

December 2020

A Commentary on the Country Policy and Information Notes (CPINs) issued on Iraq: Baathists, Female Genital Mutilation (FGM) and Blood Feuds

This commentary identifies what Asylum Research Centre (ARC) Foundation considers to be the main inconsistencies and omissions between the currently available Country of Origin Information (COI) and case law on Iraq and the conclusions reached in the following Country Policy and Information Notes (CPINs) issued by the UK Home Office:

- [Country Policy and Information Note: Iraq: Baathists, January 2020](#)
- [Country Policy and Information Note: Iraq: Female Genital Mutilation \(FGM\), February 2020](#)
- [Country Policy and Information Note: Iraq: Blood Feuds, February 2020](#)

Where we believe inconsistencies have been identified, the relevant section of the CPIN is highlighted in bold. An index of full sources of the COI referred to in this commentary is also provided at the end of the document.

This commentary is intended as a guide for legal practitioners and decision-makers in respect of observed inconsistencies, gaps and omissions in the above-mentioned CPINs on Iraq, as well as providing additional relevant COI to the issues identified.

The commentary should be used as a tool to help to identify relevant COI and the COI referred to can be considered by decision makers in assessing asylum applications and appeals. This document should not be submitted in isolation as evidence to the UK Home Office, the Tribunal or other decision makers in asylum applications or appeals. However, legal representatives are welcome to submit the COI referred to in this document to decision makers (including judges) to assist in the accurate determination of an asylum claim or appeal.

The COI referred to in this document is not exhaustive and should always be complemented by case-specific COI research.

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Country Policy and Information Note (CPIN): Iraq: Baathists

Assessment

2. Consideration of Issues

2.4 Risk

It is considered that the guidance provided to decision-makers to assist them in their assessment as to whether former Baathists or those “perceived to be an active member or proponent of Baathist ideology” warrant international protection, neglects to outline the specific human rights violations that this particular profile may face. It also remains silent on linking the targeting of this particular group with the wider state-sponsored sectarian targeting of Sunnis, despite such information being included in the *Country information* section of this CPIN:

Excerpt from the February 2020 Iraq: Baathists CPIN

[...] 1. Introduction

Basis of claim

1.1.1 Fear of persecution and/or serious harm by state or non-state actors because of the person’s actual or perceived past affiliation with the former ruling Baath Party or for being or being perceived to be an active member or proponent of Baathist ideology [...]

2.4 Risk

a) State treatment

2.4.1 The Baath Party was banned under the 2005 constitution. After the fall of the Saddam Hussein regime, Iraq underwent a programme of ‘de Baathification’ which involved the dismantling of the party and various associated organisations. Senior party members, party members who occupied high positions within the civil service (director general and above) and members of certain organisations particularly associated with the Baathist regime (e.g. military or police, intelligence services etc), lost their jobs. In recent years the process has eased off with the introduction of the Accountability and Justice Act in 2008, along with calls in 2014 for the de-Baathification laws to be repealed. Many who lost their jobs have since been reinstated, particularly those senior party members of Firqa (Ferqa) group level and below. Many have also been reabsorbed into new military and security institutions. However, a law was passed in 2016 that strengthened the 2005 ban, criminalising the promotion of Baathist protests and the promotion of Baathist ideas (see Current status, Structure, Size and ‘De-Baathification’).

2.4.2 In general, a person will not be at risk of serious harm or persecution by the state because of their previous involvement with the Baath Party. However, each case must be assessed on its merits, as there may be individual circumstances in which a person is at risk. Factors to consider include:

- a person’s former rank and/or position within the Baath Party;
- whether the person has been involved in any particular activities such as serving in the intelligence or police services, or if they are associated with the wider abuses of the Baathist regime;
- how those activities or their profile have brought them to the adverse attention of those they fear [...]

Country information included in section 6 *Treatment of Baathists* of this CPIN documents that former members of the Ba’ath Party face discrimination in government employment (6.1.11 and 6.1.13), burning and looting of their homes (6.1.3, 6.1.6 and 6.1.7), issuance of arrest warrants (6.1.15), seizure of assets (6.1.8) and targeted killings (6.1.4 and 6.1.5). In some cases family members of former Ba’ath party members also faced seizure of their assets (6.1.8).

However, the sources also emphasise that it is not always known whether the targeted violations were solely on account of the person’s former affiliation or perceived support or were on other grounds, such as being a Sunni Arab or on suspicion of ISIS affiliation. Note that Ba’ath party members were initially (although not exclusively) drawn from the Sunni Arab community and former

Ba'athists have been conflated with ISIS supporters. The relevant excerpts as included in the current CPIN are as follows [emphasis added]:

Excerpt from the February 2020 *Iraq: Baathists* CPIN

[...] 6 Treatment of Baathists [...]

6.1.3 A joint report published in July 2015 by the United Nations Assistance Mission for Iraq (UNAMI) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) stated that on 1 April 2015 they had received reports that:

'[...] certain militia groups allied to Government forces had begun to **loot civilian homes in newly liberated areas of Tikrit**. Sources claimed that a number of shops and homes had been looted and torched in Tikrit's Zuhor quarter, Itibba'a street, Arbaeen street, Qadisiya quarter, al-Asri quarter, and Shuhadaa quarter during the first 48 hours of the liberation of Tikrit City. Between the afternoon of 3 April and the morning of 4 April [2015], an additional 700 homes were reportedly looted and burned, and 200 more were allegedly detonated – **particularly those belonging to former officers of the Iraqi Army under Saddam Hussein**.'³⁵

6.1.4 The same report also stated that

'[...] on 17 April, in al-Sankar village of Abu alKhaseeb district, **a Sunni sheikh from al-Ghanim tribe was shot dead in front of his house. The sheikh was a prominent community member and had reportedly served in the intelligence services during the Saddam Hussein regime**.'³⁶

6.1.5 Another report published by UNAMI and OHCHR in December 2016 looking at events between November 2015 and September 2016 stated that:

'**On 29 April [2016], unidentified gunmen travelling in a vehicle (reportedly without a number plate) shot and killed a man in the al-Ma'aqal area of central Basra. The victim was a high-ranking member of the Baath party. On 27 September, another former member of the Baath party was shot and killed in the al-Junaina area of central Basra.**'³⁷

6.1.6 A report by Human Rights Watch (HRW) published in September 2015 looked at the destruction of civilian property following the Iraqi state's recapture of Tikrit following Daesh's occupation. The report entitled 'Ruinous Aftermath: Militia Abuses Following Iraq's Recapture of Tikrit' stated:

'In the complicated web of historical animosities playing out in the current conflict in Iraq, Shia political rhetoric tends to lump together supporters of ISIS with forces loyal to the disbanded Baath party and with retired senior officers who had served under Saddam Hussein. **In line with this rhetoric pro-government forces engaged in military operations against ISIS appear to have conflated ISIS with the Baath party.** A pro-government reporter with Alltjiah channel in al-Dur during the recapture of the town told viewers that "Baathists and ISIS are two sides of the same coin."

'Analysts of ISIS have indeed pointed to the significant role former Baath party members play in it. However many other former Baathists, some of whom Human Rights Watch interviewed, claim to have no connection to the extremist group.

'**Among the Shia militias' targets of destruction in al-Dur were opulent houses belonging to former Iraqi army officers. Senior officers serving in the 1980s and 1990s likely were Baath party members and participated in the 1980-1988 war against Iran.**'³⁸

6.1.7 The same report also stated: 'Sheikh Malik, a prominent businessman and brother of al-Dur's mayor, told Human Rights Watch that at a tribal gathering he attended in April 2015, **a Tikriti member of the Popular Mobilization Forces (a Sunni) boasted that, "We burned and destroyed al-Dur, because they [the residents] are ISIS and Baathists.**'³⁹

6.1.8 An article published by Rudaw in March 2018 entitled 'Iraq orders seizure of Baathist-remnant assets' stated:

'**The Iraqi government ordered the seizure of assets which previously belonged to Saddam Hussein and more than 4,200 Baathist-regime officials on Monday.** 'The Iraqi Accountability and Justice Committee sent a letter, seen by AFP, to Prime Minister Haider al-Abadi's office, as well as to the ministries of agriculture, finance, and justice. **'Spouses, other relatives, and officials and bosses of the Baathist dictator are included on the list.'**⁴⁰ [...]

6.1.11 DFAT's country information report on Iraq published in October 2018 stated:

'A broad consensus exists in Iraq that sanctions against the Ba'ath Party should not apply to Ba'athists as individuals. This consensus is based on a recognition that the dominance of the Ba'ath Party in all aspects of government forced millions of Iraqis to join the Party. Nonetheless, **local sources report that imputed association with the Ba'ath Party is used as a threat against Sunnis, particularly in**

Shi'a majority areas such as southern Iraq. Colleagues competing for advancement in government employment may threaten Sunni civil servants with accusations of being Ba'athist.'⁴³ [...]

6.1.13 The USSD International Religious Freedom Report on Iraq for 2018 published in June 2019 stated:

'Some Sunni Muslims continued to speak about what they perceived as anti-Sunni discrimination by Shia government officials in retribution for the Sunnis' favored status and abuses against Shia during the Saddam Hussein regime. Sunnis said they continued to face discrimination in public sector employment as a result of de-Baathification, a process originally intended to target loyalists of the former regime. Sunnis and local NGOs said the government continued the selective use of the de-Baathification provisions of the law to render many Sunnis ineligible for choice government positions, but it did not do so to render former Shia Baathists ineligible. Some Sunnis said Sunnis were often passed over for choice government jobs or lucrative contracts from the Shia-dominated government because the Sunnis were allegedly accused of being Baathists who sympathized with ISIS ideology.'⁴⁵ [...]

6.1.15 A Rudaw article published on 15 July 2019 entitled 'Arrest warrant issued for "Baathist" Kirkuk protester: police' stated:

'Kirkuk police on Sunday said an arrest warrant has been issued for an Arab woman who claimed to be "Baathist" during a protest against Kurdish parties in the disputed city. 'Rana Hamid, originally from Anbar province, participated in a protest on Friday opposing the return of a Kurdish governor to the province. "'I swear we are Baathists and Saddamist. We will not give up Iraq," she is alleged to have shouted in footage of the protest supplied to Rudaw. 'She also called Arab parties "betrayers" for failing to speak up for Arab rights in Kirkuk. '[...] Angered by Hamid's professed support for Baathism, Kurdish groups filed a lawsuit against her. "'A lawsuit has been filed against the woman who praised Saddam during the Arab protest," Afrasyaw Kamil, spokesperson for Kirkuk police, told Rudaw on Sunday. "'The court has issued an arrest warrant for her because what she did was against the constitution and the law. **Therefore, police raided her house to arrest her but she was not at home.** We do not know where she has fled," he added.'⁴⁷

35 UNAMI & OHCHR, 'Report on the Protection of Civilians in Iraq', p29, 13 July 2015, url

36 UNAMI & OHCHR, 'Report on the Protection of Civilians in Iraq', p31, 13 July 2015, url

37 UNAMI & OHCHR, 'Report on the Protection of Civilians in Iraq', p30, 30 Dec 2016, url

38 HRW, 'Militia abuses following Iraq's recapture of Tikrit', p22, 4 September 2015, url

39 HRW, 'Militia abuses following Iraq's recapture of Tikrit', p21, 4 September 2015, url

40 Rudaw, 'Iraq orders seizure of Baathist-remnant assets', 5 March 2018, url [...]

45 USSD, 'Iraq International Religious Freedom Report for 2018', p17, 21 June 2019, url [...]

Additional illustrative sources found in the public domain similarly highlight issues with the conflation of former Ba'athist party sympathy or membership with the wider state-sponsored/supported targeting of Sunni Arabs:

❖ [Dr. Ali Taher Al-Hammood \(Friedrich-Ebert-Stiftung\), The Sunni Arab Intelligentsia in Iraq: State, Nationhood, Citizenship, September 2018](#)

[...] The Baaths: An Overplayed Card [...]

Nonetheless, few elites mentioned that the Sunni Arab populace believes that the Baaths still exist but see them as wholly ineffective and lacking influence. That does not, however, stand in the way of mentioning that many of those who were linked to the Baath Party through interests and privileges that were stripped from them still bring up their grievances, "meted out against the Baaths," although that was 8 not necessarily the case. They were affiliated with the party by virtue of employment, not doctrine and membership.

On the other hand, the elites note that the political regime in Baghdad has been playing the Baath card for years for political and electoral purposes. It is a card played openly against people affiliated with the Baath Party, when in reality it is a means to extort and target Sunni Arabs, the elites say, pointing to politicians' stance toward Baathists from other sects. [...]

- ❖ [Geneva International Centre for Justice \(GICJ\), Shadow Report on Iraq submitted by Geneva International Centre for Justice \(GICJ\) to the Committee on the Elimination of Racial Discrimination 97th Session 26 November – 14 December 2018 Geneva, Switzerland, November 2018](#)

[...] Iraq Engages Directly in Racial Discrimination [...]

25. The de-Ba'athification policy, originally implemented by the occupation authorities, has also become a tool for racial discrimination. Under this policy the Ba'ath Party was dissolved, and any former members of the party were removed from their government jobs and blocked from any future government involvement. The implementation of this policy was without any sort of due process, thereby violating the basic rights of the affected individuals. This policy continues to be heavily used by the government to bring severe penalties on anyone the government believes to be sympathizing with the Ba'ath Party or anything done by the former Ba'athist regime. However, the government focuses its use of this policy against people it wishes to persecute, especially Sunni Arabs and other disfavoured ethnic groups [...]

- ❖ [Minority Rights Group International, Civilian Activists under Threat in Iraq, December 2018](#)

[...] Freedom of assembly [...]

The Banning the Ba'ath, Entities and Racist Parties and Takfiri and Terrorist Activities Party Law (2016) criminalizes the very idea of 'Ba'athism' and makes it a crime for Ba'athis to participate in any rallies, sit-ins or demonstrations. Given the law's broad definition of Ba'athist ideas and activities, any political party, non-governmental organization (NGO), CSO or group of citizens could violate the law by demonstrating, protesting or simply holding meetings.³⁰

30 US Department of State, 'Country reports on human rights practices for 2017 – Iraq', <https://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper> (accessed 10 September 2018). [...]

- ❖ [UN High Commissioner for Refugees \(UNHCR\), International Protection Considerations with Regard to People Fleeing the Republic of Iraq, May 2019](#)

[...] III. Assessment of International Protection Needs of Asylum-Seekers from Iraq

A. Refugee Protection under the 1951 Convention Criteria and Main Categories of Claims [...]

3) Persons Opposing, or Perceived to Be Opposing, the Government or those Affiliated with the Government

Individual former members of the government of former President Saddam Hussein and the defunct Ba'ath Party⁴⁴¹ reportedly continue to be targeted, including for killing in some cases, although it is often not known whether they were singled out solely on account of their former government and/or party affiliation or (also) on other grounds (e.g. suspicion of ISIS affiliation, or their tribal, sectarian or professional background).⁴⁴² [...]

441 The Ba'ath Party is banned under Article 7 of the Iraqi Constitution of 2005. In addition, in July 2016, legislation was passed that strengthened the constitutional ban, criminalizing Ba'athist protests and the promotion of Ba'athist ideas; Anadolu Agency, Candidates Barred from Iraq Polls for Baath Party Links, 2 April 2018, <https://bit.ly/2rXpHpR>; MEE, Iraqi Parliament Votes to Ban the Baath Party, 31 July 2016, <https://bit.ly/2s2SQzY>.

442 "Tribal sheikhs often complain that their homes and properties are being attacked by the PMF because of alleged connections with the pre-2003 regime"; Carnegie Middle East Center, The Sunni Predicament in Iraq, March 2016, <http://ceip.org/2DoMkGv>, p. 10. "On 30 December [2016], one civilian was shot and killed by unidentified gunmen in Abu al-Khaseeb district, Basra Governorate. The victim was from the Sunni community and was a former member of the Ba'ath Party"; UNAMI, Report on Human Rights in Iraq: July to December 2016, 30 August 2017, www.refworld.org/docid/5a7470a84.html, p. 16. "In the complicated web of historical animosities playing out in the current conflict in Iraq, Shia political rhetoric tends to lump together supporters of ISIS with forces loyal to the disbanded Baath party and with retired senior officers who had served under Saddam Hussein. In line with this rhetoric pro-government forces engaged in military operations against ISIS appear to have conflated ISIS with the Baath party. (...) Analysts of ISIS have indeed pointed to the significant role former Baath party members play in it. However many other former Baathists, some of whom Human Rights Watch interviewed, claim to have no connection to the extremist group"; HRW, Ruinous Aftermath: Militia Abuses Following Iraq's Recapture of Tikrit, 20 September 2015, www.refworld.org/docid/55ffdbd64.html. See also, UNAMI, Report on the Protection of Civilians in the Armed Conflict in Iraq: 1 November 2015 - 30 September 2016, 30 December 2016, www.refworld.org/docid/5885c1694.html, p. 30; UNAMI, Report on the Protection of

Civilians in the Armed Conflict in Iraq: 11 December 2014 - 30 April 2015, 13 July 2015, www.refworld.org/docid/55a4b83c4.html, pp. 4, 29. In early March 2018, based on Law 72 of September 2017, the Iraqi Supreme National Commission for Accountability and Justice reportedly ordered the confiscation of movable and immovable property of former members of the Ba'ath Party regime and, in some cases, their families and second-degree relatives. The law reportedly "stipulates the confiscation and seizure of financial assets and property of late President Saddam Hussein and his relatives, 52 senior officials from his former regime, and over 4,000 ex-ministers and officials of the Baath party"; Asharq Al-Awsat, Iraq to Seize Assets of Saddam Hussein, His Aides, 6 March 2018, <http://bit.ly/2GyW7gt>. See also, Rawabet Center for Research and Strategic Studies, A New Assessment of the Accountability and Justice Commission of the Property of the Former Iraqi Regime, 12 March 2018, <http://bit.ly/2DwB6zC>. [...]

❖ [Australian Government, Department of Foreign Affairs and Trade \(DFAT\), DFAT Country Information Report Iraq, 17 August 2020](#)

[...] 3. Refugee Convention Claims [...]

Political Opinion (Actual or Imputed) [...]

Groups of Interest [...]

3.7.9 According to in-country sources, most senior Ba'athists are now dead, in prison or have left Iraq. Abroad societal consensus reportedly exists in Iraq that sanctions against the Ba'ath Party should not apply to former party members as individuals, based on a recognition that the dominance of the Ba'ath Party in all aspects of government forced millions of Iraqis to join the party. The passage of time and the turbulence of recent years has also reduced the level of societal hostility against Ba'athists, with many Iraqis too young to remember the Saddam era. However, DFAT is aware of reports that imputed association with the Ba'ath Party has been used as a threat on occasion against Sunni government workers, particularly in Shi'a majority areas of southern Iraq. Such incidents reportedly occur in relation to rivalries over promotions in government workplaces. DFAT is unable to comment on the prevalence of such incidents, or how seriously such allegations are taken [...]

As part of the guidance provided, at paragraph 2.4.3 the CPIN informs decision makers that a 2016 law allows the "prosecution and imprisonment [of persons] depending on their public support of the Bath party and its ideologies":

Excerpt from the February 2020 Iraq: Baathists CPIN

[...] 2.4 Risk

a) State treatment [...]

2.4.3 A new bill passed in August 2016 states that becoming a member of the Baath Party or promoting its ideas and opinions by any means may result in a prison sentence of up to 10 years. A person may therefore be at risk of prosecution and imprisonment depending on their public support of the Baath party and its ideologies (see De-Baathification). [...]

No further information is included here or in the *Country information* section of this CPIN on the situation in prison or the treatment a person with such a profile may face in detention. In the absence of such information and the lack of a specific CPIN on Iraq addressing these issues it is imperative to conduct country of origin information research. The following illustrative sources should be seen as a starting point facilitating such a search:

❖ [European Asylum Support Office \(EASO\), Country of Origin Information Report, Iraq, Actors of Protection, November 2018](#)

[...] 6. Judiciary and legal system [...]

6.5 Integrity [...]

6.5.4 Treatment in detention

Prison population Lengthy detention without action by the court and due process was a 'systemic problem' ⁽⁶⁶⁰⁾. Press reports investigating the issue in 2018 estimate 19 000 ⁽⁶⁶¹⁾ to 20 000 people ⁽⁶⁶²⁾ are in detention on accusations of ISIL connections and terrorism offences ⁽⁶⁶³⁾. UNAMI reported that at the end of 2017, more than 1 000 children, mostly boys, were in juvenile detention due to national security charges related to alleged ISIL affiliation ⁽⁶⁶⁴⁾. An estimated 10,000 foreign fighters are in the

custody of the Government of Iraq as of August 2018 ⁽⁶⁶⁵⁾. Among the general prison population in Iraq, there are reportedly 1 350 foreign women and 580 children, most of whom had surrendered to ISF during operations in Tal Afar in 2017 ⁽⁶⁶⁶⁾. As of 2017, UNAMI reported that Kurdistan Region authorities reportedly held 5 898 prisoners, which included 2 630 detainees and 3 268 convicts, mostly men (3 023) with 95 women and 150 juveniles ⁽⁶⁶⁷⁾. Prison conditions and treatment According to the UK Embassy in Baghdad, there are ‘considerable differences’ in detention conditions among various authorities with the Ministry of Justice prisons having the highest standards, compared to Ministries of Interior and Defence ⁽⁶⁶⁸⁾. Ministry of Justice detention facilities have been described by UNAMI as seriously overcrowded with poor infrastructure, including those facilities for juveniles ⁽⁶⁶⁹⁾. Other sources state that overcrowding was a common problem, with poor physical and sanitation conditions ⁽⁶⁷⁰⁾ and sometimes lacking access to food water and medical services ⁽⁶⁷¹⁾. Human Rights Watch also reported that Iraqi prison conditions were ‘deplorable’, noting in its reporting on 1 200 detained ISIL suspects, exposure to extreme overcrowding, lack of ventilation, overheating, lack of medical support contributing to deaths in detention and amputations for treatable wounds, and limited access to sanitation facilities ⁽⁶⁷²⁾.

Women prisoners, particularly those detained on terrorism charges, have been subjected to rape and sexual assault ⁽⁶⁷³⁾. Sexual violence, rape and torture occur against women in detention, mainly against Sunni women accused of covering for their male relatives ⁽⁶⁷⁴⁾. Children were held in poor, overcrowded conditions and exposed to physical and sexual abuse in detention ⁽⁶⁷⁵⁾. Torture remained a widespread practice in police detention, interrogation cells, and in prisons ⁽⁶⁷⁶⁾. Detained suspects are subject to treatment such as electrocution, solitary confinement, and beatings by investigators, according to a report on treatment of ISIL suspects by The Intercept in 2018 ⁽⁶⁷⁷⁾. There were reports of deaths in custody following torture or other ill treatment ⁽⁶⁷⁸⁾. Sources indicate that international human rights groups documented a wide range of torture and abuses in detention facilities run by MoI and to a lesser degree, in MoD facilities and in KRG ⁽⁶⁷⁹⁾. Detainees on terrorism charges were more likely to stay in detention for longer periods in MoI and MoD facilities ⁽⁶⁸⁰⁾. KRG facilities in major cities were described as ‘well maintained’ compared to poorer conditions in smaller KRG MoI facilities; some Asayish jails held minors together with adults ⁽⁶⁸¹⁾ [...]

(660) USDOS, Country Reports on Human Rights Practices for 2017 – Iraq, 20 April 2018 (url),

(661) AP, Iraq holding more than 19,000 because of IS, militant ties, 22 March 2018 (url).

(662) New York Times (The), A 10-Minute Trial, a Death Sentence: Iraqi Justice for ISIS Suspects, 17 April 2018 (url).

(663) AP, Iraq holding more than 19,000 because of IS, militant ties, 22 March 2018 (url); New York Times (The), A 10- Minute Trial, a Death Sentence: Iraqi Justice for ISIS Suspects, 17 April 2018 (url).

(664) UNAMI, Report on Human Rights in Iraq – July to December 2017, 8 July 2018 (url), p. 8.

(665) UN Secretary General, Seventh report of the Secretary-General on the threat posed by ISIL (Da’esh) to international peace and security and the range of United Nations efforts in support of Member States in countering the threat (S/2018/770), 16 August 2018 (url), para. 10.

(666) New York Times (The), A 10-Minute Trial, a Death Sentence: Iraqi Justice for ISIS Suspects, 17 April 2018 (url), p. 13.

(667) UNAMI, Report on Human Rights in Iraq – July to December 2017, 8 July 2018 (url), p. 11.

(668) UK, Embassy in Baghdad, Information Pack for British Prisoners in Iraq (not including Kurdistan), September 2017 (url), p. 7.

(669) UNAMI, Report on Human Rights in Iraq – July to December 2017, 8 July 2018 (url), p. vii.

(670) UK, Embassy in Baghdad, Information Pack for British Prisoners in Iraq (not including Kurdistan), September 2017 (url), p. 7.

(671) USDOS, Country Reports on Human Rights Practices for 2017 – Iraq, 20 April 2018 (url), p. 7.

(672) HRW, Iraq: Hundreds Detained in Degrading Conditions, 13 March 2017 (url).

(673) UN Human Rights Committee, ICCPR Concluding observations on the fifth periodic report of Iraq (CCPR/C/IRQ/CO/5), 3 December 2015 (url), para. 29.

(674) UN Committee Against Torture, Concluding observations on the initial report of Iraq (CAT/C/IRQ/CO/1), 7 September 2015 (url), para. 15.

(675) UN Committee on the Rights of the Child, Concluding observations on the combined second to fourth periodic reports of Iraq (CRC/C/IRQ/CO/2-4), 3 March 2015 (url), para. 86.

(676) EU, EEAS, Annual Report on Human Rights and Democracy 2017 – Iraq, 28 May 2018 (url), p. 156

(677) Intercept (The), Justice for the Enemy, 17 June 2018 (url).

(678) UN Human Rights Committee, ICCPR Concluding observations on the fifth periodic report of Iraq (CCPR/C/IRQ/CO/5), 3 December 2015 (url), para. 29.

(679) USDOS, Country Reports on Human Rights Practices for 2017 – Iraq, 20 April 2018 (url), p. 6.

(680) USDOS, Country Reports on Human Rights Practices for 2017 – Iraq, 20 April 2018 (url), p. 6.

(681) USDOS, Country Reports on Human Rights Practices for 2017 – Iraq, 20 April 2018 (url), p. 8 [...]

❖ [European Asylum Support Office \(EASO\), Country of Origin Information Report, Iraq, Targeting of Individuals, March 2019](#)

[...] 1. Targeting by state actors and affiliated armed groups [...]

1.18 Treatment of detainees

The June 2018 report of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions in Iraq states that the Constitution of Iraq ‘guarantees the right to legal representation to all arrested persons during phases of investigation and trial’ and the Constitution ‘prohibits all forms of psychological, physical torture and inhumane treatment, and states that any confession made under duress may not be relied on in court’.⁶⁸⁷ Nevertheless, the UN Special Rapporteur describes several cases of Sunni Arab civilians killed in detention during the military campaign against ISIL from 2014 until 2017. These incidents occurred in Mosul, Tal Afar, Baquba, Muqdadiya and Fallujah. The perpetrators included members of the Armed Forces, the Counterterrorism Service, the Police and also units of the PMU.⁶⁸⁸ Human Rights Watch denounced the precarious conditions in pre-trial detention, comprising overcrowding, ill treatment and torture. Human Rights Watch investigated the conditions of detention and the accusations of torture in several detention localities in Iraq, and presented witness accounts of former detainees and relatives of detainees in the Mosul area. It found only two detainees and one family member willing to testify, but claimed that the torture methods described are consistent with those described by other former detainees and captured in photos and videos by a photojournalist in May 2017.⁶⁸⁹ [...]

Amnesty International corroborates the allegations of arbitrary arrests, prolonged detention and widespread torture of terrorism suspects: ‘Men and boys suspected of being members of IS were subjected to enforced disappearance – cut off from their families and the outside world – in facilities controlled by the Iraqi Ministries of the Interior and Defence, the KRG and in secret detention centres. Detainees were interrogated by security officers without lawyers present and were routinely tortured. Common forms of torture included beatings on the head and body with metal rods and cables, suspension in stress positions by the arms or legs, electric shocks, and threats of rape of female relatives. Detainees faced limited access to medical care, which led to deaths in custody and amputations. They also endured harsh conditions, including severe overcrowding, poor ventilation and lack of access to showers or toilets.’⁶⁹⁰

Not only ISIL suspects, but also other detainees face ill treatment and torture, as pointed out by other sources. In its 2017 periodical Human Rights report, UNAMI/OHCHR received a number of complaints from detainees, prisoners and defendants that they had been subjected to torture and ill treatment to extract confessions during police interrogations.⁶⁹¹ UNAMI/OHCHR monitored places of detention run by the Ministry of Justice and found that the ‘physical conditions in many detention facilities and prisons remain poor.’⁶⁹² [...]

687 UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to Iraq [A/HRC/38/44/Add.1], 20 June 2018, url, p. 6. 688 UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to Iraq [A/HRC/38/44/Add.1], 20 June 2018, url, p. 8. 689 Human Rights Watch, Iraq: Chilling Accounts of Torture, Deaths. 19 August 2017, url.

690 AI, International Report 2017/2018, The State of the World’s Human Rights – Iraq, 2018, url.

691 UNAMI/OHCHR, Report on Human Rights in Iraq January to June 2017, 14 December 2017, url, p. 6.

692 UNAMI/OHCHR, Report on Human Rights in Iraq: July to December 2017, 8 July 2018, url, p. 8. [...]

❖ [UN High Commissioner for Refugees \(UNHCR\), International Protection Considerations with Regard to People Fleeing the Republic of Iraq, May 2019](#)

[...] II. Main Developments in Iraq since 2017 [...]

E. Human Rights Situation [...]

1) State Actors

a) Human Rights Violations by Iraqi Authorities and Affiliated Forces [...]

Reports indicate that detainees are often held in prolonged pre-trial detention in official and unofficial detention centres,¹⁸⁷ without timely review of their arrest and detention status by a competent judge.¹⁸⁸ Observers report that ISIS suspects and other detainees, including children,

regularly remain without access to a lawyer, medical care and their families are often not informed about their whereabouts.¹⁸⁹ Human rights organizations have qualified these detentions as “enforced disappearance”.¹⁹⁰ If and when families are informed, they have reportedly been asked by officials to pay exorbitant sums to secure visits, better treatment, or the release of their detained family members even after they were found innocent.¹⁹¹

Detainees are reportedly held in poor, overcrowded and in some cases inhumane conditions, with limited access to food, water and medical care.¹⁹² Children are reported to be held together with adults or in often overcrowded juvenile facilities with limited options for rehabilitation and reintegration.¹⁹³ The use of torture and other forms of ill-treatment,¹⁹⁴ including against children,¹⁹⁵ mostly used to elicit confessions such as admitting to membership of ISIS, has been described as “rampant”, particularly in pre-trial detention in official and unofficial facilities.¹⁹⁶ Deaths in detention as a result of torture and lack of medical care have been reported.¹⁹⁷

187 Observers have reportedly been unable to obtain a list of official detention facilities, and reported that according to Iraqi judges and Ministry employees the centres run by the Ministries of Interior and Justice are the only official detention centres; HRW, *Arbitrary Arrests and Enforced Disappearances in Iraq 2014-2017*, 27 September 2018, www.ecoi.net/en/file/local/1444517/1788_1538050350_2709.pdf, pp. 5, 55-61. The number and location of NSS detention centres and the number of persons detained by the NSS are unknown. In one case, the NSS was reported to have detained over 400 individuals in east Mosul in a makeshift detention facility, without a clear legal basis. The head of NSS in Mosul reportedly stated that while they would like to transfer detainees to other authorities, there is no available room in other facilities; HRW, *Iraq: Intelligence Agency Admits Holding Hundreds Despite Previous Denials*, 22 July 2018, www.ecoi.net/en/document/1438864.html.

188 “Authorities systematically violated the due process rights of ISIS suspects and other detainees, such as guarantees in Iraqi law for detainees to see a judge within 24 hours, to have access to a lawyer throughout interrogations, and to have families notified of their detention and to be able to communicate with them”; HRW, *World Report 2019 – Iraq*, 17 January 2019, www.ecoi.net/en/document/2002196.html. “Researchers observed that thousands of prisoners facing terror charges are held for months before they see a judge (...)”; HRW, *Arbitrary Arrests and Enforced Disappearances in Iraq 2014-2017*, 27 September 2018, www.ecoi.net/en/file/local/1444517/1788_1538050350_2709.pdf, p. 23. “(...) the Criminal Procedure Code appears to be set aside for those charged under the Anti-Terrorism Law, which means that defendants are denied their fair trial rights and due process guarantees. This includes the right to be informed upon arrest of the reasons therefor and the charges brought, access to legal representation from the moment of arrest, the right to have arrest and detention status reviewed by an independent and competent judge in a timely manner, and the prohibition of torture to extract a confession”; UN Human Rights Council, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions*, 5 June 2018, www.refworld.org/docid/5b7ad39d4.html, para. 47. “While the counterterrorism law does not suspend any aspects of the criminal procedure code, authorities handling cases are unable or unwilling to uphold procedural rules requiring that a suspect be detained only after a court-issued arrest warrant, see a judge within 24 hours of their detention, and have a lawyer present throughout the investigative process”; HRW, *Flawed Justice*, 5 December 2017, www.refworld.org/docid/5a2651964.html, p. 21.

189 “[HRW] research suggests that in practice ISIS suspects do not have lawyers present during interrogations, nor are authorities allowing them to communicate with their relatives until the investigative period ends”; HRW, *Flawed Justice*, 5 December 2017, www.refworld.org/docid/5a2651964.html, p. 41. See also, HRW, *Arbitrary Arrests and Enforced Disappearances in Iraq 2014-2017*, 27 September 2018, www.ecoi.net/en/file/local/1444517/1788_1538050350_2709.pdf, pp. 1, 23, 55.

190 “The scale of enforced disappearances in the context of the conflict involving IS in Iraq has been massive, and, to date, almost entirely unacknowledged by the Iraqi government or the international community. Thousands of men and boys have been forcibly disappeared by Iraqi and Kurdish forces since 2014”; Amnesty International, *The Condemned*, April 2018, www.refworld.org/docid/5ad84a274.html, p. 16. See also, HRW, *Arbitrary Arrests and Enforced Disappearances in Iraq 2014-2017*, 27 September 2018, www.ecoi.net/en/file/local/1444517/1788_1538050350_2709.pdf; Alkarama, *Iraq: Two Cases of Enforced Disappearances by Hezbollah Brigades Submitted to United Nations*, 26 September 2018, <https://bit.ly/2E4h2Jc>. See also Section III.A.1.a (“Civilians Perceived to Be Supporting ISIS”).

191 “After the liberation of the city [of Mosul], many IS members were captured and released after paying bribes to the security forces, while other suspects who are likely innocent stayed in jail because they could not buy their freedom”; Jamestown Foundation, *Conditions in Mosul Ripen for Return of Islamic State*, *Terrorism Monitor* Vol. 17(1), 11 January 2019, <https://bit.ly/2D7xsj0>. See also, HRW, *Arbitrary Arrests and Enforced Disappearances in Iraq 2014-2017*, 27 September 2018, www.ecoi.net/en/file/local/1444517/1788_1538050350_2709.pdf, pp. 5, 63-64; HRW, *Iraq: Judges Disregard Torture Allegations*, 31 July 2018, www.ecoi.net/en/document/1439885.html.

192 “Authorities detained ISIS suspects in overcrowded, and in some cases inhumane, conditions”; HRW, World Report 2019 – Iraq, 17 January 2019, www.ecoi.net/en/document/2002196.html. Following visits by UNAMI to places of detention administered by the Ministry of Justice, it reported that “[P]hysical conditions in many detention facilities and prisons remain poor. Overcrowding has strained already poorly maintained or out-dated infrastructure, including water, sewerage, ventilation, and other services”; UNAMI, Report on Human Rights in Iraq: July to December 2017, 8 July 2018, www.refworld.org/docid/5b6afc544.html, p. 8. “Men and boys also face horrific and inhuman conditions in detention, with limited access to food, water and medical care as well as severe overcrowding and lack of access to showers or toilets”; Amnesty International, The Condemned, April 2018, www.refworld.org/docid/5ad84a274.html, p. 18. See also, AP, Iraq Holding More Than 19,000 Because of IS, Militant Ties, 22 October 2018, <https://bit.ly/2ypn4QQ>; HRW, Iraq: Intelligence Agency Admits Holding Hundreds Despite Previous Denials, 22 July 2018, www.ecoi.net/en/document/1438864.html; Vice News, ISIS’s Ghostly Presence Can still Be Felt in Mosul, 18 May 2018, <https://bit.ly/2OwcqWJ>; HRW, Flawed Justice, 5 December 2017, www.refworld.org/docid/5a2651964.html, pp. 47-49. The Government’s reported plan to return some thousands of Iraqis from formerly ISIS-held areas in north-east Syria is likely to add pressure on already overwhelmed detention centres; MEE, Iraq Begins Trial Proceedings for 900 Suspected Islamic State Members, 14 April 2019, <https://shar.es/amPzxb>; The Telegraph, Iraq to Take Back 20,000 who Left for ISIL’s Caliphate in Syria, 12 March 2019, <http://bit.ly/2HycNav>. See also, HRW, Transfer of ISIS Suspects, Including Foreigners, to Iraq Raises Torture Concerns, 4 March 2019, <http://bit.ly/2FepUfr>.

193 HRW, “Everyone Must Confess”, 6 March 2019, <http://bit.ly/2Jdtlql>; UNAMI, Report on Human Rights in Iraq: July to December 2017, 8 July 2018, www.refworld.org/docid/5b6afc544.html, p. 11; HRW, Flawed Justice, 4 December 2017, www.refworld.org/docid/5a2651964.html, pp. 43-44. See also, Section III.A.9 (“Children with Certain Profiles or in Specific Circumstances”).

194 “Some of the most common forms include beatings on the head and body with metal rods and cables, suspension in stress positions by the arms or legs and the use of electric shocks”; Amnesty International, The Condemned, April 2018, www.refworld.org/docid/5ad84a274.html, p. 18. There have been anecdotal reports on the use of sexual violence against men in detention, although the extent is not known and underreporting is likely; The New Arab, The Iraq Report: Government Crimes Fan Flames of Conflict, 24 May 2017, <http://bit.ly/2UWqmro>; HRW, Iraq: Chilling Accounts of Torture, Deaths, 19 August 2018, www.ecoi.net/en/document/1441253.html; HRW, Iraq: Fallujah Abuses Test Control of Militias, 8 June 2016, www.refworld.org/docid/57590fcd4.html; HRW, Iraq: Judges Disregard Torture Allegations, 31 July 2018, www.ecoi.net/en/document/1439885.html; Geneva International Centre for Justice, Militias in Iraq – The Hidden Face of Terrorism, September 2016, <http://bit.ly/2KFcn5n>, p. 20.

195 “(...) children with any association with ISIS are treated as criminals. Security officers often torture them to coerce confessions – regardless of their actual involvement (...)”; HRW, “Everyone Must Confess”, 6 March 2019, <http://bit.ly/2Jdtlql>.

196 HRW, Iraq: Judges Disregard Torture Allegations, 31 July 2018, www.ecoi.net/en/document/1439885.html. According to Alkarama, “torture is a systematic interrogation practice in the country. It is widely used by the security services after arrest and during interrogation and as a form of reprisal”; Alkarama, Universal Periodic Review Iraq – Submission to the Stakeholders’ Summary, 28 March 2018, <https://bit.ly/2IHhpMH>, para. 35. See also, HRW, Iraq: Torture Persists in Mosul Jail, 18 April 2019, <https://bit.ly/2VfQ22p>; Amnesty International, Human Rights in Iraq: Review of 2018, 26 February 2019, <https://bit.ly/2EkxROr>; HRW, Arbitrary Arrests and Enforced Disappearances in Iraq 2014-2017, 27 September 2018, www.ecoi.net/en/file/local/1444517/1788_1538050350_2709.pdf, pp. 55-61; HRW, Iraq: Chilling Accounts of Torture, Deaths, 19 August 2018, www.ecoi.net/en/document/1441253.html; UNAMI, Report on Human Rights in Iraq: July to December 2017, 8 July 2018, www.refworld.org/docid/5b6afc544.html, pp. 6-7.

197 HRW, World Report 2019 – Iraq, 17 January 2019, www.ecoi.net/en/document/2002196.html; Amnesty International, Human Rights in Iraq: Review of 2018, 26 February 2019, <https://bit.ly/2EkxROr>, p. 3; UNAMI, Report on Human Rights in Iraq: January to June 2017, 14 December 2017, www.refworld.org/docid/5a746d804.html, p. 6. [...]

❖ [Human Rights Watch, Iraq: Amputation Apparently Causes by Torture, 26 June 2019](#)

The amputation of a detainee’s arm in early 2019 following apparent torture in a Baghdad police station highlights mounting concerns around ill-treatment in [Iraq’s](#) prisons, Human Rights Watch said [...]

Iraqi judges, despite the extensive [credible reports](#) of torture in detention, [routinely fail to investigate torture allegations](#), Human Rights Watch has found. Human Rights Watch has [documented numerous torture allegations](#) in Iraq, in at least two cases leading to [deaths](#) in custody since January 2018 [...]

❖ [Human Rights Watch, Iraq: Thousands Detained, Including Children, in Degrading Conditions, 4 July 2019](#)

Nineveh's extremely overcrowded detention facilities are holding thousands of prisoners in [Iraq](#), most on terrorism charges, for extended periods in conditions so degrading that they amount to ill-treatment [...]

❖ [UN Human Rights Council, Summary of Stakeholders' submissions on Iraq* Report of the Office of the United Nations High Commissioner for Human Rights, 19 August 2019](#)

[...] 2. Civil and political rights

Right to life, liberty and security of person³⁶ [...]

30. JS2 [Joint submission 2 submitted by: The Advocates for Human Rights, The World Coalition Against the Death Penalty, and Harm Reduction International] noted that Iraq carried out 88 executions in 2016 and over 125 executions in 2017, the third-highest number of documented executions in the world, despite the fact that judicial proceedings failed to meet international fair trial standards; and many death sentences and executions were based on confessions extracted through torture or other ill-treatment.³⁹ [...]

35. GICJ [Geneva International Centre for Justice, Vernier (Switzerland)] stated reported that the Iraqi governmental forces and their affiliated militias resorted to the use of torture, arbitrarily detention, arbitrary executions, as well as other forms of violence. GICJ claimed that prisoners and alleged terrorists do not receive a fair trial.⁴⁴ [...]

36 For relevant recommendations see A/HRC/14/14, paras 127.117, 127.118, 127.37, 127.101, 127.134, 127.100, 127.94, 127.168, 127.61, 127.103–127.106, 127.155, 127.97, 127.225. [...]

39 JS2, page 4. [...]

44 GICJ, page 4. [...]

❖ [Human Rights Watch, Iraq: Courts Ignoring Torture Claims, 25 September 2019](#)

A close study of appeals court decisions in terrorism-related cases in [Iraq](#) shows that judges in close to two dozen cases in an 18-month period appeared to ignore torture allegations or to rely on uncorroborated confessions, Human Rights Watch said today. Some of the torture allegations had been substantiated by forensic medical exams, and some of the confessions were unsubstantiated by any other evidence and were apparently extracted by force, including by torture [...]

❖ [Amnesty International, Suggested recommendations to States considered during the 34 th session of the Universal Periodic Review, 4-15 November 2019, September 2019](#)

[...] Recommendations to the government of Iraq: [...]

ARBITRARY ARRESTS AND DETENTION

- Ensure that those deprived of their liberty are held in officially recognized and supervised places of detention, have immediate access to their families and lawyers, and are registered in a central register of detainees accessible to their lawyers and families upon request and without delay;
- Inform the families of the fate, whereabouts and legal status of all persons in their custody and respond to any outstanding requests for such information;
- Ensure that detainees are able to communicate with their families and to inform them of their place of detention; [...]

UNFAIR TRIALS AND THE DEATH PENALTY

- Ensure that Constitutional provisions and laws prohibiting torture are effectively implemented, including the inadmissibility in court of statements obtained under torture;
- Immediately establish an official moratorium on executions and commute all death sentences with a view to abolishing the death penalty;
- Accede, without making any reservation, to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Ensure that the death penalty is not, under any circumstances, imposed in violation of the guarantees provided for in Article 6 of the International Covenant on Civil and Political Rights;
- Accede, without making any reservation, to the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at abolishing the death penalty [...]

❖ [UN Assistance Mission for Iraq \(UNAMI\), Human Rights Special Report, Demonstrations in Iraq, 1-9 October 2019, Baghdad, Iraq, 22 October 2019](#)

[...] VII. Allegations relating to Arrest and Detention [...]

While security forces transferred most arrested demonstrators to registered police stations, UNAMI is concerned by reports that detained demonstrators may also have been transferred to unofficial places of detention. For example, on 6 October, men described as 'militia' arrested approximately 100 men and boys from public places in Nasiriya (Dhi Qar) and transferred the detainees to Imam Ali military base. Most of the detainees were released within four days. Four detainees were held for longer periods, but all had been released at time of writing.

In another incident in Baghdad on 6 October, unknown armed elements (again described as 'militia') arrested approximately thirteen persons gathered for a press conference. The unknown armed elements reportedly transferred them to a location in the neighborhood of Mahmoudiya road. As of 20 October, two persons from the group remained in detention.

Statements were also received from family members unable to locate relatives, detained by unknown armed elements, due to an inability to access information on their whereabouts or fates. The Iraqi Bar Association published a statement requesting several Government and security entities to locate a lawyer allegedly 'kidnapped by an unknown group' during demonstrations in Missan governorate on 4 October.

Several protestors alleged ill-treatment during transfer to places of detention and while in detention. UNAMI also received reports that demonstrators were asked to sign pledges not to participate in future demonstrations as a requirement for release [...]

❖ [U.S. Department of State, 2019 Country Reports on Human Rights Practices: Iraq, 11 March 2020](#)

[...] C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT [...]

There were numerous reports that government officials employed torture and other cruel, inhuman, or degrading treatment or punishment, and that courts routinely accepted forced confessions as evidence, which was often the only evidence in ISIS-related counterterrorism cases.

As in previous years, there were credible reports that government forces, including Federal Police, NSS, PMF, and Asayish, abused and tortured individuals—particularly Sunni Arabs—during arrest, pretrial detention, and after conviction. Former prisoners, detainees, and international human rights organizations documented cases of torture and other cruel, inhuman, or degrading treatment or punishment in Ministry of Interior-run facilities and to a lesser extent in Ministry of Defense-run detention facilities, as well as in facilities under KRG control. [...]

PRISON AND DETENTION CENTER CONDITIONS

Prison and detention center conditions were harsh and life threatening due to food shortages, gross overcrowding, physical abuse, and inadequate sanitary conditions and medical care.

Physical Conditions: Overcrowding in government-run prisons was a systemic problem exacerbated by an increase in the number of alleged ISIS members detained during the year. In addition, three of the 24 correctional facilities managed by the Iraqi Corrections Service, the government entity with legal authority to hold persons after conviction, remained closed due to the security situation.

In July HRW observed that all three of Ninewa's pretrial detention facilities, Tal Kayf, Faisaliya, and Tasfirat, were so overcrowded that no detainee could lie down to sleep. HRW visited one cell of approximately 250 square feet, with a single toilet, that had been housing 114 detainees for four months. The windows were bricked up, and the temperature and stench in the room were overpowering. At least four detainees had died in cases that, according to prison staff, were linked to the lack of proper medical care and hygiene standards.

HRW reported that the three pretrial detention facilities had a combined capacity of 2,500 prisoners, but as of late June they were holding an estimated 4,500 individuals. Approximately 1,300 of them had been tried and convicted and should have been transferred to Baghdad prisons. Some remained in the crowded facility for up to six months after they were convicted. In September the IHCHR stated that the design capacity of 25 prisons of the Ministry of Justice was 21,600 inmates, while the inmate population was 37,900. Basrah central prison held 3,600 inmates, while its maximum capacity was 1,200. Nasiriya central prison (Al-Hot) held 10,900 inmates, while its design capacity was 4,000. The IHCHR also reported overcrowding in women's prisons. [...]

Overcrowding exacerbated corruption among some police officers and prison administrators, who reportedly took bribes to reduce or drop charges, shorten sentences, or release prisoners early. [...]

Inmates in government-run prisons and detention centers often lacked adequate food, potable water, sanitation, ventilation, lighting, and medical care. Some detention facilities did not have an onsite pharmacy or infirmary, and authorities reported that even when they existed, pharmacies were often undersupplied and government officers reportedly withheld medication or medical care from prisoners and detainees. [...]

Authorities reportedly kept prisoners confined in their cells for long periods without an opportunity for exercise or use of showers or sanitary facilities. [...]

❖ [U.S. Department of State, 2019 Annual Report on International Religious Freedom: Iraq, 10 June 2020](#)

[...] Government practices [...]

Some Sunni Muslims continued to speak about what they perceived as anti-Sunni discrimination by Shia government officials in retribution for the Sunnis' favored status and abuses against Shia during the Saddam Hussein regime. Sunnis said they continued to face discrimination in public sector employment as a result of de-Baathification, a process originally intended to target loyalists of the former regime. Sunnis and local NGOs said the government continued the selective use of the de-Baathification provisions of the law to render many Sunnis ineligible for choice government positions, but it did not do so to render former Shia Baathists ineligible. Some Sunnis said they were often passed over for choice government jobs or lucrative contracts by the Shia-dominated government because the Sunnis were allegedly accused of being Baathists who sympathized with ISIS ideology.

❖ [UN Assistance Mission for Iraq \(UNAMI\), Human Rights Violations and Abuses in the Context of Demonstrations in Iraq, October 2019 to April 2020, August 2020](#)

[...] iv. Allegations of torture and ill-treatment [...]

UNAMI/OHCHR received credible allegations of torture or ill-treatment of arrested demonstrators. Information provided suggests that incidents of torture or ill-treatment of demonstrators occurred mostly during the initial interrogation, with additional accounts of protesters being beaten during arrest, including with rifle butts. Victims reported that the torture or ill-treatment was generally for the purpose of extracting confessions, forcing signature of documents of unknown content, and in some cases as a form of punishment. Beatings, including to the soles of the feet, and severe threats were the most common forms of torture and ill-treatment reported. Others described electric shocks, choking/suffocation or hanging from the ceiling by the limbs. In addition, several persons indicated being subjected to slaps and verbal abuse while in detention. Eleven interviewees stated that they sustained visible injuries as a result of torture or ill-treatment during arrest or detention. Only one interviewee stated he had received medical treatment in a place of detention for injuries suffered during arrest. Four interviewees reported having complained to the investigative judge about their torture or ill-treatment during arrest or detention but were not aware of any related actions taken by the authorities. UNAMI/OHCHR is unaware of any investigations into or prosecutions for ill-treatment and torture of individuals detained in relation with the protests [...]

❖ [Australian Government, Department of Foreign Affairs and Trade \(DFAT\), DFAT Country Information Report Iraq, 17 August 2020](#)

[...] 4. Complementary Protection Claims

Arbitrary Deprivation of Life [...]

Deaths in Custody

4.10 Authorities do not publish information in relation to custodial deaths. International observers describe prison and detention centre conditions as harsh and life-threatening (as outlined in Detention and Prison). Human rights organisations report that both Ministry of Interior and Ministry of Defence personnel have tortured detainees to death [...]

Torture [...]

4.18 There have been consistent reports government forces from a range of agencies and PMF groups regularly abuse and torture individuals – particularly Sunni Arabs – during arrest, pre-trial detention and after conviction. Former prisoners, detainees and international human rights organisations have documented cases of torture and other cruel, inhuman or degrading treatment or punishment in Ministry of Interior-run facilities in particular, and to a lesser extent in Ministry of Defence-run facilities and those under KRG control. In-country sources report torture is most likely to occur at the

point of arrest as a means of gaining a confession. Although the law prevents the use of torture to get confessions, human rights groups report courts routinely accept forced confessions as evidence, particularly in Da'esh-related counterterrorism cases [...]

❖ [European Asylum Support Office \(EASO\), Iraq, Treatment of Iraqis with perceived affiliation to ISIL, Country of Origin Information Report, October 2020](#)

[...] 1. Treatment of Iraqis perceived to be affiliated with ISIL by state actors [...]

1.1 Arrest, forced disappearances, prosecution, treatment in detention [...]

1.1.3 Treatment in detention [...]

Throughout 2019, human rights observers continued to report the use of torture and ill treatment by Iraqi and KRG authorities, particularly of detainees held on suspicion of ISIL affiliation.⁷¹ Human Rights Watch and Amnesty International described the use of torture of ISIL suspects, including children, across Iraq throughout 2019 as 'widespread'.⁷² [...]

Torture continued to be reported among sources in 2020: The Arabic-language news outlet, Elaph, reported that the Iraqi Salvation Development Front party accused the government of subjecting around 15 000 prisoners, including ISIL members, to torture in Al-Hout prison in Al-Nasiriyya, Thi Qar governorate, and claiming that tens have died since the beginning of 2020; they called on the government to investigate human rights violations.⁷⁵ In a 2020 interview with the organisation Prison Insider, which raises awareness on prison conditions, Agnès Callamard, the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, stated that 'inmates are almost, without fail, victims of torture or ill treatment by the authorities' committed during detention in order to extract confessions.⁷⁶ [...]

Human Rights Watch reported that in Ninewa governorate, detainees, including women and children, have been held in 'extreme[ly]' overcrowded facilities, 'for extended periods in conditions so degrading that they amount to ill treatment'.⁷⁹ In 2019, Belkis Wille of Human Rights Watch observed the 'horrible conditions of prisons' holding ISIL suspects in Ninewa governorate, including Tal Kayf, Faisaliya and Tasfirat pre-trial detention facilities.⁸⁰ Out of the 4 500 detainees, 1 300 have been tried but not transferred to prisons, with cases of people remaining 'in the crowded facility for up to six months after they were convicted'. Members of parliament and Mosul deputy governor quoted by Human Rights Watch described prisons located close to Mosul as a 'humanitarian catastrophe'.⁸¹ [...]

72 HRW, World Report for 2019: Iraq, 14 January 2020, url; Al, Iraq 2019, 18 February 2020, url [...]

75 Elaph [...] [Human Rights Organisations Called to Investigate Dozens of Deaths: Iraqi Authorities Accused of Killing Detainees under Torture], 17 April 2020, url

76 Prison Insider, "Parodies of justice" in Iraq, 21 January 2020, url [...]

79 HRW, Iraq: Thousands Detained, Including Children, in Degrading Conditions, Three Nineveh Jails Way Over Capacity, 4 July 2019, url

80 HRW, Iraq: Thousands Detained, Including Children, in Degrading Conditions, 4 July 2019, url

81 HRW, Iraq Authorities Acknowledge Horrific Prison Overcrowding, 5 August 2019, url [...]

❖ [European Asylum Support Office \(EASO\), Iraq, The protest movement and treatment of protesters and activists, Country of Origin Information Report, October 2020](#)

[...] 3. Treatment of protesters

3.1 Responses to the protest movement in Baghdad and the southern provinces [...]

3.1.4 Detention and ill treatment

Referring to the general situation of detention, sources state that ill treatment and torture take place in Iraqi prisons and detention facilities. Human Rights Watch reports that the group 'received reports of widespread use of torture, including of children, by Iraqi and KRG forces to extract confessions' throughout 2019.²²³ Similarly, USDOS reports that torture and ill treatment take place in government run facilities in KRI and the rest of Iraq, with Sunni-Arab detainees being particularly exposed.²²⁴ USDOS further reports of 'harsh' and 'life-threatening' detention conditions, but notes that the situation is generally better in KRI.²²⁵

UNAMI reported that protesters arrested and detained by security forces appear to have been subjected to beatings and ill treatment, and that they were not allowed to contact their families or the outside world.²²⁶ Reuters refers to 'two Iraqi security officials' who claim that beatings and electrocution of those detained is 'not uncommon,' and that detainees are forced to sign a pledge not to take part in further protests before being released.²²⁷ Other sources also report of such forced

pledges as well as beatings.²²⁸ Moreover, sources report of ill treatment and torture including severe beatings and electrocution of protesters who have been kidnapped.²²⁹ This is reported to often take place during 'interrogations,' in which the kidnappers seek information on their participation in protests and their political affiliation, and force them to sign pledges not to partake in further protests.²³⁰ [...]

223 HRW, World Report 2020 – Iraq, 2020, url

224 USDOS, Country Reports on Human Rights Practices – Iraq, 11 March 2020, url, pp. 6-7

225 USDOS, Country Reports on Human Rights Practices – Iraq, 11 March 2020, url, pp. 8-11

226 UNAMI, Demonstrations in Iraq – 2 nd update, 11 December 2019, url, pp. 2, 5, 6

227 Reuters, Threats, arrests, targeted killings silence Iraqi dissidents, 29 November 2019, url

228 Euro-Med, Iraqi Protests: An Audacity to Kill and Absent Justice - A report documenting violations against peaceful protesters in Iraq, 22 December 2019, url, p. 13; AI, Iraq: Stop security forces from threatening, forcibly disappearing and abusing activists, 18 October 2019, url; USDOS, Country Reports on Human Rights Practices – Iraq, 11 March 2020, url, p. 6; Al-Amal, and Al-Namaa, Preliminary Report on the Violation Against the Iraq Protest of October 2019, 10 November 2019, url, p. 4

229 UNAMI, Demonstrations in Iraq: 3rd update, 23 May 2020, url, p. 4; Euro-Med, Iraqi Protests: An Audacity to Kill and Absent Justice - A report documenting violations against peaceful protesters in Iraq, 22 December 2019, url, p. 13

230 UNAMI, Demonstrations in Iraq: 3rd update, 23 May 2020, url, p 4; AI, Iraq: Stop security forces from threatening, forcibly disappearing and abusing activists, 18 October 2019, url [...]

❖ [UN Human Rights Office of the High Commissioner, Iraq: Wave of mass executions must stop, trials are unfair, 20 November 2020](#)

UN human rights experts* expressed alarm at reports that some 50 prisoners convicted of terrorism-related crimes in Iraq face execution on Monday, and urged the Government to immediately halt all mass executions saying they had serious concerns about the conduct of the trials and the extraction of confessions under torture [...]

Country Policy and Information Note (CPIN): Iraq: Female Genital Mutilation (FGM)

Assessment

2. Consideration of Issues

2.4 Risk

In relation to the assessment of risk for a woman/girl being forced to undergo Female Genital Mutilation (FGM), the Country Policy and Information Note (CPIN) finds at paragraph 2.4.5 that “Available evidence indicates that FGM is rare in Iraq generally and highest in IKR [Kurdistan Region of Iraq] with over a third of the female population having had the procedure but declining rapidly”. Whilst no specific guidance is provided in relation to the Kurdistan Region of Iraq (KRI), the CPIN assessed in general that that “it is unlikely that a girl would be able to show she would be forced to undergo FGM if returned to Iraq” [emphasis added]:

Excerpt from the February 2020 *Iraq: Female Genital Mutilation (FGM)* CPIN

[...] 2.4.5 **Available evidence indicates that FGM is rare in Iraq generally and highest in IKR with over a third of the female population having had the procedure but declining rapidly.** However, rates vary by ethnic group, religion, between rural and urban areas, and the level of education of the women/girls involved. In general, with very small numbers of girls under 15 now being subject to FGM coupled with the opposition of the majority of women under 50 to FGM, **it is unlikely that a girl would be able to show she would be forced to undergo FGM if returned to Iraq.** However every case must be considered on its individual circumstances, with the onus on the person that they will face risk of persecution and/or serious harm. [...]

The guidance neglects to refer to other factors that should be taken into account by decision-makers when assessing the likelihood of future risk of an individual being subjected to FGM if returned. This is despite the previously published CPIN on FGM in Iraq¹, as well as recent FGM CPINs issued on other countries² outlining additional factors that should be taken into account when assessing risk as including but not being limited to:

- The age
- The prevalence of FGM amongst the extended family, as this may increase or reduce the relevant risk which may arise from the prevalence of the practice amongst members of the ethnic group in general;
- Area of origin (particularly affecting rural areas)
- The ethnic background of the girl/woman taking into account intermarriage if applicable;
- Perception of traditional gender roles in the family;
- The socio-economic situation of the family;
- Local power/influence/pressure of the immediate and wider family, network or wider community as well as extended family into which she has married (if applicable);
- Past difficulties she/her family experienced.

The above list of non-exhaustive additional factors has also been included in the European Asylum Support Office's (EASO) June 2019 *Country Guidance: Iraq*, which “represents the common assessment of the situation” in Iraq by EU Member States. It states with regards to harmful traditional practices, including FGM that:

¹ See UK Home Office, [Country Information and Guidance: Iraq: Female Genital Mutilation \(FGM\)](#), August 2016, para. 2.3.7

² See for example, UK Home Office, [Country Policy and Information Note: Egypt: Women](#), June 2019, para. 2.4.8; UK Home Office, [Country Policy and Information Note: Nigeria: Female genital Mutilation \(FGM\)](#), August 2019, para. 2.4.13

The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: young age (in particular, under 15), area of origin (particularly affecting rural areas), ethnicity, perception of traditional gender roles in the family, poor socio-economic situation of the family, living in IDP situation, local power/influence of the (potential) husband and his family or network, etc.³

In addition, it is considered that it should have been made clear in the *Assessment* section of the current CPIN on Iraq – similar to that included in the previously published CPIN on FGM in Iraq – that relatives may play an important part in forcing FGM on girls and women [emphasis added]:

A parent may face social pressure to subject their daughter to FGM. If the parent(s) is not from a socio-economic background that is likely to distance themselves from mainstream social attitudes, or if there is not some other mitigating factor, a parent(s) opposition to the procedure may not be enough, as a general matter, to eliminate the real risk that their daughter will be forced (**particularly by relatives**) to undergo FGM.⁴

Indeed country information included at paragraphs 6.1.1 and 6.1.4 presented below suggests that (female) family members and relatives, including mothers and aunts, were proponents of FGM in the KRI [emphasis added]:

Excerpt from the February 2020 Iraq: Female Genital Mutilation (FGM) CPIN

[...] 6. Societal attitudes

6.1.1 A May 2018 report by the Finnish Immigration Service (FIS) stated:

'In Iraqi Kurdistan, it is usually a female family member who requests the FGM/C procedure. These are traditionally-minded women – mothers, aunts and others who want what is best for the girl.

The purpose of the practice is to ensure the girl's marriageability and honour in the eyes of the Kurdish community. The origins of the tradition in this region are unclear. Some said that it is an ancient tradition, while others ascribed it to social pressures and associated it with conceptions of purity and the marriageability and respectability of girls in the community. Some felt that female sexuality is something that needs to be controlled. Most believed that the procedure is of religious origin (Sunna). Because women are in an inferior social and financial position and have lower educational attainment, their ability to make informed choices is impaired. Their subordinate status also makes it difficult to shift their beliefs regarding FGM/C.³² [...]

6.1.4 A qualitative study was conducted in Erbil between July and October 2016 by the Hawler Medical University where 51 women were interviewed in 6 focus groups. Information was gathered about the participant's perspectives and experiences of FGM in the Iraqi Kurdistan Region. The results of the study which were published in May 2019 in BMC Women's Health (a peer review journal considering the health and well-being of adolescent girls and women) stated: [...]

'[...] Thus the uncircumcised girl and women will become stigmatized and isolated in the family and community. **Such social stigma will push the family to subject their daughters to FGM and even push adult females to pass through FGM at a later stage.** This perspective was emphasized by the non-educated and mutilated participants from outside the city. [...]

32 FIS, 'Overview of the status of women living without a safety net in Iraq', p25-26, 22 May 2018, url [...]

35 Ahmed, H et al, 'Women's perspectives of FGM in Iraqi Kurdistan Region', 16 May 2019, url [...]

Additional information found in Ahmed et al's study, which was not included in the CPIN, noted that [emphasis added]:

³ European Asylum Support Office (EASO), [Country Guidance: Iraq](#), June 2019, 16. *Women, b. Harmful traditional practices, Risk analysis*, p. 82

⁴ This was for example included in the previously published CPIN on FGM in Iraq: UK Home Office, [Country Information and Guidance: Iraq: Female Genital Mutilation \(FGM\)](#), August 2016, para. 2.3.8. See also UK Home Office, [Country Policy and Information Note: Nigeria: Female genital Mutilation \(FGM\)](#), August 2019, para. 2.4.16

- ❖ [Ahmed, H.M., Shabu, S.A. & Shabila, N.P. A qualitative assessment of women's perspectives and experience of female genital mutilation in Iraqi Kurdistan Region. BMC Women's Health 19, 66 \(2019\)](#)

[...] Discussion [...]

This study revealed that the mothers or grandmothers usually decide to do FGM to the girls, a finding that agrees with other studies from Iraqi Kurdistan Region where the fathers and the men members of the family are usually not involved in taking the decision [15] [...]

It is thought that mothers want to optimize their daughters' prospects, and they do have a fear of violating the tradition, which pushes them to subject their daughter to the practice. This can also be considered a form of internalized oppression among women. As women have been targeted, abused, or oppressed over a long period of time, they might have internalized or believed the myths and misinformation that society has communicated to them about FGM. Women might have internalized the stereotype that they are not clean or the food from their hands is not halal if they are not circumcised [...]

15. Shabila NP, Ahmed HM, Safari K. Knowledge, attitude, and experience of health professionals of female genital mutilation (FGM): a qualitative study in Iraqi Kurdistan region. Health Care Women Int. 2017;38(11):1202–18 [...]

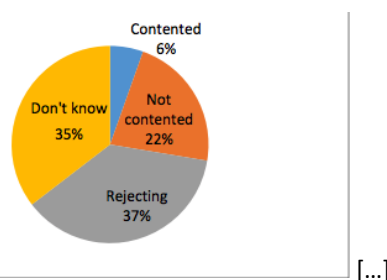
Country information found in the public domain but not included in the CPIN also suggests that family members, including husbands, mothers/fathers, parents-in-law, grandmothers and other female relatives such as aunts, made the decision that women/girls should undergo FGM and/or were the main proponents of FGM both in the KRI and in central and southern Iraq. Sometimes the mothers are mutilated/cut whilst giving birth if it is discovered that they are yet to undergo circumcision, by the midwives who are 'secretly' ordered by the mothers-in-law:

- ❖ [Center for Women's Human Rights, Democratic Women's Organization for Women's Rights and WADI, Female Genital Mutilation in Central and Southern Iraq, Iraq, 2014](#)

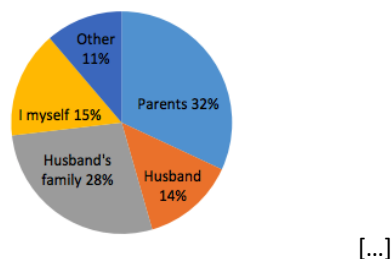
[...] Main results of the survey

This FGM research was conducted in the Central/Southern Iraqi governorates of Qadisiya and Wasit. In each of the governorates 500 women and girls were questioned using the questionnaire documented above. Of the 1,000 women and girls questioned, 257 said they had been subjected to FGM [...]

Consent of the woman on her circumcision [...]



Who decided to perform FGM? [...]



❖ [UNICEF/Heartland Alliance International, Baseline and Intervention Strategy Survey for the Eradication of Female Genital Mutilation in the Kurdistan Region of Iraq, 2015](#)

[...] Motivations for FGM/C Decision-Making

Mothers' Reasons for FGM/C of Daughters

The 640 mothers who responded that their daughters were subjected to FGM/C were also asked an open-ended question about why they chose FGM/C. The vast majority said it was a religious requirement (63.3%) or that it was their tradition (61.7%). The next most common reason given was that it was a family decision (23.6%), and very few cite health-related reasons or other conceptions such as protecting their daughter's virginity (3.5%), increasing their chances of marriage (2.5%), better hygiene (8.3%), or community demands (7.9%). [...]

Perpetuators of the Practice of FGM/C

Proponents of Maintaining the Practice of FGM/C

Respondents were asked who the main proponents of continuing FGM/C were. Overall, close female family members were most often seen as the main supporters of FGM/C. Over half (55.4%) of the respondents named their own mothers as the main proponents of FGM/C, while 49.3% mentioned grandmothers. Fathers were cited much less often (16.2%), similar to TBAs (14.5%), and female relatives such as aunts (13.1%). Each of the other categories -- which included nurses, religious men, tribal leaders, community leaders, and other/don't know -- were cited by 7.0% or fewer of the respondents.

This trend generally holds up across both urban and rural areas, where close female relatives are seen as the main supporters of FGM/C in the community. TBAs are seen as more active supporters of the practice in rural (20%) as opposed to urban (12.3%) areas. Differences across governorates are slightly more pronounced. [...]

In Dohuk, the respondents' mothers were perceived as the main supporter of FGM/C (46.1%), followed closely by their grandmother (39.5%). This pattern is also true for Erbil (60.9% and 53.3% respectively) and Sulaymaniyah (60.6% and 55.1% respectively). In Halabja, however, respondents were more likely to identify their grandmothers (53.3%) as opposed to their mothers (33.3%), indicating the declining nature of the practice over generations. In Dohuk, 31.9% of respondents cited their fathers, which is a much larger percentage than other governorates (the next closest is 9.6% in Erbil). Similarly, tribal leaders in Dohuk were reported as FGM/C supporters by 18.6% of women compared with just 2.1% in Erbil, 0.8% in Sulaymaniyah and none in Halabja [...]

Influencers of FGM/C in Practice The mothers were asked who tried to convince them to cut their daughters, regardless of whether they were finally cut or not. Almost three-quarter of mothers (72.4%) stated that they were not encouraged by anyone. The most frequently mentioned encouragers were mothers-in-law (10.2%), the respondents' own mothers (7.9%), and grandmothers (7.6%). Male family members were also named, but much less often, with only 2.9% citing husbands and 2.5% naming their own fathers. These results indicate that female family members are significantly more influential in a mother's decision to cut her daughter. There were no substantial differences among the governorates.

This pattern also holds up when we look just at the 640 cases where mothers report their daughters ultimately were forced to undergo FGM/C. Figure 16 shows the main people to influence a family's decision to cut their daughter among families where daughters were cut. Within this smaller sample of 640 respondents, there are substantial differences in who was identified as encouraging respondents' daughters to be cut across governorates (Figure 17).

Figure 16. Who Encouraged FGM/C among Families where Daughter is Cut?

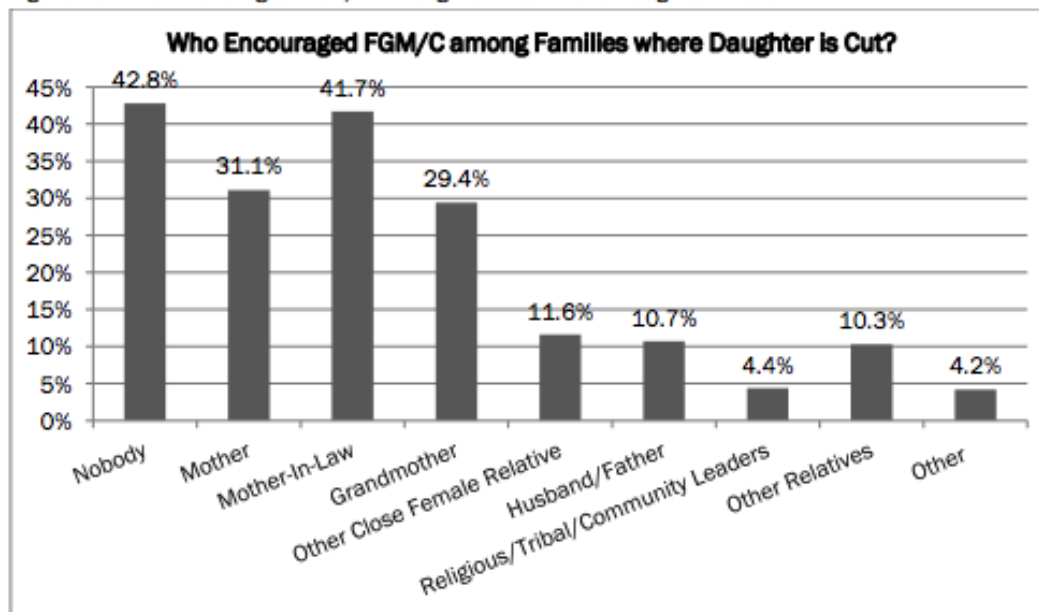
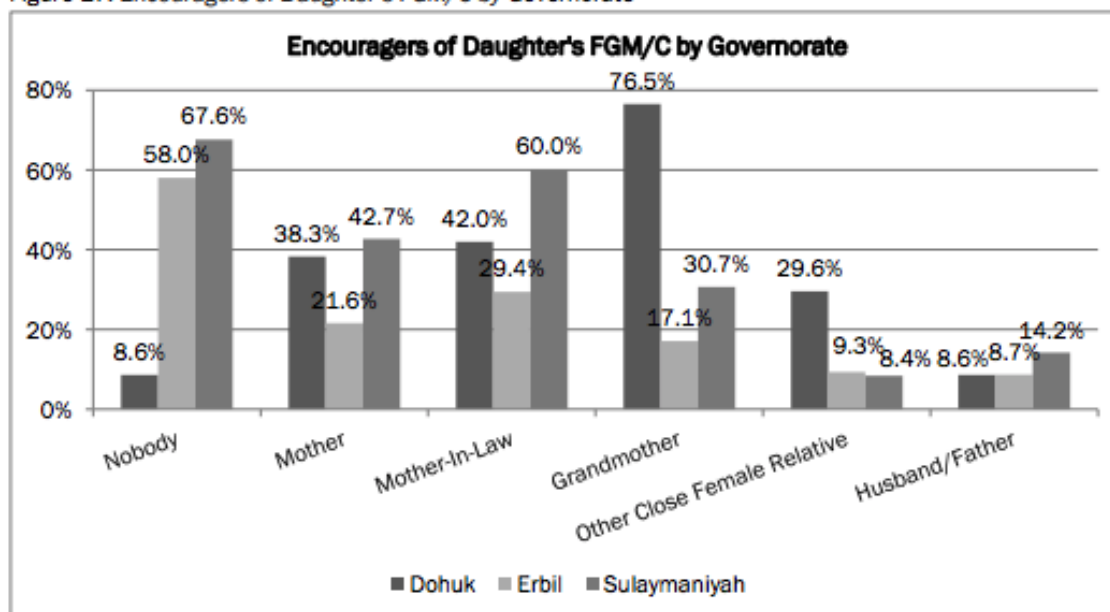


Figure 17. Encouragers of Daughter's FGM/C by Governorate



While 58% of respondents in Erbil and 67.6% in Sulaymaniyah said that they were not encouraged by anyone to cut their daughters, only 8.6% in Dohuk said the same. In Dohuk, the majority of respondents were encouraged by their grandmother (76.5%) followed by their mother-in-law (42%) and mother (38.3%). While respondents in the other governorates were more likely to say no one encouraged them, when they did they were most likely to point to their mother-in-law. What is clear from these statistics is that the respondents are much less likely to identify male relatives and males in the community as the main actors encouraging (or pressuring) the daughters to undergo FGM/C. Social Pressures and FGM/C To further assess the social pressure exerted by family and relatives, the mothers were asked if there were different opinions in the family over whether to cut or not to cut the daughter. Overall, the vast majority of mothers (84%) reported no controversy. Discussions and different opinions about FGM/C were more common in rural areas, where 14.2% of mothers reported different perspectives compared to 8.9% of urban mothers. Family disagreement is slightly more common in Erbil (14.6%) and Sulaymaniyah (12.1%) than in Dohuk (6.6%) and Halabja (2.2%). In addition, the likelihood of family disagreement decreases as respondents' level of education goes up, which may be due in part to the fact that FGM/C is less likely at higher levels of education. One note

of caution in interpreting the prevalence of differing opinions about the FGM/C decision is that it could be underreported due to post-compliance as a psychological effect based on the mothers' need to reduce cognitive dissonance between their own and their families' decisions. [...]

- ❖ [The Danish Immigration Service/Landinfo \(Norway\), Kurdistan Region of Iraq \(KRI\), Women and men in honour-related conflicts, Report based on interviews in Erbil and Sulaimania, KRI, November 2018](#) [Note that this source has been included in the CPIN, but in relation to other issues]

[...] Introduction and methodology

The report at hand is the product of a joint mission conducted by Landinfo – the Norwegian Country of Origin Information Centre, Norwegian Directorate of Immigration (UDI) and the Country of Origin Information Division, Danish Immigration Service (DIS) to Erbil and Sulaimania, Kurdistan Region of Iraq, (KRI) from 22 to 30 April 2018 [...]

Appendix 1 Meeting Notes [...]

WADI, Abdullah Sabir, Iraq Project Co-ordinator

Sulaimania, 29 April 2018

WADI began as an NGO in 1993 as a project aiding to provide healthcare and education for internally displaced children and women. WADI is actively working on public awareness of and the combat against domestic violence.¹⁵¹ Currently their main project is non-violent solution of conflicts and to combat FGM [...]

Female Genital Mutilation (FGM) [...]

56. The main areas where FGM still prevails are villages in northern Sulaimania, the Germian district and in villages in Erbil. Rania is one of the places where FGM still takes place. Many children are born at home or in other private houses rather than at hospitals. There are cases where mutilation takes place at birth. Sometimes the mothers are mutilated too, during delivery, by the midwives who are secretly ordered by the mothers-in-law if it is discovered that she had not been already circumcised. This also happens in the villages between Kirkuk and Sulaimania, as well as Sulaimania city (in general girls are mutilated between the ages 4 to 12) [...]

151 About WADI: Abdullah Sabir gave an introduction to WADI's projects, incl. projects on combatting domestic violence and FGM. Other than these focuses, WADI runs a project on combatting violence against children in school. This project started in Garman and is now being implemented in five schools that have agreed to a contract on stopping violence against school children. Another project on assistance to marginalized women in prison is being carried out, funded by the EU. The project aims to conduct training for police and prison guards. WADI meets the convicted women, including women who received death penalty. A team of lawyers in Sulaymaniyah, Erbil and Halabja are conducting the training. Website: <https://WADI-online.org/> [...]

- ❖ [Minority Rights Group, ALTERNATIVE REPORT TO THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN \(CEDAW\), REVIEW OF THE PERIODIC REPORT OF IRAQ, MINORITY RIGHTS GROUP INTERNATIONAL \(MRG\), CEASEFIRE CENTRE FOR CIVILIAN RIGHTS, AND ASUDA FOR COMBATING VIOLENCE AGAINST WOMEN, 74th Session of CEDAW, 21 October-8 November 2019](#)

[...] HUMAN RIGHTS VIOLATIONS

(A) Gender-Based Violence Due to Prejudices and Harmful Customary Practices

Article 5 of the Convention [...]

13. [...] Prosecutions in cases of FGM are impeded by the fact that perpetrators of the practice are almost always the victim's immediate family members or relatives, making it unlikely that the victim, especially if a minor, would report them. Moreover, reporting the incident could lead to reprisal against the victim in her community and home, and would offer little benefit to the victim once the procedure had already been performed [...]

2.5 Protection

The CPIN assesses at paragraph 2.5.5 that the "state may be able but is not usually willing to provide protection". However, it also mentions that the government "run shelters for women", without providing any further to details as to their capacity or admissions criteria: [emphasis added]:

Excerpt from the February 2020 *Iraq: Female Genital Mutilation (FGM) CPIN*

[...] 2.5.4 **The Government and some NGOs run shelters for women**, however shelters run by NGOs can be subject to attacks by family members of people taking refuge and are regularly closed down following complaints from locals.

2.5.5 In general, **the state may be able but is not usually willing to provide protection**. However, the onus will be on the person to demonstrate why they cannot obtain such protection (see Protection and support) [...]

In addition the country information included in section 9 of the CPIN does not specify whether victims of FGM or those fleeing from FGM would have access to or be eligible to access such shelters in either central and southern Iraq or in the Kurdistan Region of Iraq (KRI). This is despite such information being available in the public domain (see further below). The Danish Immigration Service/Landinfo report included in the CPIN noted that women “normally” require to be in possession of a court order to access them or even leave the shelters, exacerbating access issues women may experience [emphasis added]:

Excerpt from the February 2020 *Iraq: Female Genital Mutilation (FGM) CPIN*

[...] NGO assistance [...]

9.1.3 The 2018 DIS and Landinfo report stated the following regarding women’s shelters in Iraqi Kurdistan:

‘There is a shelter for women in each of the bigger cities in KRI: Erbil, Sulaimania and Dohuk. These shelters are run by the KRG authority DCVAW [KRG authority Directorate of Combating Violence Against Women]. The capacity for each centre is approximately 20 to 40 women. In Sulaimania there is also a privately managed shelter. [...]

Regarding the average time that a woman will spend in the DCVAW managed shelters, WEO [Women’s Empowerment Organization] said that some women spend six to eight months and other women up to five or six years; while DCVAW said that generally cases will be solved during 6 months.

‘Access to the DCVAW centres normally requires a court order. However, in urgent cases a woman can access the shelter directly with a court order being filed subsequently. The women in the shelters are not allowed to leave the shelter without a court order. Family members can still be allowed to see the women in the shelter without the consent of the women. Shelters run by NGOs have experienced attacks from victims’ families, and this is one of the reasons why most of them have been closed. Shelters run by the state are less inclined to be attacked, because the state is seen as a stronger protector than the private actors.

‘[...] The profile of women residing in the shelters includes both rural and urban girls. Many women are reluctant to go to a shelter, because women in the shelters are seen as outcasts. There are very few well educated women in the shelters. Most of the women in the shelters are from families in which violence is frequently used and the men believe that women should not have education and jobs. Some Arab women have accessed the shelters in KRI.’⁴⁹

9.1.4 WADI provided information about three independent women’s centres supported by WADI in Iraqi Kurdistan in an article entitled ‘Women Centres’ published in March 2017⁵⁰.

9.1.5 The USSD 2018 report stated the following on shelters in central and southern Iraq:

‘While the law does not explicitly prohibit NGOs from running shelters for victims of gender-based crimes, the law allows the Ministry of Labor and Social Affairs to determine if a shelter may remain open, and the ministry did not do so. As a result, only the Ministry could operate shelters in central government-controlled territory. NGOs that operated unofficial shelters faced legal penalties for operating such shelters without a license. NGOs reported that communities often viewed the shelters as brothels and asked the government to close them; on occasion, shelters were subject to attacks. In order to appease community concerns, the ministry regularly closed shelters, only to allow them to reopen in another location later.’⁵¹

9.1.6 The United Nations Population Fund (UNFPA) produced a document in 2019 that contains information on the five shelters that they support across Iraq and Iraqi Kurdistan⁵² [...]

49 DIS & Landinfo, ‘Women and men in honour-related conflicts’, p18, Nov 2018, url

50 WADI, ‘Women Centres’, 6 March 2017, url

Additional excerpts from sources included in the CPIN and other sources available at the time of publication of this Iraq CPIN documented the following issues, which were omitted from the CPIN [emphasis added]:

- [Limited capacity of shelters for victims of gender-based violence;](#)
- [Absence of basic services at the shelters and no preparation for life outside of the shelters;](#)
- [Lack of capacity in shelters for those returning to Iraq;](#)
- [When women leave shelters they may face further victimisation, be killed by their family, commit suicide or being pressured to do so.](#)

Limited capacity of shelters for victims of gender-based violence

❖ [The Danish Immigration Service/Landinfo \(Norway\), Kurdistan Region of Iraq \(KRI\), Women and men in honour-related conflicts, Report based on interviews in Erbil and Sulaimania, KRI, November 2018](#)

[...] Introduction and methodology

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Appendix 1 Meeting Notes [...]

A local Human Rights organisation: Dr. Sharif Jawdat Ali, Local Director; Bakhtyar Hadi Hassan, Pedagogue; Vian Shawqi, Responsible for Women's Department Sulaimania, 29 April 2018 [...]

Possibility to seek protection from the authorities [...]

108. In Sulaimania Governorate there are two shelters: one is run by the KRG authority Directorate of Combatting Violence Against Women (DCVAW) and the other is a privately managed shelter. **At the shelter that is run by DCVAW, there are constantly 22 to 25 women staying and a maximum of 30 women** [...]

Major Farman Mohammed, Directorate of Combatting Violence Against Women (DCVAW), Erbil Office

The Directorate of Combating Violence Against Women (DCVAW) is a directorate under the KRG Ministry of the Interior. DCVAW is specialised to work on combating violence, including violence against women in general not only on honour issues.

Erbil, 23 April 2018

Honour conflicts [...]

132. **In Erbil, there is one shelter/safe house for women who seek protection. The capacity of the shelter is accommodation for 30 to 35 women.** They stay at the shelter according to their conditions and cases. Generally, their cases would be solved during 6 months. Access to the shelter is given by court order and the women stay in the shelter until the case is finished. Major Farman Mohammed stated that it is difficult for the women to return to their families, but in some cases the women returned to their families. There is no shelter for men [...]

❖ [United Nations Population Fund – Iraq \(UNFPA\), Supported Women Shelters, Offering gender-based violence survivors a second change, 2019](#)

[...] Shelters capacity

- Baghdad: up to 80 women
- Duhok: up to 40 women
- Erbil: up to 20 women
- Sulaymaniyah: up to 40 women
- Germian (72-hour shelter): up to 20 women [...]

❖ [UN Committee on the Elimination of Discrimination against Women, Concluding observations on the seventh periodic report of Iraq, 12 November 2019](#)

[...] Gender-based violence against women

21. [...] However, the Committee notes with deep concern: [...]

(c) The insufficient number and capacity of State-run shelters for victims of gender-based violence and the fact that shelters run by non-governmental organizations to respond to the needs of women and girls who are survivors of violence, including ISIL victims, have been forced routinely to relocate in order to ensure the safety of both victims and staff members [...]

Absence of basic services at the shelters and no preparation for life outside of the shelters

❖ [The Danish Immigration Service/Landinfo \(Norway\), Kurdistan Region of Iraq \(KRI\), Women and men in honour-related conflicts, Report based on interviews in Erbil and Sulaimania, KRI, November 2018](#)

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Appendix 1 Meeting Notes [...]

Razaw Ahmed, Lawyer and women's rights advocate, Sulaymaniyah, Iraq

Sulaimania, 30 April 2018 [...]

Procedure for filing a complaint [...]

212. According to the source there is no political will to improve the situation for women. In Sulaimania, by contrast, the source was not familiar with cases where women got killed after reconciliation. The source added that shelters are sometimes attacked and threatened by the families of the victims. Shelters run by the state are less inclined to be attacked, because the state is seen as a stronger protector than the private actors. The source noted that the situation often becomes worse, if the woman is transferred to the shelter. **There are no basic services, such as health care, in the shelters and there is no preparation for the real life after.** The perception is that people believe that the women must be in a really bad situation, since they chose to go to the shelters [...]

❖ [U.S. Department of State, 2018 Country Reports on Human Rights Practices: Iraq, 13 March 2019](#)

[...] Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women [...]

In the IKR one privately operated shelter and four KRG Ministry of Labor and Social Affairs-operated shelters provided some protection and assistance for female victims of gender-based violence and human trafficking. **Space reportedly was limited, and service delivery reportedly was poor.** NGOs played a key role in providing services, including legal aid, to victims of domestic violence, who often received no assistance from the government. Instead of using legal remedies, authorities frequently mediated between women and their families so that the women could return to their homes. Other than marrying or returning to their families, which often resulted in further victimization by the family or community, there were few options for women accommodated at shelters. [...]

Lack of capacity in shelters for those returning to Iraq

❖ [The Danish Immigration Service/Landinfo \(Norway\), Kurdistan Region of Iraq \(KRI\), Women and men in honour-related conflicts, Report based on interviews in Erbil and Sulaimania, KRI, November 2018](#)

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Appendix 1 Meeting Notes [...]

Hoshang Mohamed, Director General, Ministry of the Interior, Joint Crisis

Coordination Centre (JCC), Kurdistan Regional Government, Iraq

JCC as a lead institution of the Kurdistan Regional Government (KRG) for coordination and management, of all phases of crisis and disaster such as risk assessment, and mitigation, early warning and preparedness, response and management including preparedness, mitigation, response and recovery to the current humanitarian crisis and all future man-made and natural disasters and crisis as well as new emergencies.

Erbil, 23 April 2018

Returning rejected asylum applicants from Europe:

270. Director General Hoshang Mohamed said that rejected asylum applicants returning to Iraq would have difficulties in returning, if they do not have a network to support them. **Especially single women would be exposed. There is no space in shelters, because they also suffer from lack of funding.** [...]

When women leave shelters they may face further victimisation, be killed by their family, commit suicide or being pressured to do so

❖ [The Danish Immigration Service/Landinfo \(Norway\), Kurdistan Region of Iraq \(KRI\), Women and men in honour-related conflicts, Report based on interviews in Erbil and Sulaimania, KRI, November 2018](#)

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Appendix 1 Meeting Notes

Wchan Organization for Human Rights Violations¹⁴⁸, Ahmed M. Amin, Executive Director

Sulaimania on 29 April 2018

Wchan is an independent organization. Wchan's first mandate was rehabilitation of war trauma victims and torture victims through psychologic, psychiatric, medical and legal assistance. Later on Wchan realised that other types of victims needed help, including victims of gender based violence (GBV).¹⁴⁹ [...]

Possibility to seek protection for women

Authorities, incl. shelters [...]

4. DCVAW protects women by putting them in a public shelter, which is prison-like, since they are not allowed to leave unless she is issued a court order. Wchan has access to some of these shelters. Some NGOs offers mediation programmes in which reconciliation between the woman and the family is facilitated. The solution after mediation could be marriage. **When the woman returns to the family she might, after some time, get killed or commit suicide, maybe after being pressured to do so.** [...]

Women's Empowerment Organization, WEO

Women Empowerment Organization (WEO) was established in Erbil, Kurdistan Region of Iraq (KRI) in 2004. WEO's fields of expertise are women empowerment and gender based violence (GBV). Within Iraq, the organisation covers geographically Baghdad, Ninewa, Dohuk, Kirkuk, Sulaimania, and Diyala. Erbil, 24 April 2018 [...]

Protection by the authorities [...]

Protection of women at shelters [...]

46. When a woman leaves the shelter, she will divorce in some cases. In this case she will find herself in a situation in which she must cover for the needs of her children and she will be watched by her family who will expect her to remarry. In other cases, the woman goes back to her family. **WEO gave an example of an influential family who killed a woman who went back to them from the shelter.**

When asked if the source could provide more background information on the case, the source replied that they did not have a lot of background information [...]

WADI, Abdullah Sabir, Iraq Project Co-ordinator

Sulaimania, 29 April 2018

WADI began as an NGO in 1993 as a project aiding to provide healthcare and education for internally displaced children and women. WADI is actively working on public awareness of and the combat against domestic violence.¹⁵¹

Currently their main project is non-violent solution of conflicts and to combat FGM [...]

Possibility to seek protection from other actors [...]

64. The women can escape to shelters, but there have been cases when the woman was killed anyway by her family, even though the family expressed that they had forgiven her [...]

References to more information on honour killing

94. For data on the categories of honour killing, self-immolation, vague killing (unknown perpetrator) the source recommended to visit the shelters. **The source added that the women will die if they leave the shelters. [...]**

A local Human Rights organisation: Dr. Sharif Jawdat Ali, Local Director; Bakhtyar Hadi Hassan, Pedagogue; Vian Shawqi, Responsible for Women's Department Sulaimania, 29 April 2018 [...]

Protection in the centres of the local human rights organisation

102. Many of the women who seek refuge at the shelters centres come from the mentioned conservative areas and they **risk their lives if they leave the centres. [...]**

Academic informant Sulaimania, 30 April 2018 [...]

Protection in shelters

168. At a shelter, a woman will not be safe either. Even if the family signed a restraining order, her life will still be in danger after she is released from the shelter. In a few cases, the shelters have assisted women in getting asylum in another country. [...]

149 Wchan was part of Heartland Alliance until 2011. Wchan has a staff of 40 persons: 22 counsellors, two social workers, two psychiatrists, supervising 20 health staff working as community mental health workers at the Primary Health Centres. They have worked in the periphery since 2005, when Wchan was a program of Heartland Alliance. Wchan also work with prisoners who are addicted to drugs. By working with them and building trust, Wchan has helped 70 prisoners to become drug free. [...]

151 About WADI: Abdullah Sabir gave an introduction to WADI's projects, incl. projects on combatting domestic violence and FGM. Other than these focuses, WADI runs a project on combatting violence against children in school. This project started in Garman and is now being implemented in five schools that have agreed to a contract on stopping violence against school children. Another project on assistance to marginalized women in prison is being carried out, funded by the EU. The project aims to conduct training for police and prison guards. WADI meets the convicted women, including women who received death penalty. A team of lawyers in Sulaymaniyah, Erbil and Halabja are conducting the training. Website: <https://WADI-online.org/> [...]

❖ [U.S. Department of State, 2018 Country Reports on Human Rights Practices: Iraq, 13 March 2019](#)

[...] Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women [...]

In the IKR one privately operated shelter and four KRG Ministry of Labor and Social Affairs-operated shelters provided some protection and assistance for female victims of gender-based violence and human trafficking. Space reportedly was limited, and service delivery reportedly was poor. NGOs played a key role in providing services, including legal aid, to victims of domestic violence, who often received no assistance from the government. Instead of using legal remedies, authorities frequently mediated between women and their families so that the women could return to their homes. **Other than marrying or returning to their families, which often resulted in further victimization by the family or community, there were few options for women accommodated at shelters. [...]**

Country Policy and Information Note (CPIN): Iraq: Blood Feuds

Assessment

2. Consideration of Issues

2.4 Risk

The CPIN, at paragraph 2.4.2, sets out the reasons for tribal disputes, which can lead to blood feuds in case no peaceful resolution is found [emphasis added]:

Excerpt from the February 2020 Iraq: Blood feuds CPIN

[...] 2.4.2 A person can become involved in conflict with members of a different tribe over matters such as **intended or unintended killings, infliction of injury, theft, unpaid debts, and disputes over land, property or water supplies**. Disputes can go on for many years and tribe members can inherit historic disputes (see Blood Feuds – Definition and Blood Feuds - Methods of prevention and resolution) [...]

However, the CPIN neglected to mention here a loss of ‘honour’- or ‘honour’-related reasons that may contribute to tribal disputes and thereby blood feuds. This is despite such an explanation being in the *Introduction* section and in the *Country information* section of the CPIN [emphasis added]:

Excerpt from the February 2020 Iraq: Blood feuds CPIN

[...] Assessment

1. Introduction [...]

1.2 Points to note

1.2.1 A blood feud is a form of tribal dispute. **For the purposes of this note a blood feud is a dispute between 2 families or tribes with a cycle of retaliatory violence in which each group fights or murders members of the other group according to an ancient code of honour and behaviour**. Intertribal killings may be triggered by a number of reasons, including honour-related matters and historic intertribal animosities (see Blood feuds/Definition) [...]

Country information [...]

4 Blood feuds

4.1 Definition

4.1.1 A report produced and published in June 2019 by the European Asylum Support Office (EASO) entitled ‘Country Guidance: Iraq’ stated:

‘Blood feuds are conflicts between tribes involving cycles of retaliatory killings. Intertribal killings may be triggered by a number of reasons, **including honour-related questions** and historic intertribal animosities. It has been reported that the current instability has increased the onset of tribal conflicts, particularly in southern Iraq [...]’³ [...]

4.1.2 A report entitled ‘International Protection Considerations with Regard to People Fleeing the Republic of Iraq’ published in May 2019 by the UN High Commissioner for Refugees (UNHCR) stated:

‘A blood feud usually involves members of one family threatening to kill members of another family in retaliatory acts of vengeance carried out according to an ancient code of honour and behaviour. **In Iraq, conflicts between (extended) families can reportedly be triggered by intentional or unintentional killing, but also by other offences such as the infliction of injury, loss of “honour” (e.g. as a result of the kidnapping or rape of a woman or girl, or socially unacceptable behaviour)**, theft, unpaid debts, or unresolved disputes over land, access to water supplies or property. Under tribal custom, male members of an extended family (“khamsa”) are obliged to avenge the injury or death of another member, be it in the form of killing someone from the murderer’s khamsa, or, more commonly, agreeing on financial compensation (blood money, “fasl” or “diyya” to the family of the victim”), which in turn ends the right to retribution.’⁴ [...]

4.3 Methods of prevention and resolution

4.3.1 The March 2019 EASO report stated that: [...]

4.3.2 The same source further states: [...]

‘Katherine Blue Carroll further explains that **the ultimate goal of tribal mediation is to restore peace through restoring honour**, thus avoiding feuds.’¹⁸

3 EASO, ‘Country Guidance: Iraq’, June 2019, url

4 UNHCR, ‘People Fleeing the Republic of Iraq’, May 2019, url [...]

18 EASO, ‘Iraq: Targeting of Individuals’, March 2019, url [...]

2.5 Protection

It is considered that the guidance provided in relation to state protection for persons fearing blood feuds is problematic in three ways:

- i) Firstly, it suggests that a tribe or existing tribal mechanisms used in conflict resolution may comprise an ‘actor of protection’ (see paras. 2.5.3 and 2.5.4);
- ii) Secondly it neglects to highlight that even if a tribal dispute is resolved peacefully it may trigger other serious human rights violations – for example in relation to fair trial standards and in case the resolution of the conflict involves the use of women and children as compensation (see para. 2.4.6 and 2.5.5); and
- iii) Thirdly it does not assess whether the state is able or willing to provide effective protection, as is done in all other CPINs published on Iraq (see para. 2.5.7) [emphasis added]:

Excerpt from the February 2020 *Iraq: Blood feuds* CPIN

[...] 2.4.6 **While women and children are unlikely to be targeted for retribution in a blood feud, the resurgence of using women and girls as compensation for injuries or deaths means that they may also be at risk of serious harm or persecution.** Each case must be considered on its individual facts, with the onus the person to demonstrate that they are at risk [...]

2.5.3 As a result of a weakened state authority and ineffective formal justice system, people have turned to their tribes to resolve their problems and provide security. The tribal authorities will attempt to resolve a blood feud. This may be more difficult if the participants in the feud are tribal leaders. Restitution can involve the payment of ‘blood’ money to allay vengeance. **In some cases, therefore, a tribe may be able to offer effective protection** (see Blood Feuds – methods of prevention and resolution).

2.5.4 Under Regulation 4 of the Refugee or Person in Need of International Protection (Qualification) Regulations 2006, only the state or “any party or organisation, including any international organisation, controlling the State or a substantial part of the territory of the State” can provide “protection”. **Given the relative strength and respect of the tribal system, and that the tribal arbitration system is backed by the Ministry of Justice, it is arguable that they operate as an ‘organisation ... controlling the State or a substantial part of the territory of the State.’**

2.5.5 **Even if a tribe/the tribal mechanism or the Ministry of Justice tribal arbitration system is not an “actor of protection” under Regulation 4,** decision makers must consider whether seeking to use this mechanism is likely to mean that there is no real risk of harm, and therefore no persecution [...]

2.5.7 **The onus will be on the person to show that they cannot obtain protection from either state forces or tribal authorities.** [...]

In relation to the first point it should be noted that Regulation 4 of the Refugee or Person in Need of International Protection (Qualification) Regulations 2006, as referred to in paragraph 2.5.4 of the CPIN (see above), includes a second consideration than whether an organisation has control of “substantial part of the territory of the State”. It also stipulates that “Protection shall be regarded as generally provided when the actors [...] take reasonable steps to prevent the persecution or suffering of serious harm by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the person [...] has access to such protection” [emphasis added]:

[The Refugee or Person in Need of International Protection \(Qualification\) Regulations 2006](#)

[...] Actors of protection

4.—(1) In deciding whether a person is a refugee or a person eligible for humanitarian protection, protection from persecution or serious harm can be provided by:

(a) the State; or

(b) any party or organisation, including any international organisation, controlling the State or a substantial part of the territory of the State.

(2) Protection shall be regarded as generally provided when the actors mentioned in paragraph (1)(a) and (b) take reasonable steps to prevent the persecution or suffering of serious harm by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the person mentioned in paragraph (1) has access to such protection.

(3) In deciding whether a person is a refugee or a person eligible for humanitarian protection the Secretary of State may assess whether an international organisation controls a State or a substantial part of its territory and provides protection as described in paragraph (2). [...]

This second consideration has been neglected from inclusion in the guidance provided at paragraph 2.5.4 of this CPIN.

Moreover, the EASO Guidance on Iraq finds that besides the Iraqi State and the Kurdistan Regional Government, no other actor was identified in Iraq that may fall under “parties or organisations [...] controlling the State or a substantial part of the territory of the State” [emphasis added]:

[European Asylum Support Office \(EASO\), Country Guidance: Iraq, June 2019](#)

[...] IV. Actors of protection [...]

The Iraqi State: The presence and control of the Iraqi State have become stronger since the defeat of ISIL. It can be concluded that the State may, depending on the individual circumstances of the case, be considered able and willing to provide protection that meets the requirements of Article 7 QD in Baghdad and southern Iraq. In most other parts of northern and central Iraq, including the disputed territories, the capacity of the State is limited and the criteria under Article 7 QD would generally not be met [...]

The Kurdistan Regional Government: In general, the KRG is considered to be an actor of protection meeting the requirements of Article 7 QD. However, in certain individual circumstances, such as for persons perceived as associated with ISIL, political opponents, LGBTI individuals, in relation to harmful traditional practices, honour-based and domestic violence, the KRG may be unwilling to provide protection within the meaning of Article 7 QD.

Parties or organisations, including international organisations, controlling the State or a substantial part of the territory of the State: No such actors are identified in Iraq [...]

Whilst it is acknowledged that the UK opted out of the [2011 EU Qualification Directive](#), which forms the basis for the EASO *Country Guidance: Iraq*, the 2006 Qualification Regulation – as shown further above – includes similar wordings to the 2011 EU Qualification Directive.

In addition, it should be noted that UNHCR, in its May 2019 *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, does not consider tribal justice mechanisms as constituting effective protection, but rather states that individuals involved in blood feuds “combined with a general inability of the State to provide protection from such persecution” may be in need of international protection:

[UN High Commissioner for Refugees \(UNHCR\), International Protection Considerations with Regard to People Fleeing the Republic of Iraq, May 2019](#)

[...] UNHCR considers that individuals involved in blood feuds may, depending on the individual circumstances of the individual case, be in need of international refugee protection on the basis of a

well-founded fear of persecution at the hands of non-State actors for reasons of membership of a particular social group or other relevant Convention grounds, combined with a general inability of the State to provide protection from such persecution.⁶⁷³ [...]

673 For further guidance see UNHCR, UNHCR Position on Claims for Refugee Status Under the 1951 Convention Relating to the Status of Refugees Based on a Fear of Persecution Due to an Individual's Membership of a Family or Clan Engaged in a Blood Feud, 17 March 2006, www.refworld.org/docid/44201a574.html, paras 5-6, 16-20, and UNHCR, Guidelines on International Protection No. 2: "Membership of a Particular Social Group" Within the Context of Article 1A(2) of the 1951 Convention and/or Its 1967 Protocol Relating to the Status of Refugees, 7 May 2002, www.refworld.org/docid/3d36f23f4.html. [...]

As per the above footnote 673, already in 2006 UNHCR argued that the State or its agents, including the police and the judiciary, would only be able to provide effective protection if certain measures were in place as outlined in the excerpt below:

UN High Commissioner for Refugees (UNHCR), UNHCR Position on Claims for Refugee Status Under the 1951 Convention relating to the Status of Refugees Based on a Fear of Persecution Due to an Individual's Membership of a Family or Clan Engaged in a Blood Feud, 17 March 2006

[...] Agents of persecution [...]

10. If an asylum applicant has demonstrated a well-founded fear of persecution, he or she must still show either that the persecution is by the State or that it is by agents the government is unable or unwilling to control. In cases involving blood feud, when determining the ability of the State to control such practices, the existence of legislation outlawing blood feuds or establishing judicial mechanisms to resolve them does not of itself mean individuals are adequately protected. There needs to be willingness and the effective capacity on the part of the police, the courts and other State authorities to detect, prosecute and punish those responsible for blood feuds, including through the application of criminal laws. Even where state reconciliation commissions may, for instance, have been established, they need to be effective in resolving such feuds in practice. In particular, where reconciliation efforts are may be undertaken by non-governmental organizations this may not constitute sufficient protection. In each case, it is therefore necessary also to determine how efforts on the part of the authorities relate to the individual case [...]

In addition, there appears to be an internal inconsistency amongst CPINs on Iraq on whether or not tribes can provide 'effective protection'. Whilst this CPIN suggests at paragraphs 2.5.3 and 2.5.4 (see further above) that a tribe or existing tribal mechanisms used in conflict resolution may comprise an 'actor of protection' the August 2017 CPIN on *Iraq: Kurdish 'honour' crimes* finds in relation to tribes that it "cannot be considered willing (even though they may be able) to provide effective protection in the case of an 'honour' offence" in the KRI [emphasis added]:

Excerpt from the August 2017 Iraq: Kurdish 'honour' crimes

[...] 1. Introduction [...]

1.2 Points to note

1.2.1 For the purposes of this guidance an 'honour' crime is violence committed by those who aim to protect the reputation of their family or tribe.

1.2.2 Although 'honour' crimes may occur within all Iraqi communities, this note is confined to 'honour' crimes among Kurdish people [...]

2.4 Protection [...]

ii. Tribes [...]

2.4.4 In cases involving 'honour', the tribe is likely to protect the family's 'honour' above the integrity of the individual (usually a woman) (see 'Honour' crimes – Definition). **A tribe therefore cannot be considered willing (even though they may be able) to provide effective protection in the case of an 'honour' offence** [...]

As to the second observation, this commentary does not attempt to analyse whether tribal conflict can be resolved peacefully through tribal justice mechanisms and whether such mechanisms should be sought as an alternative to the formal justice system (reported to be ineffective). It rather argues that caution needs to be exercised and all outcomes considered when assessing whether and how tribes may be able to offer conflict resolutions that may potentially resolve a blood feud. Of particular importance in this context is the upholding of rights as defined by international law in relation to fair trial and due process procedures, as well as ensuring that the rights of women and children are not violated. Whilst most country information, including that in the CPIN, refers to the latter, and the guidance at paragraph 2.4.6 alerts decision makers that “the resurgence of using women and girls as compensation for injuries or deaths means that they may also be at risk of serious harm or persecution”, little information was included on access to justice and fair trial standards under tribal justice mechanisms. The only reference in the current CPIN to possible bias in judicial proceedings dealing with tribal conflict was an excerpt from a UNHCR report [emphasis added]:

Excerpt from the February 2020 *Iraq: Blood feuds* CPIN

[...] 4.4 Protection

4.4.1 The UNHCR report published in January 2018 stated: ‘Prosecution of the offender in the formal judicial system does not necessarily end or avoid tribal conflict, and, in some cases, law enforcement officials and courts refer cases to the tribal system for settlement. According to reports, tribal justice has reportedly gained renewed strength as a result of successive conflicts affecting Iraq, weak state authority and an ineffective formal justice system and people increasingly resort to tribes to resolve their differences. Law enforcement personnel, who are often themselves members of tribes in the area, are said to be reluctant to interfere in tribal conflicts as their involvement may risk further escalating the situation. Others are reported to take sides in tribal disputes along their own tribal affiliation.’²⁶ [...]

26 UNHCR, ‘Tribal Conflict Resolution in Iraq’, 15 January 2018, url [...]

Searching for additional sources in the public domain indicates that there is a gap in country information particularly focusing on this aspect of tribal justice and that therefore instructing a country expert might be useful on this particular issue. Relevant illustrative country information found has been included here as a starting point:

- ❖ [Hamoudi, H.A., Al-Sharaa, W.H., Al-Dahhan, A., The Resolution of Disputes in State and Tribal law in the South of Iraq: Toward a Cooperative Model of Pluralism, November 2016](#)

[...] Dispute Resolution under the Law of the Tribe [...]

The Mechanisms Deployed to Resolve the Inter-Tribal Dispute [...]

Arbitration

It is important to note that until this point, we have proceeded under the assumption that there is some clarity as to who the responsible party happens to be for any given injury. This is quite often true, in cases ranging from assaults to theft to intentional and unintentional killing. Of course, it need not be. If it is not, then prior to escalation and either upon notification or confrontation, the allegedly offending tribe may demand an informal arbitration, to be handled by a single, well respected senior figure selected by the parties known as a faridha. (In practice, there are only a handful of such figures to whom tribes turn, making the selection process relatively straightforward). The arbitrator is authorized to hear evidence, to take witness statements from those who have been endorsed as reliable by their own tribal leaders and to render rulings on the basis of those statements in a process that is quite informal and relatively swift, usually taking no more than a day or two in the most. Naturally, no selfhelp remedies may be resorted to pending the outcome of the tribal arbitration. [...]

- ❖ [The Century Foundation, Tribal Justice in a Fragile Iraq, 7 November 2019](#)

[For specific information on how the author of this source reports on tribal justice for members or those accused of membership/support of ISIS see p. 10/11 of the report; for tribal justice and its effects on women see p. 11/12; for tribal affiliations with extremist groups see p. 12-15; and for tribal justice and its effects on IDP returns see p. 15-19]

[...] residents in tribal areas often complain, in turn, of tribal transgressions. They allege that tribal leaders exploit, for material benefit, their customary roles in negotiating punishment for misdemeanors, IDP returns, land and housing disputes, and other issues.¹ [...]

Tribal Law and Dispute Resolution [...]

The tribal justice system generally subordinates the individual good for the collective good [...]

Sheikhs insist that they do not and should not accept a percentage payment for concluding fasl, but said that gifts to them or their tribal guesthouse ("diwan") are accepted. However, many Iraqis said that, without payment—often made quietly—cases would not move forward to their liking. Tribal conflict resolution does not happen in a vacuum.

Tribal procedures and negotiations are influenced by various factors including the social status and political connections of the tribes involved, the sheikhs' level of influence and connections, the gender and social status of the perpetrator and the victim, and any history of feuding. Furthermore, the nature of this informal justice system means that there is no official standardization of rulings, and the system remains open to manipulation [...]

Tribal laws and customs are sometimes used as a tool merely to extract resources and revenge. Some tribal negotiation processes are not intended to equitably resolve disputes to begin with. Extortionary demands are sometimes presented in the guise of fasl, which weaker parties may simply decide to pay in order to avoid further disputes [...]

Tribal Justice and Formal Justice [...]

Tribal Justice as a Solution to the Justice Gap

Despite coordination, sheikhs regularly extol what they perceive as the superiority of the tribal justice system, describing it as faster, fairer, and less corrupt than the Iraqi court system. But Iraqi tribes are not antithetical to the state—sheikhs say they have no problem with Iraqi law (barring occasional exceptions) but rather object to its flawed implementation, which is often plagued by corruption. They not only see themselves as filling a "justice gap" where the state is absent, but also highlight aspects of tribal justice they perceive to be superior to those of the formal justice system, such as quick case resolution and a lack of pretrial detention [...]

Sheikhs denied that the tribal justice system is also plagued with corruption. Others acknowledged that corruption exists, but, as one sheikh said, "it is normally associated with PMU groups or those who gained recognition as a sheikh through state connections—these 'new sheikhs' sometimes exploit the system for their own benefit."³⁹ (As previously noted, the term "new sheikhs" is sometimes used to scapegoat some sheikhs for any and all allegations of misdoings and corruption within tribal systems.) Residents, if unhappy with a tribal decision, may file a claim with an Iraqi state court, but must weigh potential backlash with tribal leaders if they "sidestep their authority" by doing so. Others may attempt to influence decisions by enlisting one of the myriad government-aligned paramilitary groups that may be perceived as more powerful than tribal and state security actors in some parts of the country [...]

State officials, in response to sheikhs' allegation of corruption, criticize the tribal justice system as "backward" and encouraging revenge. State actors, including district sub-governors and judges, warned against international donor efforts to empower tribes in place of the state. "Tribal justice actors should be involved in dialogue and other initiatives, but justice projects should always go through the formal justice system," said one judge from Mosul.⁴² A district sub-governor from Nineveh governorate, while recognizing the positive role tribes can sometimes play, warned tribes against interfering with Islamic State-related crimes. "People can't get over their thirst for blood," he said. "The state, not tribes, should deal with this issue."⁴³

One Iraqi researcher said that while tribal justice can play an important role in society, it also undercuts state judicial authority. Fasl and tribal decisions are influenced by the power and connections of the party involved, with the case usually decided in favor of the more powerful party. When the more powerful tribal party is permitted to influence, or allow judges to drop ongoing cases in the formal justice system, it means that sheikhs can influence state decisions without proper formal oversight. While the Iraqi judiciary is notorious for its shortcomings, the codified laws and structure of

the formal system provide more robust safeguards for impartial justice, even if in practice it is not always delivered.⁴⁴ [...]

Notes

1 Unfortunately, many of these transgressions are similarly inflicted upon residents by local government actors, security forces, PMU groups, and others in positions of power. [...]

39 Tribal sheikh, interview with the author, Baghdad, March 2019 [...]

42 Iraqi judge, interview with the author, Baghdad, November 2018.

43 District sub-governor from Nineveh, interview with the author, Erbil, October 2018.

44 On the shortcomings of the Iraqi justice system, see Huma Haider, "Formal Justice in Iraq," GSDRC, December 12, 2014, <https://assets.publishing.service.gov.uk/media/57a089a6ed915d622c00032d/hdq1175.pdf> [...]

The commentary's third observation related to paragraph 2.5.7 where the CPIN states that the person claiming asylum needs to show that they cannot obtain protection from the state:

Excerpt from the February 2020 *Iraq: Blood feuds* CPIN

[...] 2.5.7 **The onus will be on the person to show that they cannot obtain protection from either state forces or tribal authorities.** [...]

It is surprising that this section of the CPIN neglects to include an assessment as to the ability and willingness of the authorities to provide protection to persons fearing blood feuds. This is despite the COI included in this CPIN, current caselaw (i.e. [BA \(Returns to Baghdad\)](#)) and other published CPINs on Iraq assessing that the Iraqi state is mostly unable and in all cases unwilling to provide protection (see list provided further below) [emphasis added]:

Excerpt from the February 2020 *Iraq: Blood feuds* CPIN

[...] 4.4 Protection

4.4.1 The UNHCR report published in January 2018 stated:

'Prosecution of the offender in the formal judicial system does not necessarily end or avoid tribal conflict, and, in some cases, law enforcement officials and courts refer cases to the tribal system for settlement. **According to reports, tribal justice has reportedly gained renewed strength as a result of successive conflicts affecting Iraq, weak state authority and an ineffective formal justice system and people increasingly resort to tribes to resolve their differences. Law enforcement personnel, who are often themselves members of tribes in the area, are said to be reluctant to interfere in tribal conflicts as their involvement may risk further escalating the situation. Others are reported to take sides in tribal disputes along their own tribal affiliation.**'²⁶

4.4.2 The New Arab article published in January 2018 stated the following in relation the situation in the Basrah province:

'Residents of the province's north say security forces are powerless to halt the clashes. 'In the absence of heavily armed military and federal police forces, "local police are reluctant... to get involved in these battles because there is nothing to protect them," said provincial council member Ghanem Hamid. 'Even in situations where they could prevent the violence, police officers - many of whom hail from the tribes involved - hesitate to intervene for fear of later reprisals. 'Haydar Ali, a 34-year-old engineer, suggested deploying soldiers and policemen from other provinces "who have no social relations or tribal ties that could affect their role". 'Residents have called on security forces to confiscate weapons, but regular raids have had little impact on the vast numbers of arms circulating in the province.'²⁷

4.4.3 The November 2018 EASO report stated that:

'Due to the societal importance of tribal custom, powerful tribal affiliation can interfere with the police in upholding respect for the law. Tribal disputes are described as "widespread", especially in the south, with many tribes being well-armed and challenging state security and control.

'Judicial authorities do not follow up on tribal incidents and judges must seek tribal protection themselves in case of threats against them. [...] According to information provided to UNHCR, judicial officials and law enforcement "take sides" in tribal disputes, along their own tribal affiliations. Tribes are also given privileges by government parties and politicians who seek tribal

assistance and tribes also have connections within the security forces. Tribal members also escape punishment due to such connections.'²⁸

4.4.4 An article published by Arab News in September 2017 entitled 'Tribes, tradition stand in way of Iraq police' stated:

'Policeman Ahmad regrets the day he detained a motorist at a checkpoint for possession of a gun without a license, bringing the weight of Iraqi tribal customs down on his head.

'Faced with threats and the reality that state law in Iraq cannot stand muster with tribes and their customs, the police captain gathered his family and fled Baghdad to take refuge in the south of the country.

'He had been posted at a checkpoint in an eastern district of the capital when he discovered the gun in a car.

'Along with comrades, they arrested the driver, a merchant, but before long a group of gunmen turned up and secured his release.

"'We were only able to hold on to the gun," the captain told AFP, opting not to give his family name or the province where he and his family are now living.

'Days after the incident, he had received a threatening telephone call. "'We know where you live, where your family are. You'd better return the gun if you want to save them," was the crux of the message he received.

'Ahmad teamed up with fellow police officers to arrange a meeting with representatives of the tribe of the man he had briefly detained. 'He was shown documents apparently certifying the gun as legal, leaving him with little choice but to return the weapon and close the case.'²⁹ [...]

26 UNHCR, 'Tribal Conflict Resolution in Iraq', 15 January 2018, url

27 The New Arab, 'Tribal feuds spread fear in Iraq's Basra province', 19 January 2018, url

28 EASO, 'Iraq Country of Origin Report – Iraq: Actors of Protection', November 2018, url

29 Arab News, 'Tribes, tradition stand in the way of Iraq police', 23 September 2017, url [...]

The following profile-specific CPINs on Iraq published since the CPIN on Blood Feuds all assessed the central and southern Iraqi state's unwillingness to provide protection and in some cases inability, with the possible, case-by-case exception in the Kurdistan Region of Iraq – indicative of the wider unavailability of effective state protection in Iraq against non-state actors:

[Country Policy and Information Note: Iraq: Female Genital Mutilation \(FGM\), February 2020](#)

[...] 2.5 Protection [...]

2.5.5 In general, the state may be able but is not usually willing to provide protection. However, the onus will be on the person to demonstrate why they cannot obtain such protection (see Protection and support) [...]

[Country Policy and Information Note: Iraq: Baathists, January 2020](#)

[...] 2.5 Protection [...]

2.5.2 Where the person has a well-founded fear of persecution from non-state actors – including 'rogue' state actors – decision makers must assess whether the state can provide effective protection.

2.5.3 The Upper Tribunal, in BA (Returns to Baghdad), found: 'In general, the authorities in Baghdad are unable, and in the case of Sunni complainants, are likely to be unwilling to provide sufficient protection' (paragraph 107 (vii)). For more information see the Country Policy and Information Note on Iraq: Sunni Arabs. [...]

[Country Policy and Information Note: Iraq: Religious minorities, October 2019](#)

[...] 2.5 Protection [...]

2.5.2 Where the person has a well-founded fear of persecution from non-state actors – including 'rogue' state actors – decision makers must assess whether the state can provide effective protection. For the most part, the Iraqi State and the Kurdish Regional Government are able but unwilling to provide effective protection to religious minorities (see Protection). [...]

[Country Policy and Information Note: Iraq: Perceived collaborators, February 2019](#)

[...] 2.5 Protection [...]

2.5.1 Where the person's fear is of persecution and/or serious harm from nonstate actors, decision makers must assess whether the state can provide effective protection.

2.5.2 The Upper Tribunal in BA found: 'In general, the authorities in Baghdad are unable, and in the case of Sunni complainants, are likely to be unwilling to provide sufficient protection' (paragraph 107 (vii)). [...]

[Country Policy and Information Note, Iraq: Sexual orientation, and gender identity and expression, October 2018](#)

[...] 2.5 Protection [...]

2.5.2 Criminal justice mechanisms and protection are inadequate and the authorities failed to investigate abuses against LGBTI people (see Official responses to reports of anti-LGBTI violence).

2.5.3 The person will not be able to avail themselves of the protection of the authorities [...]

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