



# Генеральная Ассамблея

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## Совет по правам человека

### Сорок четвертая сессия

15 июня – 3 июля 2020 года

Пункт 3 повестки дня

**Поощрение и защита всех прав человека, гражданских, политических, экономических, социальных и культурных прав, включая право на развитие**

## Посещение Ирака

### Доклад Специального докладчика по вопросу о правах человека внутренне перемещенных лиц\* \*\*

#### *Резюме*

Специальный докладчик по вопросу о правах человека внутренне перемещенных лиц Сесилия Хименес-Дамари посетила Ирак 15–23 февраля 2020 года.

С момента перемещения около 6 млн человек в период 2014–2017 годов в результате конфликта против самопровозглашенного Исламского государства Ирака и Леванта (ИГИЛ) Ирак сталкивается с проблемами в деле удовлетворения гуманитарных потребностей и достижения долгосрочных решений в отношении 1,4 млн человек, которые по-прежнему находятся в положении перемещенных лиц, а также в деле преодоления трудностей, с которыми сталкиваются те, кто вернулся в свои родные места. Специальный докладчик выражает озабоченность в связи с их острыми потребностями в помощи и препятствиями в доступе к гражданским документам и услугам, ограничениями в доступе, с которыми сталкиваются гуманитарные организации, действующие в Ираке, и недавним закрытием и объединением лагерей, что привело к принудительному возвращению и повторному перемещению. Специальный докладчик также рассматривает положение перемещенных этнических и религиозных меньшинств, перемещенных семей с предполагаемой принадлежностью к ИГИЛ и перемещенных детей, а также сообщения о сексуальном и гендерном насилии в отношении внутренне перемещенных лиц.

\* Резюме доклада распространяется на всех официальных языках. Сам доклад, содержащийся в приложении к резюме, распространяется только на том языке, на котором он был представлен, и на арабском языке.

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Специальный докладчик выражает признательность правительству Ирака за принятие – при поддержке международного сообщества – ряда мер по решению проблемы внутреннего перемещения. Правительство должно продолжать оказывать гуманитарную помощь внутренне перемещенным лицам и возвращенцам, которые в ней нуждаются, и наращивать усилия в области развития и стабилизации. Для поддержки долгосрочных решений на национальном и местном уровнях необходимы более активные и согласованные меры по содействию социальной сплоченности, примирению, справедливости и возмещению ущерба с участием внутренне перемещенных лиц.

## Annex

# Report of the Special Rapporteur on the human rights of internally displaced persons on her visit to Iraq

## I. Introduction

1. The Special Rapporteur on the human rights of internally displaced persons, Cecilia Jimenez-Damary, conducted an official visit to Iraq from 15 to 23 February 2020 at the invitation of the Government of Iraq. The objective of her visit was to gather first-hand information on the situation of human rights of internally displaced persons in Iraq, their assistance needs and protection concerns, and progress towards durable solutions. Her visit followed those of the Representative of the Secretary-General on the human rights of internally displaced persons in 2010 and of the previous mandate holder in 2015.<sup>1</sup> She travelled to Baghdad, Erbil, Ninewa (including Mosul) and Dohuk.

2. The Special Rapporteur thanks the Government of Iraq for the invitation to visit the country and the high-level cooperation extended at the federal, regional and local levels, including by the Kurdistan Regional Government and governorates. She also thanks the Government for its full respect for the independence of her mandate in accordance with the terms of reference for country visits by special procedure mandate holders.

3. During her visit, the Special Rapporteur met government officials at the national, regional and local levels. In Baghdad, she met with officials from the Prime Minister's Office, the Ministry of Foreign Affairs, the Ministry of the Interior, the Ministry of Migration and Displacement, the Ministry of Justice and the Joint Coordination and Monitoring Center. She met with officials from the Kurdistan Regional Government in Erbil, including the Minister of the Interior, the Head of the Department of Foreign Relations, and representatives of the Joint Crisis Coordination Center. At the governorate level, she met with officials in Ninewa and Dohuk. She also met with donors and members of the diplomatic community in Baghdad.

4. The Special Rapporteur met the United Nations country team, representatives of civil society, and humanitarian and development actors. She thanks in particular the Deputy Special Representative of the Secretary-General/Resident Coordinator/Humanitarian Coordinator, the United Nations Assistance Mission for Iraq (UNAMI), including its Human Rights Office and the Office of the Chief of Staff, and the Office of the United Nations High Commissioner for Human Rights (OHCHR) for the invaluable support provided in preparation for and throughout the visit. She also thanks representatives of the Office for the Coordination of Humanitarian Affairs, the Office of the United Nations High Commissioner for Refugees, the International Organization for Migration, the United Nations Human Settlements Programme, the United Nations Children's Fund, the United Nations Population Fund, the United Nations Entity for Gender Equality and the Empowerment of Women, the United Nations Mine Action Service, the World Food Programme and the United Nations Development Programme, as well as members of civil society, who provided valuable information relating to the issue of internal displacement. She expresses gratitude to the Global Protection Cluster and the Iraq Protection Cluster for the excellent collaboration and additional support provided. The Special Rapporteur acknowledges the remarkable work carried out by the above-mentioned organizations to provide support for and assistance to internally displaced persons and returnees in Iraq.

5. The Special Rapporteur also consulted with internally displaced persons in and out of camp settings, including women and children, through focus group discussions and bilateral discussions. Many of these people had been displaced multiple times and made failed attempts to return to their areas of origin.

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<sup>1</sup> See A/HRC/16/43/Add.1 and A/HRC/32/35/Add.1.

## II. Context of internal displacement in Iraq

6. As reported by previous mandate holders, Iraq has undergone several waves of internal displacement in its history due to armed conflict and ethnic and sectarian violence. The recent wave of displacement triggered by the conflict against the self-proclaimed Islamic State in Iraq and the Levant (ISIL), the focus of the present report, was one of particularly large proportions, with about 6 million people internally displaced between 2014 and 2017.<sup>2</sup>

7. While displacement began in early 2014, the largest flow was in the second half of 2014 as ISIL took Mosul and several districts in northern and central Iraq. Military operations to retake control over these areas were launched by the Iraqi security forces, supported by the Combined Joint Task Force – Operation Inherent Resolve, the Peshmerga (armed forces of the Kurdistan Regional Government), the Popular Mobilization Forces (an umbrella organization aggregating several armed groups), and local and tribal fighters. Such military operations led to additional waves of displacement as they advanced. The operation to retake Mosul lasted from October 2016 until July 2017; in December 2017, the Government declared the end of military operations against ISIL in Iraq.

8. Overall, most internally displaced persons fled to urban and peri-urban settings, and a minority to camps. In the earliest waves of displacement, all governorates of Iraq received internally displaced persons to some extent, with large groups hosted by the Kurdistan region of Iraq and the Baghdad and Anbar governorates. In later waves, governorates adopted stricter access policies; displacement flows were increasingly directed to camps established within the same governorate of displacement, leading to a rise in the percentage of internally displaced persons in camps.<sup>3</sup>

9. While some internally displaced persons returned to their areas of origin over the years as areas were retaken from ISIL, the largest flows were reported after December 2017. As at 31 December 2019, 4.6 million had returned.<sup>4</sup> The policies of the Government of Iraq have been instrumental in promoting the returns; however, premature, coerced and forced returns, in addition to blocked returns, have also been reported.

10. As at 31 December 2019, some 1.4 million people, comprising different groups that require targeted approaches to identify durable solutions to the obstacles they face, remained in internal displacement.<sup>5</sup> Many of them had moved from one place of displacement to another, or had been displaced again after a failed attempt to return to their place of origin. Meanwhile, whether living inside or outside camps, many of them face discrimination, insecurity and dire living conditions, and struggle to meet basic needs.

11. Displaced populations have been subjected to extreme experiences of violence and war. The atrocities committed by ISIL, including killings, torture, rape and sexual slavery, child recruitment and use, forced religious conversion, the deliberate targeting of minorities, and severe punishment of the population, have been and continue to be documented. At the same time, insecurity in Iraq still poses a challenge to host communities, internally displaced persons, returnees and humanitarian actors, as remnant ISIL cells continue to carry out attacks. Adding to the complex security situation, armed groups are present in the country, some of which do not follow the command and control structure of the Popular Mobilization Commission under the Prime Minister as Commander-in-Chief of the Iraqi security forces.

## III. National response to internal displacement

12. The Special Rapporteur commends the Government of Iraq for having taken a number of measures to address internal displacement in various ways. Institutionally, the existence of a dedicated ministry, the Ministry of Migration and Displacement, is in line with the

<sup>2</sup> Office for the Coordination of Humanitarian Affairs, *Iraq Humanitarian Needs Overview 2020*, November 2019, p. 5.

<sup>3</sup> International Organization for Migration (IOM), Returns Working Group and Social Inquiry, *Reasons to Remain: Categorizing Protracted Displacement in Iraq*, November 2018.

<sup>4</sup> IOM, Displacement Tracking Matrix, November – December 2019, p. 1.

<sup>5</sup> Ibid.

general recommendation made by the mandate holder that States establish a focal point within the executive branch of government. The Office of the Prime Minister and several ministries, such as the Ministry of the Interior and the Ministry of Justice, have instituted offices and programmes to focus attention on the myriad of aspects of internal displacement. For example, the Ministry of Justice reported having sent mobile teams and reopened offices in areas retaken from ISIL to provide services for the restoration of property rights to affected populations, while the Ministry of Interior reported having sent mobile teams to issue civil documentation to displaced persons in camps. The Ministry of Migration and Displacement has, among other steps, instituted a compensation scheme for those whose properties and houses have been destroyed or severely damaged.

13. The above-mentioned efforts are complemented by overall coordinating mechanisms, such as the Joint Coordination and Monitoring Center within the Federal Government (linked to the Council of Ministers) and the Joint Crisis Coordination Center within the Kurdistan Regional Government (linked to its Ministry of the Interior) to coordinate crisis response and information management. Better coordination between these bodies would be beneficial. The Joint Coordination and Monitoring Center, with support from the international community, has established community resource centres to provide information to internally displaced persons, returnees and host communities on the government services and humanitarian assistance available and to make referrals. Issue-based committees, such as the Committee for Coexistence and Communal Peace under the Office of the Prime Minister and the governorate returns committees have been helpful in providing targeted responses.

14. The Kurdistan Regional Government, which hosts the majority of the remaining internally displaced persons, and the governorates have played a central role in hosting the millions of people displaced by the ISIL conflict, and shown commendable willingness to provide them with refuge for many years, despite the heavy burden on their own resources. Their efforts require more support from the federal Government and from the international community. It is regrettable, however, that local integration is rejected by authorities in hosting areas, who argue that this would change their demographics. Meanwhile, conditions for the safe, informed, voluntary and dignified return of internally displaced persons are not necessarily in place in their areas of origin. The Principled Returns Framework endorsed by the Government of Iraq in 2018 is commendable and should be implemented by authorities.

15. Various laws and policy directives aim to address internal displacement issues. One example is the establishment of a compensation scheme by Law No. 20 of 2009 (Compensating the Victims of Military Operations, Military Mistakes and Terrorist Acts), as amended by Laws No. 57/2015 and 2/2020 (the Compensation Law), which provides for compensation to all citizens, including internally displaced persons and returnees, for harm suffered owing to military operations or terrorist actions. The law covers compensation for death, injuries, abductions, missing persons, property damage, and impact on employment and studies, and establishes committees to process claims. Following the amendment passed in 2020, compensation claims for property damage that do not exceed 30 million Iraqi dinar (ID) can now be decided at the governorate level, a measure that is intended to expedite processing.

16. The above-mentioned compensation scheme can play an important role in promoting the socioeconomic recovery of internally displaced persons and sustainable returns, and rebuilding trust between affected communities and the Government. It warrants a greater effort by the Government to allocate a sufficient budget for compensation and to address a number of shortcomings. The Special Rapporteur commends the decentralization efforts to make the compensation scheme accessible to those in need, and encourages the Government also to explore other forms of reparation for internally displaced persons, in accordance with international human rights and humanitarian law.

17. A scheme to support the voluntary return of internally displaced persons by financial grants was established in 2017. This positive initiative requires an appropriate budget allocation every year and oversight mechanisms to ensure the correct disbursement of funds. The amount granted to each family of returnees should correspond to the specific needs of each family, taking into account their vulnerability, the losses they have suffered and the living conditions in the area of return. Furthermore, a sufficient budgetary allocation to the Ministry of Labour and Social Affairs in support of social protection benefits and livelihood

opportunities can help to address the immediate needs of internally displaced persons and to support durable solutions for them.

18. In recent years, the Government of Iraq has had to tackle a massive and complex wave of displacement and has taken steps to address the many challenges encountered. However, a more comprehensive and cohesive strategy and greater efforts, including effective efforts to address the gaps, are needed to successfully address all aspects of the problem. Dealing with internal displacement and the protection of those displaced is the primary responsibility of the State, and will ensure stability for these people. The international community supports these efforts.

## IV. Critical humanitarian and human rights challenges

### A. Assistance needs

19. Two years after the declared end of military operations against ISIL, two thirds of the displaced population, approximately 4.1 million people, remain in need of humanitarian assistance.<sup>6</sup> Internally displaced persons in and out of camp settings lack or have limited access to food, shelter, potable water, sanitation, health care, education and livelihood opportunities. The quality of services provided in camps varies significantly, as camps are managed by different organizations. Poverty is widespread. A recent survey revealed that 76 per cent of internally displaced persons in camps and 65 per cent of those outside them reported that their basic household needs were not being met.<sup>7</sup> Some internally displaced persons reported to the Special Rapporteur that they had had to sell the food and non-food items received as they did not have any other source of cash. The emergency shelters in some camps urgently require renovation, especially in camps with long-term displaced populations who are still unable to return to their areas of origin or to achieve durable solutions. The Special Rapporteur also witnessed cases of internally displaced persons living outside camps in overcrowded shelters that did not meet dignified living standards. They said that broken windows and the lack of doors in shelters left them exposed to the elements, while their food supplies were left unprotected against rats and dogs. Returnees also faced hardship; 1.18 million were in acute need, lacked basic services and livelihood opportunities, and faced insecurity.<sup>8</sup> More than half of returnees reported that their basic household needs were not met.<sup>9</sup>

20. Lack of access to health care is particularly concerning. Many internally displaced persons and returnees who have experienced traumatic events require specialized mental health and psychosocial support services, which are mostly absent. Internally displaced persons in camps with inadequate water and sanitation services are especially vulnerable to outbreaks of communicable diseases, which is alarming amid reports of the spread of COVID-19 in Iraq. The presence of checkpoints often delays or deters pregnant women seeking access to medical facilities for prenatal care and safe childbirth. The Special Rapporteur met mothers of children with disabilities who had no access to the health services they required inside the camp, and were unable to obtain medicinal prescriptions or treatment because they lacked documentation and transportation.

21. During her field visits, the Special Rapporteur received information concerning internally displaced persons who had left camps in attempted returns, including forced and coerced returns, and had undergone secondary displacement, and had not been readmitted to the camps owing to current policy. When they were readmitted, they were not reregistered and thus had no entitlement to services. Deprived of assistance and protection and left off

<sup>6</sup> Office for the Coordination of Humanitarian Affairs, *Iraq Humanitarian Needs Overview 2020*.

<sup>7</sup> See [www.impact-repository.org/document/reach/3867598a/REACH-AWG-IRQ-PPT-MCNA-VII-Joint-Analysis-Workshop-Prelim.-findings-September2019.pdf](http://www.impact-repository.org/document/reach/3867598a/REACH-AWG-IRQ-PPT-MCNA-VII-Joint-Analysis-Workshop-Prelim.-findings-September2019.pdf).

<sup>8</sup> Office for the Coordination of Humanitarian Affairs, *Iraq Humanitarian Needs Overview 2020*, p. 22.

<sup>9</sup> [www.impact-repository.org/document/reach/3867598a/REACH-AWG-IRQ-PPT-MCNA-VII-Joint-Analysis-Workshop-Prelim.-findings-September2019.pdf](http://www.impact-repository.org/document/reach/3867598a/REACH-AWG-IRQ-PPT-MCNA-VII-Joint-Analysis-Workshop-Prelim.-findings-September2019.pdf). Data were collected between mid-June and mid-August, before the camp closures and consolidations.

records, such persons run the risk of sliding deeper into poverty and social marginalization. Internally displaced persons who wish to return to camps following a failed attempt to return to their area of origin are as entitled to humanitarian assistance as the rest of the displaced population, and must be accepted and registered for support and assistance.

## **B. Humanitarian access**

22. Humanitarian organizations have been facing increasing challenges when seeking access to programme locations and providing assistance to internally displaced persons and returnees in need. According to the Iraq Humanitarian Needs Overview 2020, constraints on access, such as acts of intimidation, the presence of armed actors, explosive ordnance, and issues relating to checkpoints and administrative restrictions, have been reported in 93 per cent of districts in northern and central Iraq.

23. The Special Rapporteur received reports that, in order to move personnel and supplies within Iraq and across checkpoints, humanitarian actors were required to obtain multiple access letters, the process for which was cumbersome, lengthy and fragmented, and has become more complex over time; governorate, district-level and local security actors increasingly demand access letters in addition to the national letters obtained through the process established by the Joint Coordination and Monitoring Center. In some areas, such as in Ninewa Governorate, up to nine letters were required at a time. The requirements are different in each location; furthermore, some access letters have limited validity, and must to be constantly renewed.

24. Humanitarian access has worsened since December 2019, when the Government of Iraq suspended the issuance of access letters to non-governmental organizations, a decision that had a significant impact on their ability to operate in the country and to provide assistance to displaced populations and returnees. The Government has, however, reported taking comprehensive measures to address this important issue, including through the establishment of a hotline. A facilitation of the issuance of national access letters is essential if humanitarian actors are to reach internally displaced persons and returnees in need.

## **C. Civil documentation and access to services**

25. Internally displaced persons face numerous barriers when they seek to obtain or renew civil documentation. Many have lost their documents or had them destroyed or confiscated in the course of displacement. Those having lived in areas controlled by ISIL might hold documents that are not recognized by the Government of Iraq. Iraqi law requires that civil documents be obtained in one's place of origin, to which internally displaced persons are often unable to travel. Civil documentation is fundamental to the enjoyment of a wide range of human rights, as it permits access to basic services, including health care and education,<sup>10</sup> and civil services such as recognition of marital status and property rights, employment opportunities and freedom of movement, and existing compensation schemes and social protection benefits. The lack of civil documentation and consequent marginalization increase the vulnerability of internally displaced persons, including to sexual and gender-based violence.

26. The initiative of the Government of Iraq, with the support of the international community, to send mobile units to a number of camps is highly commendable and constitutes a good practice. The Special Rapporteur encourages the Government and partners to continue this undertaking in order to ensure that the units visit as many camps, locations hosting internally displaced persons, and areas of return as possible, and to continue measures to ensure that the service be provided to all those in need, without discrimination. Expanding documentation efforts beyond the civil identity and national registry to cover birth certificates and other civil documentation is also necessary. The Special Rapporteur moreover encourages the Government to facilitate the issuance of documentation for internally

<sup>10</sup> See for example UNAMI/OHCHR, *The Right to Education in Iraq. Part One: The legacy of ISIL territorial control on access to education*, February 2020, pp. 11–12.

displaced persons by cutting through the layers of bureaucracy that are normally applied to non-displaced populations.

## **D. Camp closures and consolidation**

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

28. While the significant return flows over recent years and the reduced number of new displacements might require the consolidation of some camps in order to optimize resources, such decisions require a careful assessment of factors specific to each camp, in consultation with stakeholders and internally displaced persons themselves, and in accordance with the Principled Returns Framework. Camp closures and consolidation should only proceed when they ensure returns that are voluntary, informed, safe, sustainable and dignified; internally displaced persons should not be returned to locations with conditions that could result in secondary displacement or risks to their safety and security. The right of internally displaced persons to decide on durable solutions (namely, return, integration in the area of displacement or settlement elsewhere) must be respected.

## **V. Particularly vulnerable groups**

### **A. Displaced ethnic and religious minorities**

29. While ethnic and religious tensions, often marked by discrimination, persecution and violence against minority groups, have long existed in Iraq, the targeting of minorities by ISIL reached extreme levels of brutality (see A/HRC/34/53/Add.1). With its extremist interpretation of Islam, ISIL committed atrocities, including summary executions, torture, abductions, forced religious conversions and sexual violence, including rape, child/forced marriage, sexual slavery and trafficking in women and girls, against minorities that it perceived as infidels or heretics. It also looted, seized and destroyed their cultural sites, places of worship and properties, leading to the displacement of ethnic and religious minorities in large numbers.

30. Several minority groups, or components of Iraqi society as many prefer to be called, such as Christians, Kaka'e, Shabaks, Sabean-Mandaeans, Turkmen and Yazidis, were severely affected by violence and displacement. The crimes committed by ISIL against the Yazidis have been recognized as amounting to genocide, crimes against humanity and war crimes.<sup>11</sup> At the same time, there have also been allegations of human rights violations perpetrated by Iraqi security forces and pro-government forces against civilians and fighters,

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<sup>11</sup> See Independent International Commission of Inquiry on the Syrian Arab Republic, “‘They came to destroy’: ISIS Crimes against the Yazidis”, conference room paper (available from [www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/Documentation.aspx](http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/Documentation.aspx)), para. 201; and A/HRC/28/18, para. 78.



including those belonging to ethnic and religious minorities, in the context of military operations and anti-terrorism measures.

31. Ethnic and religious minorities in Iraq have suffered enormous losses and violations, and many of them have lived in displacement for many years now. They recall the destruction of their homes and the physical and social conditions that prevent them from resuming their lives in their areas of origin. Their experience of displacement is intimately marked by their experience as a minority, and by the persecution and discrimination that they have endured before and during their displacement. They have struggled to achieve durable solutions suitable to their situation. The trauma and extreme forms of violence suffered by many have been compounded by years of living uprooted, in displacement, and the lack of hope of returning to their homes or of the prospect of finding a new home elsewhere.

32. Increased resources should be allocated to measures ensuring that displaced ethnic and religious minorities in Iraq have access to mental health and psychosocial services, livelihood opportunities, shelter, basic services including health care and education, and legal documentation, particularly for the children. The ongoing plight of these minorities demands targeted support to achieve durable solutions suitable to their particular situation; in this regard, all possibilities should be considered, namely return, local integration or settlement elsewhere, with the active participation of communities themselves.

## **B. Displaced families with a perceived affiliation to Islamic State in Iraq and the Levant**

33. Entire families of internally displaced persons have faced allegations by the authorities, security actors and communities that they are associated with ISIL, without any evidence being presented or criminal charges brought against them. These allegations are often based on perceived tribal or family ties to an alleged ISIL member, or even on grounds of their place of origin. Families allegedly having such affiliation risk deprivation of their basic rights, discrimination and social marginalization.

34. On the pretext that they constitute a security threat, these displaced families, including women and children, have seen movement restrictions imposed on them and been deprived of access to civil documentation and basic services. The Special Rapporteur is also concerned at reports of arbitrary detention and arrests, and instances of humanitarian actors not being allowed by local authorities, or facing opposition from local communities, to assist these families. Persons with a perceived affiliation to ISIL have been subject to threats, harassment and violence by military and security actors and communities, both in areas of displacement and in areas of origin, and have often not been allowed to return to their areas of origin. Unwelcome in hosting governorates and in their areas of origin, many of these families have had to remain in camps for years, without a solution in sight.

35. The Special Rapporteur is gravely concerned about the human rights situation of internally displaced persons with a perceived affiliation to ISIL and the restrictions on freedom of movement imposed on them. Often not allowed to cross the many checkpoints present in the country, they are unable to travel to cities when seeking access to services, such as health care, education, civil registries, courts or legal aid. Movement restrictions have also often prevented their return to their areas of origin. In some instances, they have reportedly faced severe restrictions on their movement, and have even had to be escorted when seeking medical or legal assistance.

36. The authorities have argued that the above-mentioned restrictions on movement had been imposed for the safety of internally displaced persons and communities. According to principle 14 of the Guiding Principles on Internal Displacement and article 12 of the International Covenant on Civil and Political Rights, however, internally displaced persons have the right to freedom of movement, to choose their place of residence and to move freely in and out of camps. Only in exceptional circumstances may restrictions of movement be imposed, and these must be provided for by law, which must establish the conditions and precise criteria under which movement may be limited. Restrictions must pursue a legitimate aim (such as to protect national security) and must be temporary, proportionate, necessary

and consistent with other human rights provisions, including the principles of equality and non-discrimination.<sup>12</sup>

37. The restrictions on freedom of movement that have been imposed on internally displaced persons with a perceived affiliation to ISIL do not meet the above-mentioned criteria. These measures lack legal grounds in Iraqi law, have a disproportionate impact on the enjoyment of a wide range of human rights, and discriminate against certain groups. In particular, the restrictions affect a large number of displaced persons, including many women and children, which further demonstrates their disproportionate nature. The freedom of movement and choice of residence are also essential elements of the right of internally displaced persons to choose durable solutions, and a constitutional right in Iraq.

38. The Special Rapporteur was extremely concerned to learn that security clearance has been required for internally displaced persons to obtain or renew civil documents, and is often denied to those belonging to families with a perceived affiliation to ISIL. In some cases, relatives of alleged ISIL members have been asked to disavow their family member so that they can be granted security clearance. Without civil documentation, these families have limited or no access to basic services, such as education and health care, housing, land and property rights, or social welfare benefits or compensation. They are also at a greater risk of arbitrary arrest and detention by security forces, who may perceive persons without civil documentation as being affiliated to ISIL. This perception could also endanger internally displaced persons, including children, who lack civil documentation for reasons other than the denial of security clearance. Delinking the requirement to obtain security clearance from procedures to obtain civil documentation will allow the enjoyment of this constitutional and fundamental right, without discrimination. The Government of Iraq reported that the Prime Minister had ordered that civil documentation be issued for all Iraqis living in camps, regardless of the perceived ISIL affiliation of a family member. The Special Rapporteur welcomes this directive and calls for its full implementation, and that it also be extended to persons living outside camps.

39. Families with a perceived affiliation to ISIL also fear returning to their areas of origin owing to threats and fear of retaliation from communities, local authorities and armed actors. Communities often oppose the return of these families owing to grievances relating to the violence suffered under ISIL and the fear of an ISIL resurgence. Returnees with a perceived affiliation to ISIL often face discrimination, harassment and in some cases forced eviction and violence, including sexual and gender-based violence.

40. The discriminatory treatment of entire families of internally displaced persons because of perceived ties to ISIL or the actual or alleged affiliation of one or some of their members to ISIL constitutes collective punishment in violation of international law.<sup>13</sup> As provided for by article 19 of the Constitution of Iraq and in line with international law, criminal responsibility is individual, and individuals suspected of criminal offences should be dealt with in accordance with the law and afforded all fair trial guarantees. Others should not be held collectively responsible for the proven or alleged crimes of a member of their family or community, and should not suffer any discrimination in the exercise of their fundamental rights.

41. The situation of internally displaced persons with a perceived affiliation to ISIL might be heightened by the potential return of thousands of Iraqis from Al-Hawl camp and other camps in the Syrian Arab Republic, and requires a greater effort by the Government of Iraq, for example in the form of social cohesion and reconciliation programmes, to tackle discriminatory practices. The Government must ensure that all internally displaced persons and returnees are treated without discrimination and afforded the support and protection they are due to enjoy their human rights in equality with others.

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<sup>12</sup> See also Human Rights Committee general comment No. 27 (1999) on freedom of movement.

<sup>13</sup> International Committee of the Red Cross, Study on Customary International Humanitarian Law, Rule 103.

### C. Internally displaced children

42. The situation of internally displaced children in Iraq – a generation traumatized by violence, deprived of education and opportunities – is among the most tragic legacies of the conflict against ISIL. Internally displaced children who lived in areas controlled by ISIL have been exposed to some of the most extreme forms of violence, exploitation and abuse, and now face additional psychosocial challenges due to their situation of displacement. They require mental health and psychosocial services, as well as safe spaces to enable them to recover and resume normal lives.

43. Many displaced and returnee children have lost family members and caregivers in the conflict. Orphaned or separated from their families, they often face social marginalization and are at a high risk of exploitation and abuse. Others bear the burden of working and providing for themselves and their families; children from female-headed households and unaccompanied children have been particularly affected. Many internally displaced and returnee children have acute needs, lack access to basic services and education, and have little prospect of future educational and livelihood opportunities.

44. The extent to which internally displaced children inside and outside camp settings are deprived of education is extremely concerning.<sup>14</sup> Unable to enrol in the formal education system owing to a lack of civil documentation or to restrictions on movement, a generation of marginalized children is emerging. Many internally displaced children have missed years of education because of the conflict and now struggle to resume their studies. As children are enrolled according to their age and not their educational level, children who have missed years of schooling risk being unable to follow content and often have no access to classes to catch up with their education. Others are considered too old to be admitted back into the formal school system.

45. Displaced girls face additional challenges in their access to education due to existing social norms and gender stereotypes, and child marriage. Children who lived in areas controlled by ISIL now face additional barriers to enrolment due to discrimination and, in many cases, their inability to obtain civil documentation. Where education is available, the number of teachers and the classroom time are often insufficient, leading to poor learning outcomes. In camp settings, teachers are usually volunteers from the community who, although well-intentioned, lack the required qualifications.

46. Without education, children are deprived of the opportunity to develop to their full potential and of future livelihood opportunities, perpetuating social exclusion and inequalities, and to take on their eventual responsibilities as Iraqi citizens. Children out of school are also at a higher risk of exploitation and abuse. A 10-year-old displaced girl told the Special Rapporteur that she dreamed of becoming a doctor, but that she wished she could have more than two hours of classes a day. Another displaced girl said that she could not go to school because she had no identification documents, so she had no dreams at all.

47. Discriminatory barriers impede the access of many internally displaced and returnee children to birth certificates and other civil documents. As the presence of a child's father in court or the presentation of his death certificate is required for the issuance of a birth certificate, displaced children who have lost or have been separated from their father but do not have a death certificate, or who were born out of an act of sexual violence, are unable to obtain birth certificates and other documents. Without civil documentation, they cannot enrol in formal education, have access to health care and basic services, apply for security clearances to move around the country or exercise their rights as children. Children who remained in areas controlled by ISIL often do not have birth certificates, or hold certificates that are not recognized by the Government of Iraq.

48. By ratifying the Convention on the Rights of the Child, the Government of Iraq undertook a commitment to ensure access to birth registration and documentation for all Iraqi children. The requirement of the presence of the father in court or the presentation of a death certificate should be lifted. The Special Rapporteur welcomes reports that the Government

<sup>14</sup> See also UNAMI/OHCHR, *The Right to Education in Iraq Part One: The Legacy of ISIL territorial control on access to education*.

has launched a special administrative process to facilitate the registration of children born out of rape through the deployment of mobile teams, and encourages its expansion to reach displaced and returnee children in as many locations and situations as possible.

49. Internally displaced children and adolescents whose family members are perceived to be affiliated to ISIL, or who are themselves perceived to be affiliated to ISIL, are particularly vulnerable to exploitation and abuse, and are at risk of arbitrary detention. Security clearance requirements have resulted in children of families perceived as affiliated to ISIL being deprived of civil documentation and therefore of basic services. Many of these children are unaccompanied or separated from their families, and they face additional obstacles for family reunification owing to the associated stigma.

50. While a number of programmes, including by civil society, currently provide invaluable education and psychosocial support for groups of children, the scale of the problem requires a more comprehensive approach across the country. The Special Rapporteur calls for government policies, including the national child protection policy, to be strengthened to ensure that displaced children have access to civil documentation, food, shelter, education and health care, including psychosocial care, and that conditions are in place for their safe, voluntary and dignified return.

#### **D. Sexual and gender-based violence**

51. Disturbing reports have been received of sexual and gender-based violence against internally displaced women and girls, and to a lesser extent, men and boys. Those in camps are particularly vulnerable because of lack of or limited access to basic services and livelihood opportunities, and limited possibility for movement. Domestic violence is reportedly widespread among internally displaced persons, and there have been calls for the enactment of the anti-domestic violence law, especially in the context of the COVID-19 pandemic.<sup>15</sup> Transactional sex to help meet basic needs or to obtain protection (also referred to as “survival sex”) and cases of forced and child marriage have been reported among the negative coping mechanisms adopted by some displaced families living in poverty and deprived of livelihood opportunities. Reports have also been received of cases of women whose families are perceived to be associated to ISIL, such as widows of alleged ISIL members, being subjected to harassment and sexual violence. Some of the cases reportedly took place in checkpoints or in the context of security clearances, or were committed by security actors inside camps. The Special Rapporteur recalls that no armed personnel should be allowed inside camps, which must have their civilian and humanitarian character protected. Because of the fear of sexual and gender-based violence in camps and areas hosting internally displaced persons, women and girls feel insecure and may avoid going to markets, schools, service delivery points or crossing checkpoints, compounding their marginalization, economic hardship and consequent vulnerability.

52. Cases of sexual and gender-based violence are largely underreported, which is probably due to the lack of access to judicial or administrative mechanisms, fear of stigmatization or retaliation, and lack of criminal accountability for perpetrators and protection mechanisms for survivors. The Ministry of the Interior reported having established mechanisms to receive complaints of sexual and gender-based violence inside camps, such as mobile units deployed to camps and the opening of a hotline to report domestic violence. Although these efforts are most welcome, they must be combined with greater criminal accountability for perpetrators, protection measures for survivors and awareness-raising efforts to combat stigmatization. Protection, legal, medical and psychosocial support services should be strengthened, especially inside camps, for women and girl survivors of sexual and gender-based violence.

53. Some internally displaced or returnee women and girls have already experienced conflict-related sexual violence and need health-care and psychosocial support. Women and

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<sup>15</sup> United Nations Iraq, “UN in Iraq raises the alarm: Time to endorse the anti-domestic violence law”, 16 April 2020.

girls from Yazidi communities and other minorities who survived ISIL captivity and sexual exploitation and abuse require more dedicated support for trauma, healing and rehabilitation. The situation of Yazidi women whose children were born out of sexual violence must also be addressed. Yazidi religious leaders have announced that women and girls survivors of sexual violence should be received back by their communities without shame and reintegrated, but not the children born out of rape during sexual enslavement by ISIL. Only a child born of two Yazidi parents is considered a Yazidi. This poses serious concerns for the situation of these children, who are at risk of abandonment, and for the prospects of durable solutions for internally displaced Yazidi women and their children. This issue requires more mediation and social cohesion efforts at the community level.

54. Other ethnic and religious minorities have also been subjected to sexual violence by ISIL, including Christians, Turkmen and Shabak, and need support. The Special Rapporteur welcomes the efforts of the Government of Iraq to adopt a law on support to Yazidi women survivors and the commendable survivor grant programme established in 2019 by the Ministry of Migration and Displacement for urgent financial relief for Yazidi women who were liberated from ISIL captivity, and recommends that they be extended to all survivors of conflict-related sexual violence, regardless of ethnicity or tribal identification.

## VI. Prospects and challenges for the achievement of durable solutions

55. While 4.6 million internally displaced persons<sup>16</sup> have returned to their places of origin, returns have slowed since 2018.<sup>17</sup> Of the 1.4 million people who remain in internal displacement in Iraq, about 70 per cent have been displaced for longer than three years.<sup>18</sup> Recent surveys indicate that around 90 per cent do not intend to return in the short term, and 70 per cent in the long term.<sup>19</sup>

56. Unlocking protracted displacement in Iraq is a real challenge. The Government of Iraq has announced the goal of all internally displaced persons returned home by the end of 2020. Numerous obstacles, however, remain. At the same time, local integration is rejected outright by the authorities in hosting areas, arguing that the return of displaced persons would change their demographics. For those who managed to return, policies should ensure the conditions necessary for returnees to resume their lives. Without those conditions, they risk falling back into displacement.

57. Destroyed or damaged housing and other issues relating to housing, land and property rights, such as the occupation of property by others and lack of documentation to prove tenure, remain significant obstacles to the return of internally displaced persons to their place of origin. In some cases, these issues can be compounded by long-standing housing, land and property disputes. Current reconstruction efforts, while crucial, struggle to address the extent of the destruction. The Housing Reconstruction Strategy in Governorates affected by Terrorism and Military Operations, developed with the technical support of the international community and endorsed by the Council of Ministers in June 2019, is a positive step to support durable solutions for internally displaced persons whose houses were damaged or destroyed in the conflict, and now needs to be fully operationalized. The Compensation Law requires larger budgetary allocations and more information outreach to internally displaced persons and returnees for its effective implementation. Cumbersome, lengthy and in some instances unclear claim procedures have high evidentiary requirements that cannot be met by persons lacking sufficient documentation because of their situation of displacement. Many claims are left unprocessed, while allegations of corruption, nepotism and discrimination in the processing of claims are also a matter of concern. Additional measures should be taken

<sup>16</sup> International Organization for Migration, Displacement Tracking Matrix, November – December 2019.

<sup>17</sup> The number of returns spiked in the second half of 2019 following camp closures and consolidation.

<sup>18</sup> Office for the Coordination of Humanitarian Affairs, *Iraq Humanitarian Needs Overview 2020*.

<sup>19</sup> See [www.impact-repository.org/document/reach/3867598a/REACH-AWG-IRQ-PPT-MCNA-VII-Joint-Analysis-Workshop-Prelim.-findings-September2019.pdf](http://www.impact-repository.org/document/reach/3867598a/REACH-AWG-IRQ-PPT-MCNA-VII-Joint-Analysis-Workshop-Prelim.-findings-September2019.pdf). Data collected between mid-June and mid-August before camp closures and consolidation.

to ensure that internally displaced persons and returnees can claim compensation through awareness-raising, legal assistance and solutions to address lack of civil documentation.

58. Contamination of land by explosive remnants of war, restrictions on freedom of movement and lack of livelihood opportunities in the area of origin are other major obstacles to return. Female-headed households have been particularly affected by the lack of livelihood opportunities. During group discussions with women both inside and outside camp settings, they shared their experiences of living in poverty and stressed that one of their main needs was to receive the tools and training to start income-generating activities. Some of them stated that they could not leave the camps because they relied solely on humanitarian assistance to survive. Existing income-generating initiatives should be strengthened and expanded in scope, with a special focus on women and girls. Solid, extensive, diverse income-generating schemes for women could not only address their basic needs but also reduce their vulnerability to sexual and gender-based violence, besides expanding their options for durable solutions.

59. Lack of social cohesion and fears relating to the area of origin including trauma and fears of discrimination, marginalization and violence due to community tensions have hindered the return of many displaced persons. Insecurity and fear of the resurgence of ISIL have also hindered returns. Many internally displaced persons have experienced violence and extreme distress in the context of the armed conflict and displacement, and have difficulty returning to places where they have endured these traumatic events, particularly the Yazidi and other minorities.

60. Internally displaced persons who are perceived to have some degree of association with ISIL have also struggled to return to their areas of origin, fearing retaliation from communities. Communities that have been subjected to extreme human rights violations by ISIL are resistant to take back these families, fearing a resurgence of ISIL and lacking confidence in the security and judicial measures taken in Iraq. On the other hand, these families should not be punished for actual or alleged acts of others, and their segregation and marginalization does not contribute to healing the grievances that fuelled the conflict. On the contrary, the marginalization of entire groups might create fertile ground for the resurgence of extremist groups.

61. Development, social cohesion and reconciliation are essential elements for achieving durable solutions for those who remain displaced, and for preventing further waves of displacement. Such undertakings will require not only massive reconstruction of damaged infrastructure and housing, and demining but also the promotion of tolerance and respect for diversity, and dialogue among different ethnic and religious groups in the country.<sup>20</sup> Humanitarian assistance and protection efforts targeting internally displaced persons and returnees should be combined with long-term strategies to promote human rights and to support education, livelihood opportunities and social cohesion. Longer-term activities founded on the humanitarian-development-peace nexus should be strengthened to foster durable solutions.

62. The Special Rapporteur notes the emerging local and contextually-based joint approaches of the Government of Iraq, the United Nations and non-governmental organizations that foster a consolidated approach to peacebuilding, economic recovery and livelihoods, and physical and social rehabilitation. She is also encouraged by a number of new agreements among governorates and those between the Kurdistan Regional Government and Ninewa governorate, for example, with regard to return to disputed territories. Stabilization efforts should, however, be seriously scaled up, especially in village and localities of return, with the inclusion of civilian structures for the rule of law and accountability. A national peace and reconciliation plan should be developed to address issues relating to reintegration, reparation and justice, while ensuring the participation of internally displaced persons in decision-making. Recovery efforts should dedicate special attention to children, and increase investment in quality education and mental health and

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<sup>20</sup> See for example Office of the United Nations High Commissioner for Refugees, *Displacement as challenge and opportunity - Urban profile: Refugees, internally displaced persons and host community, Erbil Governorate, Kurdistan Region of Iraq*, May 2016.

psychosocial support. Most of these efforts require development support in the areas of origin and, particularly, in the very villages and local places where the internally displaced persons used to live. Recovery efforts should also address the specific challenges that ethnic and religious minorities face in their pursuit of durable solutions.

63. Moreover, any sustainable response to the internal displacement situation in Iraq, as in any other State, requires accountability and the rule of law under international human rights. This will entail justice for crimes committed during the conflict by all parties to the conflict, including crimes committed against ethnic and religious minorities and conflict-related sexual violence, with trials conducted with respect for fair trial guarantees and human rights standards. The acknowledgement of the crimes committed and of the responsibility of perpetrators is essential for both intracommunal and intercommunal reconciliation. Greater trust of communities in the criminal justice system, increased knowledge of communities about the fate of perpetrators and victims, and effective reparations would contribute to building a sense of safety and justice within communities which are essential for the promotion of reconciliation, enabling the safe, dignified and sustainable return of internally displaced persons.

64. While the Government of Iraq has made significant efforts to prosecute ISIL fighters for the atrocities committed, a number of concerns have been raised. In a joint report, UNAMI and OHCHR expressed concern that basic fair trial guarantees were not being respected in these trials, and that terrorism charges were too broad, referring simply to “membership” or “association” to a terrorist group, resulting in family members of ISIL fighters, including women and children who cooked for them, being prosecuted without consideration for their specific contribution to crimes by ISIL and for the voluntary or coerced nature of their association.<sup>21</sup> Moreover, anti-terrorism legislation does not cover all relevant crimes, particularly international crimes and conflict-related sexual violence, leading to calls for new legislation in Iraq,<sup>22</sup> and for acts of sexual violence to be prosecuted as standalone crimes (S/2018/250, para. 46). With the support of the international community, including the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da’esh/ISIL, Iraq must tackle the need for justice and accountability for the crimes of ISIL, in full respect for fair trial guarantees, including double jeopardy issues, and with a focus on the human rights violations committed.

65. Lastly, the participation of internally displaced persons in decisions that affect them is paramount for stabilization, and must be inclusive of persons of all ethnic and religious groups, sexes and age groups, and persons with disabilities. Participation is essential in the design of policies aimed at meeting their assistance and protection needs, supporting returns and other forms of durable solutions, and in processes to ensure accountability for crimes committed during the conflict, and to promote national reconciliation and social cohesion.

66. The upcoming parliamentary elections, crucial for the political transition of the country, will require the genuine and full political participation of internally displaced persons and returnees. The recent inclusion of internally displaced persons in the latest elections in Iraq is an excellent development in their political enfranchisement, but that experience points to areas that require improvement in the next elections. The genuine participation of internally displaced persons and returnees in the next elections can provide an opportunity for Iraqi society to transition to peace and for the reintegration of internally displaced persons and returnees in sustainable political, economic and social life.

67. There is a general sense in Iraq that the recent demonstrations in the country have overshadowed other matters from the attention of the Government of Iraq. The human rights situation of internally displaced persons in Iraq is however not an isolated issue that can be put aside; rather, it is at the core of the challenges that the country faces, and calls for an immediate step-up in efforts for the promotion of humanitarian assistance, development and

<sup>21</sup> OHCHR and UNAMI, “Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL”, January 2020.

<sup>22</sup> See for example the third report of the Special Adviser and Head of the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da’esh/ISIL in Iraq and the Levant (S/2019/878), para. 96.

stabilization approaches, and social cohesion, justice and reconciliation. The invitation extended to the Special Rapporteur by the Government and its willingness to engage with her mandate is testament to its political will to address displacement issues. The Government's recognition of the need for reconciliation and social cohesion is also encouraging. Efforts must, however, be scaled up further. There can be no true recovery possible for Iraq without addressing the human rights situation of internally displaced persons. The achievement of durable solutions for them will require the State to address its long-standing and deeply entrenched sectarian and ethnic tensions.

## VII. Role of the international community

68. Amid the large-scale displacement crisis caused by the conflict against ISIL, the international community has played a crucial role in providing humanitarian assistance to those most in need; for example, in 2019, 85 per cent of beneficiaries, including returnees and out-of-camp and in-camp internally displaced persons, targeted by the 2019 Humanitarian Response Plan for Iraq<sup>23</sup> were reached. It is important to reiterate, however, that a large number of internally displaced persons and returnees remain in acute need in 2020; the international community must therefore continue to dedicate resources to humanitarian assistance. The Special Rapporteur calls upon the international community and donors to continue to support humanitarian assistance efforts in Iraq to fulfil the requirements of the 2020 Humanitarian Response Plan for Iraq and the Global Humanitarian Response Plan for COVID-19.

69. At the same time, durable solutions, development and stabilization initiatives must be supported and social cohesion promoted in order to address the root causes of the humanitarian crisis and related assistance and protection needs, and to avoid prolonged need for humanitarian aid. A number of initiatives already exist in this regard, including partnerships between the international community and the Government of Iraq, and reconstruction efforts, including through the Funding Facility for Stabilization. Initiatives are not, however, sufficiently coordinated, and they lack a consolidated strategic approach to humanitarian, development and peace work. Development and stabilization efforts must be scaled up through a joint cohesive approach and clear strategy adopted to support durable solutions for internally displaced persons and to unlock protracted displacement, with a focus on promoting social cohesion and reconciliation, the rule of law and governance, with special attention paid to the situation of internally displaced and returnee women and children. Iraq provides an excellent opportunity to adequately implement the humanitarian-development-peace nexus through efforts by the Government and the international community to support durable solutions.

## VIII. Conclusions and recommendations

70. **Much progress has been made in relation to the issue of internal displacement in Iraq. The remaining displaced population nonetheless continues to require humanitarian assistance. Conditions in places of return and the durable solutions available to internally displaced persons remain of paramount concern. The Special Rapporteur encourages the holding of discussions in an inclusive and strategic way to bring clarity to the overall approach of the Government of Iraq and the international community, while ensuring that protection and the principle of “do no harm” remain at the centre of any strategy. The mandate of the Special Rapporteur continues to be at the disposal of the Government of Iraq, in the international prerogative to protect the rights of internally displaced persons and in the national interest of Iraq to fulfil the human rights of its citizens. In the light of the above considerations, the Special Rapporteur makes the recommendations below.**

<sup>23</sup> [www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/iraq\\_hrp\\_2020.pdf](http://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/iraq_hrp_2020.pdf).



## A. Overall national response strategy

71. The Special Rapporteur recommends that the Government of Iraq, in consultation with internally displaced persons and with the support of the international community, develop a comprehensive, cohesive and up-to-date strategy, based on a mapping of current initiatives and the identification of gaps, to address the needs of the diverse groups of internally displaced persons, including continuing humanitarian needs, longer-term development targets and durable solutions for internally displaced persons.

## B. Critical humanitarian and human rights responses

72. The Special Rapporteur also recommends that the Government of Iraq:

(a) Ensure appropriate and secure shelter and housing options for internally displaced persons and returnees, including the upgrading of emergency housing facilities, particularly for long-term internally displaced persons;

(b) Ensure access of displaced households to food distribution programmes, including the universal public distribution system of Iraq, combined with targeted cash assistance programmes to tackle food insecurity and poverty;

(c) Implement the guidelines of the Inter-Agency Standing Committee on the inclusion of disabilities in humanitarian action,<sup>24</sup> and ensure that policies and programmes addressing internal displacement are disability-inclusive;

(d) Ensure that internally displaced persons inside and outside camp settings have, regardless of their documentation status, access to health-care services, including specialized sexual and reproductive health services for survivors of sexual and gender-based violence, and maternal and infant care;

(e) Ensure that internally displaced persons and returnees have access to mental health and psychosocial support services to help them with the challenges of living in displacement, and provide specialized support for traumatized children and survivors of sexual and gender-based violence, including members of ethnic and religious minorities;

(f) Issue directives to all governors and camp management that internally displaced persons who have left a camp must be readmitted if they return to the camp, and registered for support and assistance;

(g) Grant rapid and unimpeded passage of humanitarian assistance to internally displaced persons and returnees in need, in accordance with Principle 25 of the Guiding Principles on Internal Displacement by significantly simplifying the process for obtaining access letters and ensuring that security measures do not adversely hinder the work of humanitarian actors, including international organizations and non-governmental organizations;

(h) Facilitate access to civil documentation, including birth certificates for all internally displaced persons, by issuing documents in their area of displacement and reducing administrative requirements; and continue and expand initiatives for the provision of civil documentation to displaced populations through mobile units;

(i) Delink the security clearance requirement from the provision of civil documentation, and ensure that internally displaced persons and their attorneys have access to civil registries and courts without discrimination;

(j) Ensure that future camp consolidations or closures are based exclusively on returns or resettlement that are voluntary, safe and dignified, respecting the right of internally displaced persons to decide on their preferred durable solutions; any such

<sup>24</sup> Available from <https://interagencystandingcommittee.org/iasc-task-team-inclusion-persons-disabilities-humanitarian-action/documents/iasc-guidelines>.

closures and consolidations should be decided with the Governorate Returns Committee through a consultative evidence-based process, taking into account data on conditions in the areas of origin and involving humanitarian partners, camp management and camp populations, and with sufficient notice to all; returns should be coordinated with governorates of origin so that returnees receive adequate support;

(k) Maintain the civilian and humanitarian character of camps, taking measures to enforce the prohibition on the presence of armed actors in camps;

(l) Support ethnic and religious minorities in achieving durable solutions for their particular situation by promoting both intercommunal and intracommunal dialogue and social cohesion, and engaging in dialogue with minorities to rebuild trust and identify solutions;

(m) Cease the illegal and discriminatory restrictions on the freedom of movement of internally displaced persons on the grounds of their perceived affiliation to ISIL due to alleged family or tribal ties, and facilitate their passage through checkpoints; and ensure that any restrictions are provided for by law and are necessary, proportionate and consistent with international human rights law;

(n) Conduct targeted programming to address the stigmatization of internally displaced persons with a perceived affiliation to ISIL, and promote social cohesion;

(o) Ensure that humanitarian assistance and services are provided to all internally displaced persons and returnees without discrimination and only on the basis of needs;

(p) In accordance with the principle of individual criminal responsibility and the prohibition of collective punishment, take further measures to prevent and stop the collective punishment of internally displaced persons and returnees with a perceived affiliation to ISIL, ensuring that they are not discriminated against in their access to basic services, including health care and education, housing, land and property rights, social protection benefits, compensation schemes and return grants;

(q) In accordance with the Convention on the Rights of the Child and the best interests of the child, take measures to ensure that all displaced and returnee children are able to obtain a birth certificate, including by conducting a comprehensive birth registration campaign through mobile units, and removing the requirement of the presence of the father in court or the presentation of a death certificate in cases where such requirement would obstruct the right of the child to have access to birth registration;

(r) Promote the access of internally displaced children, including for children of families with a perceived affiliation to ISIL, to quality formal education, without discrimination, as an essential part of a national recovery strategy;

(s) Dedicate more budgetary resources to formal education in order to staff schools with qualified teachers in a sufficient number, and increase teaching hours and the number of formal schools in and near camps;

(t) Ensure that internally displaced children are able to attend schools outside camps on an equal footing with children who are not displaced, by facilitating movement and transport of students to schools, and the enrolment of internally displaced children who lack civil documentation; and provide for alternative education programmes to support children who have missed years of schooling, combined with psychosocial support to facilitate their reintegration into the formal school system;

(u) Promote lasting social cohesion and reconciliation in Iraqi society through education and by promoting tolerance and the values of equality and non-discrimination within schools; and promote acceptance of internally displaced children from different ethnic and religious groups, and children of families with a perceived affiliation to ISIL, thereby creating a welcoming and nurturing environment for their integration, learning and personal recovery;

(v) **Adopt a comprehensive legal and policy framework to address the situation of survivors of conflict-related sexual violence, many of whom remain in displacement, including by providing reparation through a comprehensive, inclusive and survivor-centred reparation programmes and expanding the proposed Yazidi reparations law and survivors' grants.**

### **C. Durable solutions**

73. **The Special Rapporteur further recommends that the Government of Iraq:**

(a) **Take measures to support internally displaced persons in achieving the durable solution of their choice by creating the conditions conducive to it;**

(b) **Ensure that any returns are voluntary, safe and dignified, in accordance with international human rights standards and the Principled Returns Framework;**

(c) **Develop a national peace and reconciliation plan addressing issues relating to reintegration, reparation and justice, and ensuring the participation of internally displaced persons and returnees;**

(d) **As a critical step in supporting durable solutions for communities in protracted displacement, undertake a comprehensive dialogue with communities affected by ISIL atrocities, in particular ethnic and religious minorities, to establish transitional justice mechanisms, to seek the truth about violations and to provide reparation, rebuilding trust between the population and the State and providing institutional guarantees of non-repetition;**

(e) **Expand income-generating schemes to promote the access of internally displaced persons and returnees to safe and dignified livelihood opportunities;**

(f) **With the support of the international community, scale up efforts for the reconstruction of houses and infrastructure damaged in the conflict and other housing, land and property issues; ensure sufficient budgetary allocations for existing grants and compensation schemes, including property compensation and return grants; ensure the efficient, transparent and impartial processing of claims for compensation and grants by establishing an oversight mechanism and an appeals procedure for denied claims; and facilitate the submission of claims by internally displaced persons and returnees through awareness-raising and by lowering supporting documentation requirements and accepting claims submitted in the governorate of displacement;**

(g) **Explore other forms of reparation for internally displaced persons, including medical and psychosocial care, justice and symbolic forms of reparation;**

(h) **Increase resources for clearing explosive remnants of war in cooperation with demining agencies, including in homes and residential areas.**

74. **The Special Rapporteur recommends that the United Nations, the international community and donors:**

(a) **Continue to support the Government of Iraq through humanitarian response plans and stabilization funds for reconstruction efforts, scale up projects on rule of law, governance, social cohesion and demining, and support local initiatives fostering social cohesion and reconciliation;**

(b) **Develop a clear, concrete and contextualized strategy for the humanitarian-development-peace nexus, including a transition plan, ensuring social cohesion within the context of durable solutions, and adopting targeted responses for specific populations with the purpose of securing protection and durable solutions;**

(c) **Increase the focus on economic investments, including for job creation, as a means to prevent conflicts and displacement.**