr, 15.01.2015



and it was also announced that many cases of fraud had been found after records there were examined.”¹⁵² At least 600 confirmed cases of property seizure in absentia, especially affecting Christian property owners in the Iraqi Diaspora, have taken allegedly taken place in Mosul between 2003 and 2013.¹⁵³

In Yazidi communities in Sinjar district, where lack of access to formal property ownership was reported unanimously, disputes are generally settled through neighbours and community leaders (*mukhtar*). Each land or property transaction in the community is enacted in the presence of 2-3 witnesses who can testify in cases of land disputes. Yazidi participants stressed that it will not be a problem to re-establish ownership patterns in Sinjar: “We will have no problem as long as ISIL is gone. In our community, we know what property belongs to whom.”¹⁵⁴ However, a woman raised the problem of official recognition of such mechanisms, and asked whether the community can really rely on this process in securing access to former properties as the government might not accept it.¹⁵⁵ As another female Yazidi participant remarked, “We have no recourse to the courts because of lack of official property documents, but we would really like to be able to go through the formal system.”¹⁵⁶ Yazidi participants very strongly argued for the need of official ownership recognition, and the access to the court system this would allow.

Asked about knowledge over existing support mechanisms for reclaiming property set up by the Iraq government, the overwhelming majority of participants stated that they were unaware of the IPCC’s existence and its mandate and procedures. Out of more than 150 participants, only 15 had heard of it, and only 3 had submitted a claim to the IPCC – one of them from Bashiqa village, Hamdaniya district and two of them from Mosul, both in Ninewa Governorate. None of them have heard back from the PCC on the status of their claim despite intermittent inquiries, and seemed disillusioned with the process.¹⁵⁷ One participant stated that there are several known cases where people have been awarded restitution of their land and property after repressions under the Ba’ath regime by going through the IPCC process, only to have the restituted property confiscated again by officials.¹⁵⁸ In general, most participants were not aware of the IPCC process by and itself. As HLP violations under the Saddam regime disproportionately affected the minorities of Northern Iraq¹⁵⁹, the area of origin of most study participants, this warrants some concern as to the outreach and effectiveness of the IPCC.

In particular, no Yazidi respondents had a claim pending with the IPCC because, as a female participant explained, “we cannot formally own any property, we can also not claim back anything.”¹⁶⁰ Instead of reverting to the PCC, several Yazidi participants independently of each other mentioned to have filed HLP complaints before the Governorate of Mosul in reference to lands taken under the Saddam regime, but that no response had been received.

¹⁵² Niqash. 09.11.2014. “Extremists Now In Real Estate Business In Mosul”, <http://www.niqash.org/en/articles/economy/3552/>

¹⁵³ Niqash. 07.08.2013. “Mosul’s Property Racket: Courts sell houses out from under overseas owners”, <http://www.niqash.org/en/articles/economy/3267/>

¹⁵⁴ FGD with students from Nowruz University, 28.01.2015

¹⁵⁵ Evening FDG in Shariya Camp, 27.01.2015

¹⁵⁶ Afternoon FDG in Shariya Camp, 27.01.2015

¹⁵⁷ FDG in Akre, 25.01.2015

¹⁵⁸ FDG in Baghdad, Al-Khakar, 15.01.2015

¹⁵⁹ Minority Rights Group International. 2011. “Iraq’s Minorities: Participation in Public Life”, <http://www.minorityrights.org/download.php?id=1075>, p.21

¹⁶⁰ FGD in Shariya Camp, 26.01.2015



6. Past discrimination of ethnic groups in access to formal HLP ownership

The majority of property-owning participants fleeing from urban areas declared that prior to the current crisis their properties were registered with local property directorates.¹⁶¹ However, the assessment also brought to light the long-standing discrimination against minorities in accessing housing and property rights. As testimony from the FGDs show, the historically entrenched marginalization under the authoritarian regime of the former Saddam era and the increased sectarian violence in the post-invasion years, coupled with the confusion surrounding the article 140 process¹⁶², has had stark implications for property rights of minorities in particular even prior to the 2014 displacement crisis¹⁶³, which manifests itself in a lack of officially recognized property deeds and documentation. Due to the protracted history of violence and marginalization, Iraq's minorities tend to harbor high levels of mistrust against the Iraqi state.¹⁶⁴

Before the US-led invasion, up to 1.4 million Christians lived in Iraq but even before ISIL advance, this number had already dwindled to 350,000.¹⁶⁵ Some Christian participants outlined how they had been pressured by the post-invasion Iraqi government to leave their agriculture lands in order to relocate to poor quality land.¹⁶⁶ As another participant explained "even before IS it was extremely difficult for minorities to formally own any property in Mosul."¹⁶⁷

Kurdish Shabaks, predominantly Shia, numbered approximately 250,000 prior to the crisis and are scattered across the disputed regions of Ninewa governorate in villages located to the north and east of Mosul.¹⁶⁸ Participants estimated that the pre-crisis Kurdish Shabak population of Mosul stood at a maximum of around 10% of the city's overall population, and was split up into several neighbourhoods and villages around Mosul – prominently Tubzawaa, Tes Kharab village, Darawesh Fasaliya area of western Mosul, Abu Djarbua Khazna, about 20 km east of Mosul, and neighbouring Baswa sub district.¹⁶⁹

Kurdish Shabak students explained that in order to buy land or houses "we have to buy it by putting down an Arab name when registering the deed at Registry Office, for example going through a neighbor or friend".¹⁷⁰ As a result, "the government can take our property away whenever it wants to because we do not have a proof of ownership in our name...this is also why the Central Land Registry in Baghdad knows nothing about our land situation because our property is not formally registered in our names."¹⁷¹

The Palestinian population in Iraq, which numbered approximately 35 000 before 2003, had fallen to between 15,000 and 10,000 by 2013.¹⁷² Out of these, around 1000 lived in Mosul, of which at least 300 have recently

¹⁶¹ FGD in Sulaymaniyah, 15.01.2015

¹⁶² UN Security Council. 15.10.2007. Report of the Secretary-General pursuant to paragraph 6 of resolution 1770 (2007), http://www.uniraq.org/images/SGReports/SG_Report_S_2007_608_EN.pdf

¹⁶³ Minority Rights Group International. Oct 2014. "From Crisis to Catastrophe: the situation of minorities in Iraq" <http://www.minorityrights.org/download.php?id=1468>

¹⁶⁴ Centre for International Governance Innovation. Jan 2009. "Minorities in Iraq: The Other Victims", https://www.cigionline.org/sites/default/files/minorities_in_iraq_final.pdf, p11

¹⁶⁵ Minority Rights Group International. Oct 2014. "From Crisis to Catastrophe: the situation of minorities in Iraq" <http://www.minorityrights.org/download.php?id=1468>

¹⁶⁶ FGD at Ankawa Mall, Erbil, 02.12.2014

¹⁶⁷ Afternoon FGD in Shariya Camp, Dohuk, 26.01.2015

¹⁶⁸ Minority Rights Group International. October 2014. "From Crisis to Catastrophe: the situation of minorities in Iraq", <http://www.minorityrights.org/download.php?id=1468>

¹⁶⁹ FGD with Nowruz University students, Dohuk, 28.01.2015 - Ina

¹⁷⁰ FGD with Nowruz University students, Dohuk, 28.01.2015

¹⁷¹ FGD with Nowruz University students, Dohuk, 28.01.2015

¹⁷² UNHCR. 17.11. 2013 "Iraq's Minorities and Other Vulnerable Groups: Legal framework, Documentation and Human Rights" http://lawandhumanrights.org/documents/MinorityHB_EN.pdf



fled since June 2014.¹⁷³ A Palestinian participant noted that he had no rent contract in his own name, and paid month-to-month rent. While some Palestinians unofficially own property under someone else's name and under the Ba'ath regime were eligible for subsidized housing, he highlighted that access to formal property ownership for Palestinians has become extremely difficult and that forced evictions are commonplace.

Yazidi IDPs who have fled to Dohuk Governorate reported particularly virulent and long-standing HLP grievances during the FGDs. This especially concerns their right to property ownership and documentation as well as ID registration. The **Yazidi** community is indigenous to the Ninewa Plains in Ninewa Governorate as well as Dohuk Governorate in the KRI. Before the current crisis, Iraq's Yazidi population was most concentrated in Jabal Sinjar, 115 km west of Mosul, as well as Ba'shiqah, Sheikhan and Bahzan and Dohuk and its surroundings.¹⁷⁴ According to pre-crisis statistics, there are approximately 500,000 Yazidis in Iraq.¹⁷⁵ Historically, community has long been subject to forced displacement and property rights violations. Following the collapse of the Kurdish movement in 1975 and the intensification of the "Arabisation policy", Saddam's regime destroyed virtually all Yazidi villages in Sinjar District, and their inhabitants forcibly resettled in 11 collective towns where they remained until the onset of the ISIL crisis.¹⁷⁶ Participants however explained that this land was never formally transferred from government to the Yazidi communities into formalized property deeds.¹⁷⁷ Without an exception across all FGDs, Yazidi participants explained that they lack access to formal land ownership, which was said to have been codified by law under the Saddam regime, and perpetuated by government officials since. However, this information could not be independently verified.

All Yazidi participants reported that they are denied access to official property documentation. This was explained by the repressive legislation during Saddam's authoritarian regime, which aimed at the Arabisation of the region and the repression of the Yazidi community. Participants stated that long-standing and entrenched discrimination still denies the Yazidi community in Iraq official property ownership. During FGDs, Yazidi participants expressed that they still face the same problems as during Saddam's rule when it comes to property ownership. As a man from Sinjar town put it, "we have never owned anything in our name...In Sinjar, and all other Yazidi towns and villages; no one has property documents because we cannot formally own any property or land. Therefore you will not find a single Yazidi with official property documents."¹⁷⁸ According to participants, Sinjar District does not have any governmental land registry. Instead, the next office is in Tal Afar or in Mosul- but according to participants only Arabs can register their property there, not minorities such as Yazidis.¹⁷⁹ This information needs to be independently verified.

Given these circumstances, those responsible for managing and overseeing land and property relations in Yazidi communities were explained to be elected community leaders.¹⁸⁰ According to an elderly male participant, "in Sinjar, we used to have a map of the municipality on the wall, and each agricultural plot had a number and a name on it. This is how we organize property ownership. We rent agricultural land from the

¹⁷³ Mondoweiss. 06.08.2014. "Palestinian refugees displaced again as they flee Islamic State in Iraq"

<http://mondoweiss.net/2014/08/palestinian-refugees-displaced#sthash.FZ89Lqmb.dpuf>

¹⁷⁴ Minority Rights Group International. October 2014 "From Crisis to Catastrophe: the situation of minorities in Iraq",

<http://www.minorityrights.org/download.php?id=1468>, p5

¹⁷⁵ Minority Rights Group International. World Directory of Minorities and Indigenous Peoples: Yazidis,

<http://www.minorityrights.org/5742/iraq/yezidis.html>, accessed on 15 March 2015

¹⁷⁶ USIP. 2011. *Iraq's Disputed Territories: A view of the political horizon and implications for U.S policy*, p21.

¹⁷⁷ Afternoon FGD in Shariya Camp, Dohuk, 26.01.2015

¹⁷⁸ Morning FGD at Shariya Camp, Dohuk, 26.01.2015

¹⁷⁹ Morning and Afternoon FGD at Shariya Camp, 26.01.2015

¹⁸⁰ FGD at Dohuk University, 27.01.2015



government and pay an annual fee.”¹⁸¹ But as held by participants, the land is not legally registered and ownership patterns are only known among the community itself. IDPs also stated that they would recourse to community leaders and neighbours as witnesses in order to prove ownership of their properties upon their eventual return.¹⁸²

Yezidi participants also pointed out the difference between “Hawiat Al Ahwal Al Madniya” (Iraqi Civil Status Identification Card/National Civil ID Card issued by the local population registration offices of the Civil Status Affairs Directorate, which sits under the General Nationality Directorate (GDN) in the Ministry of the Interior) and “Shahadat Al Jinsiya Al Iraqiya” (National ID Card/ Iraqi nationality certificate issued by the Nationality Directorate (GDN) of the Ministry of the Interior).¹⁸³ While the Yazidi FGD participants generally stated that they possess an Iraqi Civil Status Identification Card (*Hawiat Al Ahwal Al Madniya*), the number of those with access to a National ID Card (*Shahadat Al Jinsiya Al Iraqiya*) was put at only 25% to 50%. As reported during the FDGs, the closest General Nationality Directorate registration offices from Sinjar District are located in Mosul or Tel Afar respectively and not easily accessible for all. Another reason given for the low number of Yazidi National ID card holders was that in order to successfully apply, one must produce written evidence about Iraqi citizenship back to one’s grandfather’s generation.¹⁸⁴

Participants highlighted the recent work of a Yazidi Member of Parliament to draw attention to the urgent need to attend to minority property rights in the Iraqi parliament after the Sinjar offensive. Participants also stated that they brought up the issue of Yazidi property rights with the governor of Mosul before the current crisis but were still awaiting an official reply.¹⁸⁵ The urgent need to obtain full property rights recognized by the state without ethnic discrimination, and to hence gain rightful access the official court system to resolve HLP disputes, was highlighted in all FDGs held with Yazidi participants.

7. Destruction of Cultural and Religious Heritage

All participants emphasized widespread and systematic destruction or desecration of places of religious or cultural significance. While the destruction of any “un-Islamic” religious and cultural heritage by ISIL has been widely publicized, the findings paint a very detailed picture of just how much has been lost. As stressed repeatedly by participants from Iraq’s minority groups especially, the destruction of the cultural and religious property of Iraq has far-reaching ramifications on the choice to return, and holds the potential to demolish any remaining sense of historical unity and national pride of Iraq.¹⁸⁶

IDPs from Mosul were unanimous in their assessment that ISIL did not only murder, steal and loot, but also aimed to destroy the heritage and civilization and all religions and nationalities in their city.¹⁸⁷ The destruction was widely seen as an attempt to “destroy all of Iraq’s history”, according to FDGs participants.¹⁸⁸ As a Christian participant originally from Al Hamdaniya stated, “ISIL and militias destroyed everything in order to

¹⁸¹ Morning FGD in Banjid Kandala Camp, 29.01.2015

¹⁸² FGD at Dohuk University, 27.01.2015

¹⁸³ Verified by, inter alia, LandInfo of the Norwegian Directorate of Immigration. January 2014. “Iraq: Travel documents and other identity documents”, http://www.landinfo.no/asset/2863/1/2863_1.pdf, p.21

¹⁸⁴ Morning FDG at Shariya Camp, 26.01.2015

¹⁸⁵ Morning FGD in Banjid Kandala Camp, 29.01.2015

¹⁸⁶ Stevens, E. “The Cultural Sword: Leveraging Cultural Property in Iraq”, p.3

¹⁸⁷ FGD in Baghdad, Sadr City, 13.01.2015

¹⁸⁸ FGD in Akre, 25.01.2015



switch the identity of the region in future, so that there is no more space for diversity in our country.”¹⁸⁹ Indeed, the destruction of cultural and religious heritage can only be described as an attempt to fully erase the history and culture of the minorities of northern Iraq.¹⁹⁰

The scale of destruction was again highlighted by the events of February, March and April 2015 when ISIL destroyed Assyrian and Akkadian artifacts inside Mosul’s Museum of Cultural heritage. On 6th March 2015, ISIL militants also destroyed ancient remains of the 2,000-year-old and UNESCO World Heritage site of Hatra in the South of Mosul, and posted footage of the destruction online. The ruins of the ancient Assyrian city of Nimrud nearby Mosul were also looted and bulldozed in April 2015. Both sites are among Iraq’s (and the world’s) most significant ancient archeological treasures.¹⁹¹

ISIL has also engaged in systematic looting of major archaeological sites in northern Syria and Iraq, on which it levies taxes at considerable economic gain.¹⁹² In December 2014, it was estimated that ISIL controls one third of 12,000 archaeological sites of Iraq and according to several journalistic sources directly organizes and oversees illicit excavations which fund the group’s activities.¹⁹³

The destruction of cultural and religious heritage in the region is ongoing at the time of writing and can be seen as a conscious attempt to eradicate Iraq’s religious and ethnic diversity. Participants stressed that the reconstruction of destroyed cultural and religious heritage was an absolute key requirement for peace-building and safe return to home communities.

Sinjar District has been affected heavily by the wanton destruction of its cultural and religious heritage. One participant stated that “all Yazidi shrines in the ISIL-affected areas - except the Shrine of Sharf Aldeen/Sharfadin on Sinjar Mountain - have been completely destroyed.”¹⁹⁴ In detail, participants from the area reported the following religious and cultural sites as demolished:

- Shrine¹⁹⁵ of Sheikh Abdulkadir
- Shrine of Adulaziz
- Shrine of Mand
- Shrine of Al Saida Zeynab
- Holy Tomb of Sheik Mihamma
- Holy Tomb of Sheik Chakanja
- Shrine of Sheikh Makhfiya (in Babila)
- Shrine of Sheikh Sin (in Babila)
- Mala Fakhr El-Din (in Jazeera)
- Rahman mosque

¹⁸⁹ FGD in Baghdad, Al-Adhamania, 12.01.2015

¹⁹⁰ Gates of Ninewa. June 2014. “Mosul Cultural Heritage Under Threat: News Roundup”

<https://gatesofninewa.wordpress.com/2014/06/12/mosul-cultural-heritage-under-threat-news-roundup/>

¹⁹¹ Washington Post. 06.03.2015. “Islamic State bulldozes, loots ancient Nimrud archaeological site”

http://www.washingtonpost.com/world/islamic-state-bulldozes-ancient-assyrian-city-of-nimrud/2015/03/06/4760f3b6-c3db-11e4-9271-610273846239_story.html

¹⁹² New York Times. 02.09.2014. “ISIS’ Antiquities Sideline”, http://www.nytimes.com/2014/09/03/opinion/ISIL-antiquities-sideline.html?_r=0

¹⁹³ See inter alia, Newsweek. 14.11.2014. “How Does ISIL Fund Its Reign of Terror?” <http://www.newsweek.com/2014/11/14/how-does-isil-fund-its-reign-terror-282607.html>

¹⁹⁴ FGD in Banjid Kandala Camp, 29.01.2015. Confirmed by media reports, inter alia, NPR. 13.02.2014, “Outmanned And Outgunned, Fighters Defend Yazidi Shrine Against ISIS”, <http://www.npr.org/sections/parallels/2015/02/13/385802886/outmanned-and-outgunned-fighters-defend-yazidi-shrine-against-isis>

¹⁹⁵ Sites for religious worship and celebrations in the Yazidi faith.



Participants from **Bashiqa** and **Bahzani**, both historically Assyrian town located in Mosul District and Al-Hamdaniya District respectively, reported the destruction of the following cultural and religious sites:

- Imam Ridha Mosque
- Shia Husseinia Mosque
- Aleksandros Church
- Sajadin Shrine
- Sheikh Shams Shrine
- Sheikh Sead Shrine
- Hasan Fardos Shrine

Participants from **Mosul** stated that ISIL circulated a list of Shia mosques and churches earmarked for destruction on Facebook shortly after taking over the city in June 2014. The following places of religious and cultural significance were said to be heavily damaged or totally destroyed:

- Mosque of Nebi Yunus/Prophet Jonah (joint shrine revered both by Muslims and Christians)
- Mosque of Nebi Jerjis
- Mosque of Al Khuthur
- Mosque of Ajeel Alyawar
- Shrine of Seth
- Chaldean Church of the Holy Spirit
- Assyrian Orthodox Diocese
- Imam Aoun Bin al-Hassan Mosque
- Tomb of Imam Hassan Aoun al-Din
- Al Tahirah Church
- Sheikh Fathi Mosque
- Mosul Museum of Cultural Heritage (most artefacts destroyed in late February 2015) ¹⁹⁶
- Central Library of Mosul
- 12th century tomb of Ali Ibn al-Athir

Participants from **Tal Afar**, Tal Afar District, reported the following sites as destroyed or heavily damaged:

- Tal Afar Castle (part of the remains of ancient Assyrian city of Namat Ishtar)
- Shia Sheikh Jawad Mosque
- Qaddo Mosque
- Mosque of Imam Saad bin Aqeel
- Mosque of the Martyr of Lashkar-e-Mulla

The Way Forward: Recommendations

The initial findings of the focus group discussions held by IOM leave little doubt that the latest wave of displacement has generated a complex set of HLP issues which will require considerable political will and effort to resolve. The fact that they come on top of an already multilayered landscape of unresolved HLP issues in the affected governorates – related to land and property rights violations committed by the Saddam regime and post-2003 efforts to address those violations; earlier waves of mass displacement and return; and inadequate housing and urbanization policies of the past – complicates matters further. To ignore those HLP issues is,

¹⁹⁶ Al-Shorfa. 15.08.2014 "Iraq's archaeological treasures at risk of destruction by ISIL", http://al-shorfa.com/en_GB/articles/meii/features/2014/08/15/feature-01



however, not an option that policymakers have. Durable solutions for the displaced and, more broadly, sustainable inter-communal peace will remain elusive unless the current and past HLP issues are addressed in a manner that is effective and seen as just and fair by all communities historically living side-by-side in Iraq. Here below, IOM has formulated a number of recommendations on the way forward, drawing from an extensive desk review, the FGDs held for the purpose of this report as well as IOM's past engagement on HLP issues in Iraq, especially in working out a comprehensive solution to HLP issues in the Kirkuk and Ninewa Governorates.

In addition to the urgent need for the Government of Iraq to fully follow through on the invalidation of coerced transfers and contracts to sell or exchange housing, land, and property made under force or duress since the beginning of the crisis, and to put in place a moratorium on any further property destruction and seizure in re-captured areas from ISIL, IOM recommends the following actions:

Recommendation 1: Carry-out a broader survey amongst the IDP population to confirm the initial findings presented in this report. As indicated at the start of this report, the exercise undertaken by IOM is an initial effort, based on a limited number of focus group discussions with selected IDPs. The findings are sufficiently strong to indicate that that new displacement crisis has created multiple HLP issues, but a broader survey is needed to confirm the scope of the HLP issues and provide more granularities about what particular challenges particular groups of IDPs from particular locations face. This survey, to be carried out by Iraq Government with the support of the international community, should be conducted as soon as possible. This will ensure that the results will be available for policymakers that need to start thinking about how to resolve the ongoing displacement, once the security situation improves in certain locations.

Recommendation 2: Carry-out an institutional assessment of the land management institutions in the areas affected by the current crisis, including the land dispute resolution mechanisms. If and when the situation improves to the extent that the displaced population will start to return, it will be important to ensure that any policy to address the HLP issues they face, including potential disputes with secondary occupants, is grounded in the institutional realities on the ground. While difficult to predict ahead of time, it would be useful produce a short overview about what has remained of the land management institutions in the affected areas, and what would be required to re-establish them quickly if and when the security situation allows. This would need to include also the land dispute resolution mechanisms, i.e. the courts and the IPCC, as well as the actors supporting the court system (lawyers, property registration department, enforcement department, national police, Ministry of Finance, etc.).

Recommendation 3: Carry-out an assessment of the Baghdad Central Property Registry to determine to what extent the records held for the areas affected by the current crisis are up-to-date. The destruction of many of the property registration offices in the areas now or previously controlled by ISIL combined with the fact that a considerable number of IDPs were not able to take their property documents with them indicates that providing evidence of property rights is likely to be an issue in case disputes arise after return and/or when the Government establishes a program to provide redress for those whose properties were looted or destroyed by ISIL or other armed actors. Many IDPs IOM spoke to expressed faith in the fact that a copy of their property documents can be found at the Central Property Registry in Baghdad. It is not, however, clear whether or not the Registry is up-to-date and whether or not land and property transactions that occurred in the post-2003 period have been rigorously registered also at the Baghdad level. Hence there is a need to find out to what extent this is or is not the case. The findings will also be important for the eventual reestablishment of the local property registration offices throughout the affected areas in Iraq.



Recommendation 4: Facilitate consultations between the Ministry of Justice, the Ministry of Finance and IPCC to effectively address the need for improved enforcement mechanisms of final decisions in areas not affected by the recent violence. While it is remarkable that the IPCC has been able to adjudicate most submitted cases in a very complex political environment, the enforcement rate of final decisions currently stands at only 8.2%. While around one third of all cases submitted to the IPCC concerned housing, land and property rights violations concern the areas most affected by the ongoing conflict, another two third were filed from areas in which decisions could be safely enforced. The critically low enforcement rate needs to be urgently and jointly addressed by the Ministry of Justice, the Ministry of Finance and the IPCC, and solutions put in place in a timely manner. Public faith in the IPCC will suffer tremendously if their effectiveness in enforcing final decisions is not guaranteed, which will also reflect negatively on future efforts to address instances of land and property confiscation and destruction.

Recommendation 5: Support the Ministry of Migration and Displacement to utilize already decentralized structures to offer IDP Assistance services in the areas where IDPs are currently residing to assist with the issuance of property documents and, where needed, personal IDs. Independent of whether or not IDPs want to return now or in the future, it will be important for them to have the relevant official documents proving their personal IDs and the property rights they hold in the place they are displaced from. Given the initial finding in this Report that a considerable number of IDPs may have left their property as well as personal ID documents behind, it would be recommendable to expand government offered IDP Assistance services in the areas with a high concentration of IDPs. To this aim, the GoI should build on the MoMD's experience and existing structures, such as its branches throughout Iraq and its returnee assistance centres in Baghdad. Utilizing already established structures will avoid creation of additional layers which would unnecessarily delay the process. In an initial phase, these services could focus on providing assistance to IDPs with getting their personal and property documentation back in coordination with Ministry of Interior and Ministry of Justice. These services could potentially be expanded to provide specific support to asset recovery for those opting for other solutions than return, as well as offering mediation mechanisms between returnees and current occupants. While different government entities would need to be involved, the MoMD could lead the implementation and coordination of these services since, according to article 2 of MoMD's basic law, this Ministry has the legal mandate to assist and seek solutions for "displaced Iraqis who fled their homes under duress or were obliged to leave their habitual place of residence within Iraq to avoid the consequences of armed conflicts, generalised violence, human rights' violation, natural or human-made disasters, the authority's abuse or due to development projects" as well as "Iraqis returning to their homeland from abroad or from an internally displaced location to reside in their former houses, places of origin, habitual places of residence in Iraq or any other place they choose to live in inside Iraq after they were forcibly migrated".

Recommendation 6: Ensure rapid re-establishment of land management institutions in areas where return starts to happen and, where possible, ensure that there is a dedicated service where IDPs can come for support with access to their homes, land and businesses. It will take time to develop a comprehensive policy to deal with the issues highlighted in this Report (see Recommendation 6), and in the meantime, some returns may already start to happen. Given the likely challenges IDPs are likely to face in terms of access to their homes, land and businesses and the potential for disputes between returning IDPs and secondary occupants, it would be important to ensure that where possible and relevant, land management institutions start functioning as quickly as possible. In addition, and where necessary (the survey described under recommendation 1 will assist in identifying in which locations this necessity is likely to exist), the Government should consider the establishment of return assistance centers, possibly modelled on what was done in



Baghdad to address the 2006/7 displacement. Pending an integrated policy, these centers could provide practical assistance to IDPs facing difficulties in accessing their homes, land and businesses.

Recommendation 7: Develop an integrated policy to deal with both past and present HLP issues in the areas affected by the latest displacement crisis, possibly as part of a broader recovery plan for those areas. It may seem early to discuss this now, but durable solutions for the displaced as well as an eventual sustainable peace in the affected areas will require that both past and present HLP issues are addressed in a manner that is seen as just and fair by all affected communities. Based upon the initial findings of this Report such policy would need to integrate and/or address the following HLP issues: (a) invalidation of land and property transfers taken place in ISIL controlled areas and illegal occupation of the displaced population's properties; (b) redress for destroyed, damaged or looted properties; (c) resolution of pending HLP disputes related to past violations and/or defective policies aimed at addressing these past violations (e.g. cancellation of agricultural contracts; (d) occupation of public buildings and land; (e) the resolution of the Article 140 process and (f) equal access to land and property for minorities. This will need to involve the allocation of specific funding and possibly, the establishment of a dedicated institution that can deal with these issues in an integrated way, including the resolution of displacement- and return-related land disputes. While it may be too early to start working on a concrete policy, a number of roundtables could be organized with relevant political actors to commence brainstorming on the issues.

Recommendation 8: Develop a specific policy to restore and reconstruct cultural heritage buildings and monuments destroyed by ISIL: The reconstruction of cultural heritage is critical to reconciliation and peace-building between returnees and their home communities.¹⁹⁷ To support the re-establishment of inter-communal peace, Iraq's different religious leaders should come together to plan for reconstruction efforts, which must commence with a comprehensive mapping of all sites which have been destroyed and damaged and include the allocation of plots of land for the construction of new places of worship and the thorough restoration and rebuilding of places of worship damaged by terrorist acts. In the interest of improving inter-faith relations, an emphasis should be put on establishing one common fund jointly dealing with all cultural heritage issues (whether Shia, Yazidi, or Christian) so that it has a unifying effect of recognizing all these different things as equally worthy of protection. UNESCO representatives in Iraq should be consulted in order to discuss study findings regarding the destruction of cultural and religious heritage, gain an overview of UNESCO activities aimed to address such, and align and inform respective advocacy and programmatic priorities.

Recommendation 9: Carry out an Assessment of the current Housing Stock in Iraq, with a focus on ISIL-affected areas. As soon as security conditions allow, a sustained data collection effort is needed to assess remaining housing capacities in displacement-affected areas. Sound statistics regarding housing stock can then inform a housing scheme which closely reflects the conditions on the ground and could feed into the establishment of Housing Fund. The Iraqi government is very aware of the problem, and in 2012, the Housing Ministry committed to spend \$4 billion on building new housing units across the country¹⁹⁸; an encouraging effort which should be continued.

¹⁹⁷ Van der Auwerart, P. 2009 "Land and Property Issues in Iraq: Present Challenges and Future Solutions— Discussion Points", paper given at "Resolving Iraqi Displacement: Humanitarian and Development Perspectives" conference, 18-19 November 2009 Doha, Qatar http://www.brookings.edu/~media/research/files/reports/2010/2/16-iraqi-displacement/0216_iraqi_displacement.pdf p27

¹⁹⁸ Bloomberg Business. 21.05.2012. "Iraq Plans to Spend \$9.8 Billion on Roads, Housing by 2016", <http://www.bloomberg.com/news/articles/2012-05-21/iraq-plans-to-spend-9-8-billion-on-roads-housing-by-2016-1>



Annex 1. FGD Guidelines and Individual Interview Form

FOCUS GROUP DISCUSSION (FGD) GUIDELINES

A Preliminary Assessment of Property and Land Right Violations Caused by the Current Displacement Crisis in Iraq

GUIDANCE NOTE TO FGD FACILITATORS

After introducing yourself, please explain the purpose of the individual set of interview questions and the FGD:

“The purpose of our discussion is to collect information on the property and land that yourself and your community had to leave behind, with the aim to best plan ahead for your possible return to your former properties. Responses are anonymous and you can be rest assured that we will not use your name in any official document. While we currently cannot help you to reclaim your lost property and land, your answers will inform future projects and help us to formulate strong policy recommendations and to advocate for appropriate solutions.”

Ask them if they have understood this and inquire whether any questions remain. Inform them that the individual short interview as well as FGD should not take more than 1- 1.5 hours and thank all participants for their patience.

The FGD itself will inevitably be dominated by personal stories as well. **Please try to remain focused on the broader community dynamics while also being sensitive too, as well as thoroughly recording, participants’ personal stories.**

IOM is aware that participants, in their current state of displacement, will have many other, arguably more immediately felt, concerns and grievances than what happened to the land and property left behind. **Please stress the utmost importance in planning ahead so that an eventual return home can be supported as much and sustainably as possible by the government and the international community. Even if some participants do not plan to return, a recovery of their assets will facilitate integration elsewhere.**

After each Focus Group Discussion, members of the RART team will conduct brief one-on-one questionnaires with each participant, in order to record the information which exclusively pertains to the participant’s individual story. The questionnaire covers 1) the participant’s individual displacement history as well as 2) land and property situation before the displacement. It will not take more than 10 minutes to complete for each participant. The focus group discussion itself is centred on three key themes – 1) land and property rights since displacement, 2) prior land and property rights violations and conflict resolution mechanisms as well as 3) community expectations and recommendations. **Thorough and detailed note-taking is crucial for the success of the overall exercise. We also recommend recording each FGD.**

INFORMATION TO BE COLLECTED IN INDIVIDUAL INTERVIEW

*INTERVIEW SHEET PROVIDED SEPERATELY



1. INDIVIDUAL DISPLACEMENT HISTORY

1. Name
2. Place of Origin
3. When did you leave your place of origin?
4. How many people do you think have been displaced from your place of origin?
5. Where did you go after you left your place of origin? (*Multiple displacements with intermediate locations? Straight from place of origin to current location?*)

2. LAND AND PROPERTY SITUATION BEFORE DISPLACEMENT AND DOCUMENTATION

6. What type of property did your family occupy before displacement, and what happened to it since then? (*table provided*)
7. What was the type of your property/land ownership? (*table provided*)

3. DOCUMENTATION

8. Have you been able to take ID documents and property documents with you? If not, how were they lost?

FOCUS GROUP DISCUSSIONS - GUIDING QUESTIONS

1. LAND AND PROPERTY RIGHT VIOLATIONS SINCE DISPLACEMENT

1. Do your families have any information about the state of the land and property left behind? If yes, how to you obtain this information (*phone calls, media, internet, visits*)?
2. What do you know about the extent of the damage to private property in home community since displacement (*including looting, selling and renting*)? Does forceful occupation occur, and if yes, by whom?
3. What is the extent of damage to public property in home community (*mosques, churches, museums, general religious/cultural heritage*)? Does forceful occupation occur, and if yes, by whom? (**Please record exact names and location in each instance, and include name of village/town/city**)
4. What is the extent of property/land damage and/or forceful occupation of government buildings/infrastructure in home community (*property office, land registry, ministries, courts, police stations, others*)? Does forceful occupation occur, and if yes, by whom? (**Please record exact names in each instance, and include name of village/town/city**)
5. How are looted and/or confiscated properties and lands re-distributed or sold?
6. How many of your community members have registered their ownership titles with the local land registry? If so, has the information regularly been transmitted to the General Directorate of Real Estate Registry in Baghdad?



7. What is the estimated percentage of people in your community who have been able to bring their personal ID documents/passport to current location?
8. What is the estimated percentage of people in your community who have been able to bring their property documents to current location?
9. If ownership or land right documents since you were displaced, when and under what circumstances did the loss occur (*please urge participants to be as precise as possible*)

2. **PRIOR PROPERTY AND LAND RIGHT PROBLEMS / LAND AND PROPERTY RESOLUTION MECHANISMS**

10. Before the current crisis, was lack of affordable housing a problem for your communities?
11. What was the frequency of property/land disputes in community before the current displacement?
12. If such conflicts occurred, how would people try to resolve them?
13. Do you know anyone who has claims pending before the Iraqi Property Claims Commission (PCC)? (**Note:** Please ensure the appropriate Arabic translation of Property Claims Commission to guarantee exact understanding.)
14. How many people in your community can verify their property/land ownership rights through a local witness/guarantor?

3. **COMMUNITY INITIATIVES/EXPECTATIONS**

15. **To NGO representatives only:** What kind of housing, identification, land and property services do your organizations provide to the displaced communities you work with?
16. Do you have any expectations/recommendations about solutions to property and land violations upon eventual return? (**NOTE:** Please do not make promises of compensation or land and property restitution on IOM's behalf. IOM's role is one of compiling information on the land and property situation among the displaced in order to advise the government and international community on policy options.)



HIJRA AMINA LAND AND PROPERTY ASSESSMENT

INDIVIDUAL INTERVIEW QUESTIONS

Date of Interview:	_____
Interviewer Name:	_____
Place of Interview:	_____
Interview No.	_____

1. Individual Displacement History

- 1.1. Gender of Interviewee : _____
- 1.2. Age of Interviewee: _____
- 1.3. Place of Origin of Interviewee: _____

1.4 When did you leave your place of origin (*before, during or after violence commenced?*)

1.5 Where did you go after you left your place of origin? (*Multiple displacements with intermediate locations? Straight from place of origin to current location?*)

1.6 How many people have been displaced from your place of origin (town/city/village)?

2. Land and Property Situation before Displacement

2.1 What type of property did you and your immediate family occupy before displacement, and what happened to it since then?



Type of Property	Destroyed	Looted	Occupied by ISIL	Rented out by ISIL	Sold by ISIL	I don't know	Other (specify)
House/apartment/room							
Land for housing							
Land for agriculture							
Shop or small business							
Other (specify)							

2.2 What was the type of your property/land ownership?

Type of Property	Formal Ownership	Informal Ownership	Rent agreement	I don't know	Other (specify)
House/apartment/room					
Land for housing					
Land for agriculture					
Shop or small business					
Other (specify)					

3. Documentation

3.1 Have you/your family been able to take ID documents and property documents (ownership documents, usage agreements, rent contracts, other) with you? If not, how were they lost? Please specify for both ID and property documents.
