



## Protection Advocacy Strategy for the HCT

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### Context and Purpose

Iraq is embroiled in a devastating conflict resulting in a humanitarian and protection crisis with more than 2.5 million internally displaced persons (IDPs). An estimated 25 % of those internally displaced are women of reproductive age, 23% are girls, and 22% are boys while 6% are elderly persons. UNAMI monitoring indicates that in 2014 there were 35,408 civilian casualties (12,282 killed and 23,126 injured). In 2015 so far 4,733 casualties have occurred (1,572 killed and 3,161 wounded).

The endorsement of this document provides a basis for the HCT's advocacy with a view to influencing decision makers and stakeholders to adopt practices and policies that ensure the protection of IDPs and other affected populations according to international human rights and humanitarian law. The following advocacy areas for prioritization have been identified and operational guidance notes will be developed for each area:

- access to safety
- child protection
- gender-based violence and sexual violence in conflict
- mine action
- housing, land and property
- registration/documentation
- access to justice
- peaceful coexistence
- durable solutions

Below is a brief description of each protection priority area followed by a set of advocacy messages and recommendations to the Government of Iraq, the Kurdistan Regional Government, relevant authorities, the international donor community as well as domestic and international humanitarian organizations.

### ACCESS OF TO SAFETY AND FREEDOM OF MOVEMENT

IDPs of a certain ethnic/sectarian background have increasing difficulty to gain access to safety due to either discriminatory access policies or the discriminatory application of access policies. Rising inter-community tensions in areas of displacement further impact the access to safety.

IDPs of a certain ethnic/sectarian background are reportedly prevented by security forces from returning to their homes while others return to the same areas and even occupy the property of others.

The establishment by the authorities of IDP camps in proximity to the conflict lines, near military installations or in other unsafe locations does not offer sufficient access to safety for IDPs and hampers humanitarian access to those in need.

### PROTECTION AGAINST GENDER-BASED VIOLENCE AND SEXUAL VIOLENCE IN CONFLICT

The protracted armed conflict in Iraq has impacted women, men, boys and girls differently. The conflict has led to the widespread occurrence of gender based violence (GBV) as well as created conditions that have exacerbated vulnerabilities to GBV for women and girls including gross human rights abuses such as abductions, killings, trafficking, torture, forced marriage as well as sexual violence.

Reports of sexual violence in the form of sexual slavery, rape and abductions targeting women and girls from religious and ethnic minorities by ISIL have increased since August 2014. A comprehensive response (medical, psycho-social, mental health care, safety and protection) is required but lacking.

Surveys in camp and non-camp locations revealed gender related protection issues including long distances to and poor lighting in toilets and washing facilities. Overcrowded living conditions coupled with increasing rent and unemployment carry significant risks of exposure to sexual and gender based violence (SGBV) for both women and girls. Addressing the specific needs and minimizing the SGBV risk of women and girls remains challenging.

## **CHILD PROTECTION**

Approximately 55% of Iraq's displaced population is under the age of 18 years including 34% of school-going age. Children are exposed to a range of child protection violations resulting directly from the conflict or relate to pre-existing protection risks exacerbated by conflict and the weak economy.

Pre-existing child protection concerns include various forms of physical and/or psychological violence, GBV (such as early marriage); child labor; arbitrary detention and abandonment. The conflict has exposed Iraqi children to risks of child killings or injuries, abduction, physical and sexual abuse, exploitation, recruitment by armed groups, separation from caregivers, the death of family members, witnessing or experiencing violence, harassment, discrimination and exclusion, interrupted or unfinished schooling, shifting of roles and responsibilities within the household (including new child-headed households) and breakdown of community-based support mechanisms.

Birth registration is the doorway to protection and individual rights, including identity and the right to citizenship. Many IDP families fail to register children born in IDP camps and/or urban settlements due to a lack of information on unfamiliar procedures, procedural barriers related to missing identification documents or marriage certificates, and a lack of accessible birth registration facilities.

## **PROTECTION AGAINST MINES AND EXPLOSIVE REMNANTS OF WAR (ERW)**

Iraq is among the countries with the highest contamination of mines and ERW in the world which presents significant protection risks to the population. Legacy contamination from four decades of conflict is estimated at over 3,000 minefields and battle locations in an area of more than 300 square kilometers within the northern governorates; the full extent of contamination in centre/south is still unknown. New ERW contamination further compounds the risks.

Mine risk education is desperately needed in areas of return and during displacement. The significant increase in use of improvised explosive devices (IEDs) deliberately targeting civilians and civilian infrastructure by ISIL has already resulted in civilian casualties and hampered the safe return of IDPs.

## **HOUSING, LAND AND PROPERTY (HLP)**

IDPs with limited financial resources are often compelled to reside in inadequate housing, including informal settlements, unfinished or abandoned buildings, religious centres and schools. The Government does not always support programmes to improve these conditions. Rent is one of the largest expenditure among urban IDPs with many facing a risk of eviction as their financial resources dwindle. The risk of eviction is heightened by the absence of tenure agreements with landlords. Many IDPs, particularly female headed families, employ negative coping strategies to pay rent and are likely to shift to less adequate shelter options, such as collective sites, tents and open air.

In newly accessible areas, damage, destruction or unlawful occupation of housing, land and property (HLP) is a pressing concern for all conflict affected populations, in particular returning IDPs. Loss of HLP documentation, coupled with damage or destruction of Land Registry Offices, and the absence of established mechanisms for property restitution and compensation will impede sustainable returns. Institutions that were established previously to address such issues are restricted in doing so by the territorial, time and material limitations of their mandates.

## **IDP REGISTRATION/DOCUMENTATION AND CIVIL REGISTRATION/DOCUMENTATION**

Without civil documentation, IDPs face challenges with freedom of movement, registration, residency permits (required to rent housing or secure employment) and civil status rights (births, marriages, divorces, deaths registration, and school enrollment). IDP registration is a prerequisite to access essential government services and financial assistance. Up to 50% of displaced families report at least one family member missing one or more of civil documents critical to their legal identity. Civil IDs can only be replaced by the General Directorate of Civil Status Affairs (Ministry of Interior) in Baghdad, Najaf or Sheikhan, creating obstacles to replacing lost civil IDs or Public Distribution System (PDS) cards.

In the absence of required personal status documents (birth, marriage, divorce or death certificates) IDPs are unable to proceed with registration. Further, restrictive determination of conflict-affected areas by the Government excludes the registration of IDPs originating from non-listed areas and IDPs of a certain background/profile are unable to safely access and register in places of displacement.

### **ACCESS TO JUSTICE**

Under Iraqi law access to entitlements, humanitarian assistance, and sometimes identity documentation, often requires the successful resolution of civil legal claims (e.g. marriage/divorce, abandonment, death certificates, inheritance, child custody, etc). Current civil procedure rules and conflict related logistical challenges prevent IDPs to file and resolve lawsuits in areas of displacement.

IDPs of certain ethnic/sectarian backgrounds are reportedly detained without charge on security ground and not provided access to attorneys. Legal fees are prohibitively expensive for many and unified instructions for courts or law enforcement to address these challenges do not yet exist.

### **PEACEFUL COEXISTENCE**

A UN report from February 2015 documented widespread human rights violations of an increasingly sectarian nature in Iraq, as well as a deterioration of the rule of law in large parts of the country. In this context, returning IDPs can be at risk of revenge killings, intimidation, harassment and other retaliatory practices in their place of origin. Such practices reportedly target individuals and communities of a certain ethnicity/sectarian background or profile including those who remained in their place of origin and are perceived to have collaborated with ISIL. Such retaliatory actions are carried out with impunity and, unless the state delivers justice to the affected communities, there is likely to be a cycle of revenge killings perpetrated by individuals or tribal/sectarian militias. The negative socio-economic impact of the conflict has hardened divisions, contributing to tensions and risks of perpetuating the cycles of violence.

### **DURABLE SOLUTIONS**

Of the total estimated 2.5 million IDPs in Iraq, over one million citizens remain in a protracted situation of internal displacement, since the peak of the sectarian violence in 2006-2007. Many IDPs are subject to or remain at risk of multiple displacements while returning refugees are also at risk of becoming IDPs in Iraq.

The present conditions in Iraq are not conducive to large-scale returns in safety and with dignity. There are increasing reports that IDPs have spontaneously returned in areas recently regained by the authorities or were compelled to return due to poor conditions and restrictions in areas of displacement. Reports have also been received that some IDPs have been prevented from returning as mentioned above. There are claims of post-conflict destruction of houses and properties to prevent their owners from returning. In addition, other durable solutions such as local integration or voluntary internal relocation are not readily available and these options have not been thoroughly explored.

### **PROTECTION ADVOCACY MESSAGES AND RECOMMENDATIONS**

**To the Government of Iraq, the Kurdistan Regional Government and relevant authorities:**

*Access to safety and freedom of movement*

1. Continue their openness to receive and assist displaced persons regardless of ethnicity or religion, recognizing the stress caused on local capacities and legitimate concerns of public order and security.
2. Ensure that relevant procedures and practices relating to access to safety, facilitation of temporary stay and constitutional rights are in line with the spirit and letter of human rights and international humanitarian law, without any distinction, in particular, between IDPs coming from listed area and those who do not, and regardless of ethnic/sectarian affiliation.
3. Ensure that where legitimate security concerns may require some temporary restrictions on the movement of civilians, such restrictions have a legal basis, are not arbitrarily applied or applied in a discriminatory manner.
4. Establish IDP camps or camp-like settings only as a last resort, only in locations where physical safety and security of IDPs will not be at risk, and only where humanitarian presence can be sustained (reference to civilian character of camps).
5. Guarantee the right of all IDPs to return, locally integrate or voluntarily relocate without discrimination in compliance with international legal standards.

*Gender-Based Violence and Sexual Violence in Conflict*

6. Align national legislation with international instruments including implementation of the National Action Plan on UN SCR 1325 and the CEDAW concluding recommendations.
7. Allocate adequate resources to respond and prevent SGBV and build the capacity of relevant authorities and specialized actors to provide qualitative case management in adherence with best practices.

*Child protection*

8. Facilitate access for IDP and conflict-affected children and their caregivers to non-formal or formal education and basic services, including psycho-social services and recreation.
9. Develop and implement a comprehensive and systematic mechanism for the protection of unaccompanied and separated children.
10. Take all necessary measures to ensure that IDP children are registered immediately after birth by, inter alia, establishing civil registration mechanisms in hospitals as well as the use of mobile registration units, particularly in remote and rural areas.

*Mine action*

11. Prioritize mine action interventions to ensure the safety of all civilian, particularly in areas of return as well as the safe implementation of humanitarian assistance programmes (WASH, Health, Education, etc.)

*Housing, land and property*

12. Enable and safe guard tenancy rights for urban IDPs, returnees and other groups at risk as well as put in place effective means of restitution or compensation for housing, land and property.
13. Support improvements to sub-standard housing to increase the stock of affordable, adequate housing.

14. Extend the hospitality afforded to urban IDPs by appealing to host community landlords to enter into formal tenancy agreements with IDP tenants and adopt minimum standards for the protection of IDPs against evictions.
15. Extend the mandate of the Property Claims Commission or reconvene streamlined inter-agency mechanisms to address the property restitution or compensation needs of returnees, and support their reconstruction efforts.

#### *Civil Registration and Documentation*

16. Cease the practice of confiscating civil documentation from IDPs at points of entry or elsewhere, unless such actions conform to international legal standards.
17. Develop consistent procedures so that IDPs can effectively retrieve their civil documentation and ensure these procedures are accessible and widely publicized.
18. Establish additional alternative facilities or arrangements for issuance/replacement of civil IDs in locations easily accessible to IDPs, while prioritizing areas with high numbers of IDPs.
19. Apply uniform standards for sponsorship requirements for residency permits without distinction on the basis of ethnic or sectarian backgrounds.

#### *Peaceful coexistence*

20. Address the growing sectarian divide by developing a country-wide response strategy with the participation of IDPs, affected communities, political, humanitarian, human rights and development actors.

#### *Durable solutions*

21. Present IDPs with safe and voluntary options including return, local integration or internal relocation. Ensure IDPs do not face coercion in relation to their choice of durable solution.

### **To the High Judicial Council:**

#### *Access to justice*

22. Issue instructions to remove procedural and logistical barriers to effective access to justice faced by IDPs and request all investigative courts to review and process IDP cases in order to ensure equal treatment of all citizens.
23. Establish mechanisms for increased cooperation between the High Judicial Council and the Judicial Council of the Kurdistan Region to facilitate access to justice for displaced citizens, including access to attorneys as well as increased monitoring of due process for cases.

### **To domestic and international humanitarian organizations:**

#### *Gender-Based Violence and Sexual Violence in Conflict*

24. Within available resources, prioritize the care and protection of survivors of GBV and SVC, and for traumatized women, girls, men and boys and address the needs of affected communities.
25. Mitigate severe risks of GBV by addressing issues identified in safety audits, including poor lighting, lack of privacy, overcrowding, un-segregated latrines and communal accommodation.

#### *Mine action*

26. Build capacity of relevant authorities for Mine Risk Education activities, clearance of mines/ERW and assistance to victims. Coordinate with education actors to include mine risk awareness messaging in interventions.

*Peaceful coexistence*

27. Ensure that response strategies and interventions enable all persons and communities affected by the emergency to participate without distinction, in assessments, planning, implementation, monitoring and evaluation of the humanitarian response.
28. Ensure that all interventions are undertaken with respect for the 'Do No Harm' principles.
29. Ensure peaceful coexistence and community-based interventions are included in response strategies of the HCT.

*Durable solutions*

30. Support community-based interventions to improve access to livelihoods and durable solutions, thus enabling those affected by the conflict to restore their self-sufficiency and build resilience.

**To the international donor community:**

31. Support the government and humanitarian organizations with international advocacy.
32. Advocate with national and local authorities for a more favorable protection environment to address the above presented concerns.
33. Encourage and support the government in designing a comprehensive and up-to-date policy framework on internal displacement in Iraq.
34. Encourage the Government to design response strategies and capacity to address the protection concern presented above such as GBV and child recruitment.

**To all parties to the conflict, armed forces, armed groups and militia:**

35. Abide by the norms of international humanitarian law, and in particular end the targeting of civilians, encirclement and siege of civilians communities, and the use of mines and IEDs.
36. Stop violations perpetrated against civilians, particularly children and women, prevent the recruitment of children, stop attacks on schools and school personnel.