

# report

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## Uncertain Refuge, Dangerous Return: Iraq's Uprooted Minorities

by Chris Chapman and Preti Taneja





Three Mandaean men, in their late teens and early twenties, await their baptism, an important and recurring rite in the Mandaean religion. The baptism took place in a stream on the edge of Lund, in southern Sweden. Andrew Tonn.

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### Minority Rights Group International

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## Contents

Abbreviations	2
Summary	3
Map	5
Minorities in Iraq	6
Introduction	9
Minorities in flight – internal displacement	11
Iraq's minority refugees in neighbouring countries	13
Asylum outside the region	20
Prospects for return	28
Legal protection for Iraq's minority refugees	31
Conclusions	34
Recommendations	36
Notes	38

# Abbreviations

<b>CoE</b>	Council of Europe	<b>KRG</b>	Kurdistan Regional Government
<b>ECHR</b>	European Convention for Protection of Rights and Fundamental Freedoms	<b>MNF-I</b>	Multinational Forces in Iraq
<b>ECtHR</b>	European Court of Human Rights	<b>MoU</b>	Memorandum of Understanding
<b>EU</b>	European Union	<b>NGO</b>	Non-governmental Organization
<b>IDPs</b>	Internally Displaced Persons	<b>UKBA</b>	United Kingdom Border Agency
<b>ICCPR</b>	International Covenant on Civil and Political Rights	<b>UNAMI</b>	United Nations Assistance Mission for Iraq
<b>IMO</b>	Iraq Minorities Organization	<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>IOM</b>	International Organization for Migration	<b>UNOCHA</b>	United Nations Office for the Coordination of Humanitarian Affairs
<b>ITF</b>	Iraqi Turkmen Front	<b>USCIRF</b>	United States Commission on International Religious Freedom
<b>KDP</b>	Kurdistan Democratic Party		

# Summary

This report is based on missions conducted by staff of Minority Rights Group International (MRG) to Syria, Jordan and Sweden during 2008, and on subsequent research. Numerous interviews were conducted with members and representatives of Iraqi minority refugee communities in each of these countries.

The report discusses the situation of members of Iraqi minorities in flight, both internally displaced and as refugees either in neighbouring countries or further afield. It is clear that having passed Iraq's borders is no guarantee of safety. Given continuing uncertainty regarding their legal status and difficulties finding regular employment, Iraqi minority refugees in Jordan and Syria often live a precarious existence.

Those asylum-seekers who travel onwards to Europe risk being turned back if they go to Greece. If they continue on, they will face increasingly and variously restrictive asylum policies. The report examines the specific forms of persecution that have driven minority Iraqis to seek asylum, and the issues that asylum officials need to take into account when assessing their claims. The report also explores the only other alternative, namely resettlement from the countries of asylum in the region to other countries elsewhere. While resettlement is limited to a small percentage of the large numbers of Iraqi refugees in the region, minority refugees confront resettlement countries' problematic notions of what constitutes a nuclear family, and therefore risk dividing vulnerable families.

As the report details, irrespective of which country they may have reached or how, Iraqi minority refugees face considerable difficulties as they try to maintain their cultural identities and religious practices far from home, particularly for the smaller minorities, whose numbers as diaspora communities may be at the very limit of sustainability. Critical issues that they face include dispersal policies, whereby the country of asylum divides up refugees of a certain nationality between communities. The report finds that such policies ignore the requirements of Iraqi minority refugees, especially the need to maintain, as a community, their cultural identity and religious practices.

Following the discussion of countries of asylum, the report considers the possibilities for Iraqi minority refugees to return to their country of origin. While this would seem highly theoretical, given the precarious situation minorities face in Iraq, asylum countries are going forward with a combination of voluntary incentives and

force in order to make refugees and failed asylum-seekers' return. The report looks at the consequences of these actions and how they are viewed by minority refugees themselves.

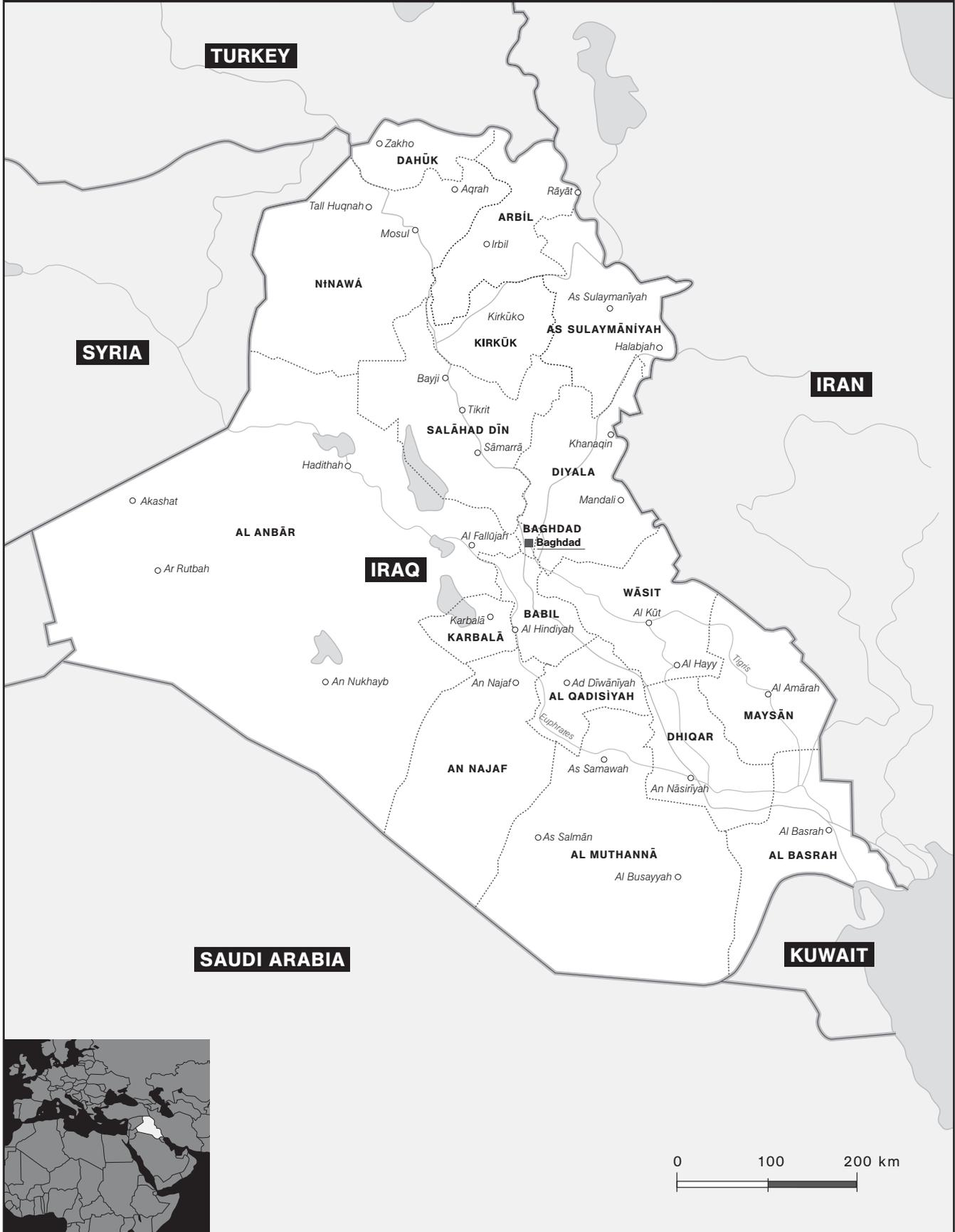
Finally, the report presents some of the issues of international refugee law that are particularly relevant to Iraqi minority refugees, before providing MRG's conclusions and recommendations.

Key recommendations include:

- Governments of neighbouring countries should ensure that all Iraqis who can demonstrate credibly that they have suffered persecution have access to protection. The *non-refoulement* principle must be respected and authorities must facilitate procurement of permissions to stay and work permits.
- The government of Iraq should increase support to the already-overburdened neighbouring states, using a percentage of income from oil revenues, in order to support social services for Iraqi refugees.
- All countries, particularly those on the borders of the European Union (EU) that are often the point of first access, must fulfil their obligations to Iraqi asylum-seekers, including dignified reception facilities and a fair and transparent process to assess asylum claims.
- Asylum authorities should recognize that, in view of the evidence of widespread persecution of ethnic and religious minorities in Iraq, membership of such a group should be considered sufficient grounds to establish a *prima facie* case for asylum. This should be noted expressly in guidance for staff carrying out refugee status determination.
- In view of the extensively documented persecution they have suffered, minorities should be considered as a priority for resettlement programmes; however, the criteria used must be objective and emphasize vulnerability so as not to exclude other vulnerable categories. There is a specific and very urgent case to resettle the Palestinians who remain in desperate conditions in camps in the border regions of Iraq, Jordan and Syria.
- There is an urgent need to resettle a larger number of the most vulnerable Iraqi refugees currently in Iraq's neighbouring countries. States who participated in the multinational force in particular have a moral obligation to these refugees. The response of the UK government to date, in particular, has been notably poor. The resettlement screening and administration process should be speeded up considerably.

- In order to avoid dispersing small minorities such as the Sabian Mandeans and Shabaks, and risking the complete disappearance of their cultures, governments of resettlement should consider cooperating to find a solution, with a view to identifying one country that could accept most refugees from a given community, notwithstanding family reunification issues.
- Governments should increase support to the already-overburdened neighbouring states which are hosting most Iraqi refugees, in order to support social services.
- Communities arriving in countries of asylum and resettlement should not be dispersed against their will. Should they choose to settle in concentrated areas, resources should be focused on those areas in order to promote integration, for example, through national language teaching, and cultural or other activities that promote contact with host communities.

# Iraq



## Minorities in Iraq

The Iraqi population is extraordinarily diverse in terms of ethnicity and religion. In addition to the three larger groups, Shi'a Arabs, Sunni Arabs and Kurds, there also live the following communities:

### Bahá'ís

Bahá'ís are considered 'apostates' or heretics under *Sharia* law due to their belief in a post-Islamic religion. The Bahá'í prophet Bahá'u'lláh denied that Muhammad was the last prophet and claimed that he, Bahá'u'lláh, was the latest prophet of God. Their situation in Iraqi society has therefore always been difficult and the ramifications of this, such as the fact that Bahá'ís born in the last 30 years have no citizenship documents including passports and therefore cannot leave the country, are still being felt today. According to the US Commission on International Religious Freedom (USCIRF), 'After the MOI [Ministry of Interior] cancelled in April [2008] its regulation prohibiting issuance of a national identity card to those claiming the Bahá'í faith, four Bahá'ís were issued identity cards in May. Without this official citizenship card, the approximately 1,000 Bahá'ís experienced difficulty registering their children in school, receiving passports to travel out of the country, and proving their citizenship.' The report noted that 'Despite the cancellation, Bahá'ís whose identity records were changed to 'Muslim' after Regulation 358 was instituted in 1975 still could not change their identity cards to indicate their faith.'<sup>1</sup>

### Black Iraqis

Black Iraqis are believed to have migrated from East Africa to Iraq around 1500 years ago, although another wave arrived in the 1980s, mainly being recruited into the army. They protest prejudicial treatment, such as being referred to as 'abd', or slave. They suffer political and economic exclusion; many are labourers or work as domestic help. Community representatives estimate that the population may number up to 2 million; the largest community is located in Basra.<sup>2</sup>

### Christians

Iraqi Christians include Armenians and Chaldo-Assyrians, who belong to one of four churches: the Chaldean (Uniate), Jacobite or Syrian Orthodox, Nestorian, and the Syrian Catholic. Christians are at particular risk because of their religious ties with the West and thus, by association, with the multinational forces (MNF-I) in Iraq. The fact that Christians, along with Yazidis, were allowed to trade in alcohol in Iraq under Saddam Hussein has also made them a target in an increasingly strict Islamic environment. According to the US-based research facility the Brookings Institution, Christians in Iraq numbered 1-1.4 million in 2003, and today around 600,000-800,000 remain.<sup>3</sup>

### Armenians

The ethnic and linguistic Armenian minority settled in Iraq before the birth of Christ. After the Armenian genocide committed by Ottoman Turks in 1915, more Armenians settled in Iraq, in areas including Basra, Baghdad, Kirkuk, Mosul and Zakho. Since 2003, Armenians have faced the same targeting as other Christian groups. Grass-roots organizations have reported that at least 45 Armenians have been killed, while another 32 people have been kidnapped for ransom, two of whom are still missing. Armenian churches in Iraq have also been targeted and bombed.<sup>4</sup>

### Chaldo-Assyrians

Descendants of ancient Mesopotamian peoples, Assyrians live mainly in the major cities and in the rural areas of north-eastern Iraq where they tend to be professionals and business people or independent farmers. They speak Syriac, which is derived from Aramaic, the language of the New Testament. Since 2003, Chaldo-Assyrian churches, businesses and homes have been targeted. In February 2008, the Chaldean Archbishop of Mosul was abducted and killed.<sup>5</sup> In April 2008, Assyrian Orthodox priest Father Adel Youssef was shot to death by unidentified militants in central Baghdad.<sup>6</sup>

### Circassians

The Circassians are non-Arab Sunni Muslims, originally from the Northern Caucasus, numbering no more than 2,000 in Iraq.

### Faili Kurds

The Faili Kurds are Shi'a Muslims by religion (Kurds are predominately Sunni) and have lived in Iraq since the days of the Ottoman Empire. They inhabit the land along the Iran/Iraq border in the Zagros Mountains, as well as parts of Baghdad. Faili Kurds were merchants and business people, active in politics and civil society, and founded the Baghdad Chamber of Commerce in the 1960s. Under the Ba'ath regime, they were specifically targeted and stripped of their Iraqi citizenship, and many were expelled to Iran on the charge that their Shi'a faith made them 'Iranian'. According to the United Nations High Commissioner for Refugees (UNHCR), at the beginning of 2003 there were more than 200,000 Iraqi refugees in Iran; of 1,300 living in Azna, 65 per cent were Faili Kurds.<sup>7</sup> Many of them were under 20 years of age, were born in the camps and have known no other home. Now, their ethnicity and religion once again make their community the target of violent human rights violations in Iraq. Due to the ethnic cleansing and dispersal they have suffered and to their lack of citizenship rights under the Ba'ath regime, it is very difficult to gather evidence

regarding how many remain there, and examples of specific ongoing violations they face. For those who felt return might be an option after the fall of Saddam Hussein, current conditions make this highly dangerous and difficult.

### Jews

The history of the Jewish community in Iraq goes back 2,600 years. Once numbering over 15,000, almost all have now left voluntarily or been forced out. Traditionally, they were farmers, tailors, goldsmiths and traders in spices and jewellery. Since the outbreak of the Second World War, they have suffered persecution as a result of Arab nationalist violence. In 1948, when the State of Israel was created, 'Zionism' was declared a criminal, and sometimes a capital offence in Iraq, with only two Muslims required to denounce one Jew, leading to a mass exodus. UNHCR reports that, since the fall of the regime in 2003, the situation of Jews in Iraq has worsened dramatically. It states, 'Given the ongoing climate of religious intolerance and extremism, these Jews in Iraq continue to be at risk of harassment, discrimination, and persecution for mainly religious reasons.'<sup>8</sup> Today, the community no longer has a rabbi in Iraq and lives in isolation, due to fear of targeted attacks. Since 2003, the population has been reduced considerably, now possibly numbering no more than 10 people.<sup>9</sup>

### Palestinians

In 2003 Iraq's Palestinian community, who are mostly Sunni Muslims, numbered approximately 35,000; between 10,000 and 15,000 remain.<sup>10</sup> Most arrived in the country as refugees from Palestine in 1948, after the Arab-Israeli war of 1967 or from Kuwait and other Gulf states in 1991, settling in Baghdad and Mosul. Although not granted Iraqi citizenship during Saddam Hussein's rule (they were restricted to 'official refugee' status), their Palestinian identity and Sunni Arab status made them useful to the Ba'ath Party. They were given subsidized or rent-free housing and free utilities, and were exempt from military service. They were encouraged to take roles in Iraqi political life and allowed to travel more freely than most Iraqi citizens. According to some, resentment about their perceived special treatment during the regime is behind the violent attacks they now face on a daily basis. Since 2003, Iraqi MOI officials have arbitrarily arrested, beaten, tortured, and in a few cases forcibly disappeared Palestinian refugees.<sup>11</sup> The MOI has also imposed onerous registration requirements on Palestinian refugees, forcing them to constantly renew short-term residency requirements and subjecting them to harassment, rather than affording them the treatment to which they are entitled as refugees formally recognized by the Iraqi government.<sup>12</sup>

### Roma

Known as *Kawliyah* in Iraq, most are either Sunni or Shi'a Muslims, and are to be found in the Baghdad region and the South. The Ba'ath regime encouraged Kawliyah to pursue occupations such as playing music, dancing, prostitution and selling alcohol. Nevertheless, Kawliyah were not allowed to own property and did not have access to higher positions in the Government or the military. Since the fall of Saddam Hussein, they have been attacked by Islamic militias who disapprove of their different customs. Community leaders estimate their population at around 60,000.<sup>13</sup>

### Sabian Mandaean

The Sabian Mandaean religion is one of the oldest surviving Gnostic religions in the world, dating back to the Mesopotamian civilization. John the Baptist is its central prophet and access to naturally flowing water remains essential for the practice of the faith. Sectarian violence and political strife have placed Sabian Madaeans in Iraq in jeopardy, forcing many of them to flee to Jordan, Syria and elsewhere. According to the Sabian Mandaean Human Rights Group, from January 2007 to February 2008, the Sabian Mandaean community in Iraq suffered 42 killings, 46 kidnappings, 10 threats and 21 attacks. It was also noted that some killings were not for money or ransom but to terrorize the families. A substantial number of the victims were women and children. In many cases the families were forced to sell everything to pay off the ransom. Many became issued threats to leave the country or else to be killed. Despite the ransom being paid, in some cases the killing was carried out nevertheless. Many became displaced when it was too dangerous for them to flee the country.

There are thought to be around 60,000-70,000 Sabian Madaeans worldwide, many of whom lived in Iraq prior to 2003. Today it is believed that there are around 5,000 left in Iraq.<sup>14</sup> Their situation is made more fragile by the fact that the religion forbids the use of violence or the carrying of weapons, and therefore its adherents are effectively prevented from defending themselves from the violence being inflicted on the community. Compounded by the tenet that marriage outside the community is akin to religious conversion, the likelihood of Sabian Mandaean eradication from Iraq seems very real.

### Shabaks

The Shabak people of Iraq have lived mainly in the Nineveh plains, on a strip of land between the Tigris and Khazir, since 1502. There is also a small population of Shabak people in Mosul. They are culturally distinct from Kurds and Arabs, have their own traditions, and speak a language that is a mix of Arabic, Farsi, Kurdish and

Turkish. About 70 per cent are Shi'a Muslim; the rest are Sunni. They have been recognized as a distinct ethnic group in Iraq since 1952. However, their status and lands are disputed by both the Kurds and Arabs wishing to extend land claims into the Nineveh governorate. Like other minorities in this position Shabaks are suffering targeted persecution and assimilation.<sup>15</sup>

### Turkmen

The Iraqi Turkmen claim to be the third largest ethnic group in Iraq, residing almost exclusively in the north, in an arc of towns and villages stretching from Tel Afar, west of Mosul, through Mosul, Erbil, Altun Kopru, Kirkuk, Taza Khurmatu, Kifri and Khaniqin. Before 2003, there were anything from 600,000 to 2 million Turkmen, the former figure being the conservative estimate of outside observers and the latter a Turkmen estimate.

Approximately 60 per cent are Sunni, while the balance are Ithna'ashari or other Shi'a. Shi'as tend to live at the southern end of the Turkmen settlement, and also tend to be more rural. Small Shi'a communities (for example, Sariyya and Ibrahimiyah) exist in Tuz Khurmatu, Ta'uq, Qara Tapa, Taza Khurmatu, Bashir, Tisin and Tel Afar.

Although some have been able to preserve their language, the Iraqi Turkmen today are being rapidly assimilated into the general population and are no longer tribally organized. Tensions between Kurds and Turkmen mounted following the toppling of Saddam Hussein, with clashes occurring in Kirkuk. Turkmen view Kirkuk as historically theirs and, with Turkish assistance, have formed the Iraqi Turkmen Front (ITF) to prevent Kurdish control of Kirkuk. UN reports and others since 2006 have documented that the Kurdistan Regional Government (KRG) and *peshmerga* militia forces are illegally policing Kirkuk and other disputed areas, that these militia have abducted Turkmen and Arabs, subjecting them to torture. Car bombs, believed to have been carried out by Arab extremist groups, have claimed the lives of many more Turkmen. A referendum on Kirkuk was set to take place in 2007, but has not yet occurred.

Beyond competition for Kirkuk, both Sunni and Shi'a Turkmen have been targeted on sectarian grounds, and Turkmen women experience particular vulnerability. In June 2007, four Iraqi soldiers were charged with the rape of a Sunni Turkmen woman in Tel Afar, one of many such reported incidents.<sup>16</sup>

### Yazidis

Yazidis are an ancient religious and ethnic group concentrated in Jabal Sinjar, 150 kilometres west of Mosul, with a smaller community in Shaikhan, in Nineveh Governorate east of Mosul, where their holiest shrine of Shaykh Adi is located. The 4,000-year-old Yazidi religion is a synthesis of pagan, Zoroastrian, Manichaean, Jewish, Nestorian Christian and Muslim elements. Yazidis are dualists, believing in a Creator God, now passive, and Malak Ta'us (Peacock Angel), executive organ of divine will. During the reign of Saddam Hussein, Yazidis were sometimes considered as Arabs rather than Kurds, and therefore were used to tilt the population balance in the northern Kurdish areas toward Arab control. This politicization of their ethnicity has been detrimental to Yazidi security. Since 2003, Yazidis have also faced increased persecution. Islamist groups have declared Yazidis 'impure' and leaflets have been distributed in Mosul by Islamic extremists calling for the death of all members of the Yazidi community. Between September and December 2004, the killing of more than 25 Yazidis was recorded, as well as more than 50 violent crimes targeting members of the community.<sup>17</sup>

The Yazidi community suffered the most devastating single attack on any group in Iraq in August 2007, when four coordinated suicide truck bombings destroyed two Yazidi towns, killing at least 400 civilians, wounding 1,562, and leaving more than 1,000 families homeless. Their numbers have reportedly fallen from 700,000 in 2005 to approximately 500,000. The reduced numbers are the result of targeted attacks and due to so many having fled into exile, according to USCIRF.<sup>18</sup> A July 2008 report from Iraq's Ministry of Human Rights stated that between 2003 and the end of 2007, a total of 335 Yazidis had been killed in direct or indirect attacks. Despite a general reduction of violence in Iraq during 2008, attacks against Yazidis continued, including the shooting deaths of seven family members by armed militants in December 2008. At the end of the year, a car bomb in the predominantly Yazidi town of Sinjar killed several people and wounded more than 40 others.<sup>19</sup>

Most Iraqi Yazidis have fled to Syria although there is a small number (about 900) in Jordan. The Yazidis interviewed in Syria were all located in Al Hasakah, in the North East, close to the Iraq border.

# Introduction

Minorities in Iraq have continued to be targeted on the grounds of their religion or ethnicity since the US-led invasion of Iraq and fall of Saddam Hussein in 2003. They have suffered from killings, kidnappings, torture, harassment, forced conversions and the destruction of homes and property. Women have been subject to rape and forced to wear *hijab*. MRG reported extensively on this in 2007.<sup>20</sup> MRG's online *World Directory of Minorities and Indigenous Peoples* also provides more information on these groups and what they are experiencing.<sup>21</sup> Although a dip in the level of violence in Iraq in the latter part of 2007 provided some measure of relief for all Iraqi communities, as violence rose again in 2008 and continued into 2009, minorities and women from minorities continue to suffer. Indeed, the UN describes how minorities are attacked with total impunity.<sup>22</sup>

Many of Iraq's minority communities have been present in the country for more than two millennia. Others have made their homes there over generations. During the conflict that began in 2003, minorities had suffered disproportionate levels of targeted violence because of their religions and ethnicities, and have formed a large proportion of those displaced, either by fleeing to neighbouring countries or seeking asylum further afield.

Today, the survival of Iraq's minority communities remains at high risk, even as the focus of international attention shifts from Iraq to conflicts elsewhere. Inside Iraq, the threat of violence against minorities is still very real. Across Kirkuk and the Nineveh Plains where Christians, Yazidis and Turkmen have historical roots, violence shows no signs of abating. Recent attacks have particularly targeted Turkmen villages. This is connected to the struggle over Kirkuk and Nineveh, which is escalating between the Kurdistan Regional Government (KRG) and the federal government. Minorities are caught between the two, and their relatively smaller numbers and lack of recourse to justice contribute to their vulnerability.

Sabian Mandaean continue to report abductions, murder and rape, as well as destruction of homes and businesses. Their community risks being eradicated from Iraq. The Iraqi Ministry of Human Rights has said that the Shabak community has experienced some of the worst internal displacement, and this is ongoing. Minorities also face difficulties in accessing their rights to political participation, due to threats, intimidation and violence. This is also contributing to the insecurity of their future in Iraq.

The situation for minorities in Iraq has led to massive displacement inside the country, to neighbouring coun-

tries or beyond. In neighbouring countries, including Jordan, Syria and Lebanon, conditions are difficult for all Iraqi refugees. The levels of fear and paranoia are exacerbated by the psychological trauma people from these groups have faced, and by their insecure status in their new host countries. For some minorities this has particular ramifications. While Christians have relatively strong and supportive established networks in Jordan and Syria, Sabian Mandaean, for example, struggle to uphold their religious rituals and maintain their language.

Attempting to map the scale of the displacement of Iraq's minority communities is extremely difficult, because they have been separated and scattered across the world. Many have fled or been resettled to locations where people from their communities have already established a base, such as Södertälje, Sweden, home to Assyrian Christians for decades. Sabian Mandaean have joined communities of existing Sabian Mandaean in Australia. Germany has a high proportion of Yazidi refugees. Even when refugee status or other forms of protection are granted, problems remain, including maintaining languages or religious and cultural practices, or building relationships with the people of host countries when living in minority-strong areas. Evidence from this report also shows that due to government agencies' lack of understanding about the specific background and culture of these groups, minority groups can be misclassified, and this contributes to their assimilation. Women from these communities who have lost male relatives, and now must fend for themselves, experience the double vulnerability caused by their gender and by their minority status, in Iraq and beyond.

As host communities perceive that the pressure which refugees place on infrastructure in second and third countries of asylum continues unabated, Iraqi refugees are made to feel less and less welcome. In Syria and Jordan, many Iraqi refugees live without having been able to regularize their stay or obtain the necessary work permits. Asylum countries outside the region have either continued to be very restrictive in their consideration of Iraqi asylum claims or have become more restrictive during the past few years. Alongside reports of increased security, it has been noted that people are returning to Iraq. This has led some asylum countries to start deporting rejected asylum-seekers back to Iraq. Returns, however, must be viewed in the context of refugee situations. Many refugees find it difficult to afford to stay in the countries to which

they have fled, not least if they have not been granted permission to work. Meanwhile, the Government of Iraq, in collaboration with host governments, is providing incentives for people to go back. But the United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM) and other organizations, including MRG, do not yet consider it safe to return to Iraq. The verdict of minorities, according to testimony collected in Jordan, Syria and Sweden, three countries where the Iraqi minority presence is particularly high, is striking: despite incentives, none of those from minority communities interviewed for this report said they would ever return to reintegrate in Iraq.

The issues faced by minorities strike at the heart of Iraq's future. Smaller communities are at risk of total disappearance from the region, erasing an historic and important living presence. Without support from host countries, these minority identities and religious and cultural traditions will suffer further erosion. If host

countries do not take into account the extra vulnerability experienced by all minorities when considering asylum applications, they may be forced to return, only to find themselves the targets of violence once more. Alternatively they may attempt to remain illegally in the host country to avoid going back to Iraq.

Testimony collected in Jordan, Sweden and Syria for this report bears witness to the severity of the situation in which Iraq's minority communities now find themselves. This underlines the necessity of these communities being recognized by governments and non-governmental organizations (NGOs) as experiencing particular trauma. It raises questions about whether whole communities can be resettled together, as some wish. Hopefully, Iraqi minority refugees and internally displaced persons (IDPs) will be able to return safely in the future. In the meantime, internally displaced members of minority communities must be able to establish themselves in the areas to which they have fled, and refugees must gain access to protection.

# Minorities in flight – internal displacement

According to January 2009 figures, UNHCR estimates that over 2.6 million people are displaced inside Iraq.<sup>23</sup> This means that 5 per cent of Iraqis are IDPs, and the majority were displaced from 2006 to 2008.<sup>24</sup> It is difficult to know how many of IDPs are from minority communities. According to UNHCR, however, ‘Christians and other minorities have been moving to KRG-controlled areas, provided they have the necessary documentation and support of relatives and friends or independent financial means to enter and stay.’<sup>25</sup>

As the crisis has worsened, strain has been put on basic services and local authorities have struggled to cope. Some local authorities responded by closing provincial borders or restricting access to IDPs, although it is understood that some of these restrictions have been lifted. Those who do get in lack basic food and access to education, according to the UNHCR Iraq support unit.<sup>26</sup>

As such, the conflict has had the effect of turning diverse regions into areas with little or no minority representation at all. Moreover, the closing of internal borders seriously affected the choice of destinations for fleeing minorities. Minority IDPs usually opt for either the comparatively more stable KRG-controlled areas, or the highly diverse Nineveh Plains area, which is already home to a large community of Christians, Shabaks and Yazidis. Though the Ministry of Human Rights in Iraq reported to the United Nations Assistance Mission for Iraq (UNAMI) that an estimated 5,000 Sabian Mandaeans, (whose traditional homes are in Baghdad and Southern Iraq) had taken refuge in the north by June 2008, this has been contested by Sabian Mandaean activists, who believe the total number of Sabian Mandaeans left in Iraq is around this number.<sup>27</sup> Regardless of statistics, Sabian Mandaeans, in order to find refuge in northern Iraq, must leave behind the religious sites that are so important to their rituals. These rely on running water to be observed, and have been carried out in Baghdad and along the Tigris and Euphrates rivers for more than two millennia. The Iraq Minorities Organization (IMO), an umbrella organization for minorities including Sabian Mandaeans in Iraq, said the KRG has a law inviting Christians and Sabian Mandaeans from other parts of the country to the area, and providing for a work permit and housing.<sup>28</sup> In practice, however, there is enormous competition for housing, and jobs are virtually non-existent.<sup>29</sup>

An IOM survey of minority religious groups in Iraq in February 2008 analyses the origins of Christian, Sabi-

an Mandaean and Yazidi families who have fled their home regions and gone to the KRG-controlled areas and other governorates. Out of 8,455 IDP Christian families surveyed from Dahuk, Erbil, Nineveh, Sulaymaniyah and Tameem, 77.1 per cent had come from Baghdad and 65 per cent had plans to return. The IOM survey reported that access to work was the highest priority requirement in the majority of places surveyed. In the same survey, 21 Sabian Mandaean families displaced mainly from Baghdad but also from Basra and Diyala, had fled to Dahuk, Erbil, Missan, Sulaymaniyah and Thi-Qar. A majority of these were living in rented housing. Of those surveyed, 71 per cent said they planned to return to their place of origin. The main concern for these families was access to work. For the 167 Yazidi families surveyed, less than half said they wanted to return to their place of origin. A majority of Yazidis surveyed came from Nineveh.<sup>30</sup>

According to a July 2008 press statement from the Iraq Ministry of Human Rights detailing the numbers of internally displaced people from minority communities between 2003 and the end of 2007, the Shabak minority had suffered the worst internal displacement, reporting 3,708 families (about 16,000 people) displaced. It said 1,752 Christian families (about 9,000 people) and 62 Sabian Mandaean families were living as IDPs.<sup>31</sup> Since these figures were reported, minorities have continued to suffer violent attacks on the grounds of religion and ethnicity that have contributed to further displacement. Additionally, there were more than 168 displaced Sabian Mandaean families throughout the country in September 2009, with 85 in Erbil, 35 in Sulaymaniyah, eight in the rest of the KRG-administered area and 40 in Kirkuk. Further Sabian Mandaean families were displaced around Amarah, Baghdad, Basra, and Nasiriyah.<sup>32</sup>

UNAMI reported that on 28 September 2008, ‘Christian demonstrations in Mosul requesting special provisions for minority representation in the governorate elections were followed by targeted attacks that left, according to the Ministry of Human Rights, 40 Christians dead. Following threats and attacks against their persons and properties, over 12,000 Christians fled from their homes.’<sup>33</sup> The numbers amounted to 2,000 families according to the Ministry, approximately half of Mosul’s Christian population.<sup>34</sup>

Security was increased in Mosul and by the end of October 2008, it was reported that a few hundred fami-

lies had returned. UNHCR spokesman Ron Redmond highlighted the underlying reasons for this, saying, 'According to displaced families remaining in outlying villages, those who have returned to Mosul did so mainly out of concern for their job security, or for education rea-

sons.' They continued to face violence: on 11 November 2008, according to UNAMI, two Christian sisters were killed in Mosul by unknown gunmen.<sup>35</sup> By May 2009, however, 90 per cent of families displaced from Mosul had gone back.<sup>36</sup>

# Iraq's minority refugees in neighbouring countries

A disproportionate number of those fleeing Iraq – somewhere between 15 and 64 per cent, depending on the country of refuge – are minorities, including Christians, Circassians, Sabian Mandaean, Shabaks, Turkmen and Yazidis.<sup>37</sup> This reflects the specific forms of persecution suffered by these communities; however these figures may be distorted due to a greater tendency of minorities to register with UNHCR.<sup>38</sup> In absolute terms, Syria is welcoming the most refugees of all ethnic and religious groups; but there are very high proportions of Christians and Turkmen in Turkey, and Christians in Lebanon, while the relative proportion of Yazidis and Sabian Mandaeans in Syria is much higher than in other countries.

Minorities flee Iraq for many reasons, often based on their religious or ethnic identity: some have been kidnapped, and may have been beaten and/or raped during their confinement; and some have received death threats, usually offering the same three choices: convert, leave Iraq, or be killed. Many have suffered sectarian or racial abuse. 'You are dirty, you are infidels, you are devil worshippers, you do not belong in Iraq,' are typical forms of abuse reported. UNHCR has noted that, 'Political and religious extremism after the fall of the former regime has had a particularly harsh effect on minority groups, which commonly do not have strong political or tribal networks and represent soft targets for radical elements.'<sup>39</sup>

Those who owned property may have sold it for derisory sums or simply abandoned it. They may have had to sell property to find money for ransoms, or to arrange to leave the country, particularly if people smugglers were involved.

A large number of the minority refugees interviewed for this research had been kidnapped for ransom by insurgent groups or had had a family member kidnapped. This was particularly the case for Christians and Sabian Man-

daeans; this may be due to the high proportion of these communities who have been successful in business in Iraq. As most are also subjected to sectarian abuse during their kidnap ordeals, it is likely that the motives for kidnapping are a mixture of sectarian hatred and economic gain.

Of Iraq's neighbours, Syria and Jordan are the most common destinations for refugees, and this is also the case for minorities. Many refugees are also to be found in Egypt, Lebanon and Turkey. Based on official government figures, UNHCR estimates that up to 2 million Iraqis have fled the country, with approximately 1.1 million in Syria and 450,000 in Jordan, although exact figures are impossible to obtain.<sup>40</sup> Around 320,000 of these are registered with UNHCR.<sup>41</sup>

Some refugees are already experiencing their second wave of displacement; one refugee, interviewed in Qamishle, Syria, is a 75-year-old Syrian Catholic who was displaced 40 years ago from Mosul by Sunni extremists. His family moved to Baghdad; when his son was kidnapped in 2007, he fled to Syria.<sup>42</sup>

Economic conditions for refugees in these countries are very difficult, regardless of their ethnic/religious origin. Refugees have no right to work (although some do, unofficially, including children), and receive limited aid in cash and food or other items from UNHCR, churches and NGOs. Many are living off savings, which are being rapidly depleted, or remittances from relatives in Iraq or other countries.<sup>43</sup> Anecdotal evidence suggests that certain minorities, particularly Christians, Sabian Mandaeans and Turkmen, have strong social networks and are supported by religious institutions and associations; a number of refugees interviewed reported that one church in Syria conditioned its aid on refugees attending church services.<sup>45</sup> The Iraqi government has come under fire for

**Table 1:** A selection of destinations for Iraq's minorities

	Syria	Jordan	Lebanon	Turkey	Egypt	Sweden	Germany	Australia	USA	Canada
<b>Total Iraq refugees</b>	1.1m	450,000	50,000	8,000	30,000	32,120	38,854	5,945	4,788	1,865
<b>Christians</b>	174,000	56,000	17,000	5,000	600	-	-	-	-	-
<b>Yazidis</b>	8,400	900	-	100	-	-	-	-	460	280
<b>Sabian Mandaean</b>	9,500-11,000	3,100	-	100	-	5000	1500	5000-6000	1000-2000	1000-2000
<b>Palestinians</b>	742	386	-	-	-	-	-	-	-	79

*NB figures are estimates*<sup>44</sup>

failing to respond adequately to the refugee crisis with economic aid for the host countries, despite significant income from oil exports; a mere \$25 million was paid.<sup>46</sup> UNHCR has stated that it will be forced to cut back services for Iraqi refugees in Syria and Jordan from August 2009, as only 38 per cent of its requested budget for the 2009 Iraqi operation has been met by donors. Both the USA and the European Union (EU) have reduced their support for the Iraqi operation this year.<sup>47</sup>

For the refugees in neighbouring countries, the sense of being in limbo is palpable. Many are not working because they are afraid of being caught by the authorities, or because of injuries resulting from attacks in Iraq; they describe empty days filled with television and card games. Men feel frustrated that they have lost their traditional role as fathers and husbands; one, who is too ill to work, complained that he could not do anything for his three-year-old daughter. Frustrations often translate into tensions and increased domestic violence. For those without the legal right to remain, there is a constant fear of being sent back to the persecution they had managed to escape, particularly in Jordan where legal residency is more difficult to obtain. Children are sometimes kept at home from school for fear of attracting the attention of the authorities; in one case, through boredom and because they lacked other materials, they were drawing on the walls of the flat.<sup>48</sup>

Given these conditions, initiatives by churches and NGOs to provide education, health and social activities are of great importance. In Amman, Jordan, a local Catholic Priest, Father Khalil, organizes religious education classes for Christian refugees, as well as Assyrian language classes and food aid to Muslim and non-Muslim refugees. He receives financial support from rich Iraqi families in Jordan, both Muslim and Christian. A bus is organized to pick up refugees from around the city.<sup>49</sup> A number of those interviewed said that if it were not for Father Khalil's initiatives, they and their children would rarely leave the house.

## Refugee status issues and access to services

When the exodus of Iraqi refugees moved into full swing after the Al Askari Mosque bombing in February 2006, entry into the neighbouring countries of Syria and Jordan was relatively easy. Syria, in particular, initially adhered to its principle of not imposing visa restrictions on citizens of Arab countries. In recent times however, this access has become more difficult. In October 2007, faced with the increasing strain placed on its own fragile economy by the presence of so many refugees, Syria imposed stricter rules, introducing a number of categories of people eligible to

obtain a visa.<sup>50</sup> These are generally to do with specific types of work, family relations or recognized medical needs. There is no category for those facing persecution, whether it be on ethnic, religious, political or other grounds. UNHCR has stated that Iraqis are usually able to obtain temporary resident permits of 3 months, renewable by the Syrian immigration department; however, the UN agency reported that border controls were being tightened at the end of 2008.<sup>51</sup> In 2009, UNHCR repeated that, in addition to those alleged to have been involved in criminal activity or on account of security reasons, Iraqis who enter Syria illegally or are undocumented risk being deported.<sup>52</sup> The cumulative effect of these policies is that the majority of Iraqis in Syria remain in an insecure situation, at risk of deportation and unable to secure regular employment.<sup>53</sup>

The Iraqi refugee presence in Jordan is governed by the 1973 Law of Residency and Foreigners' Affairs. Access to the country is restricted. Since May 2008, Iraqis have to apply for a visa before travelling to Jordan and risk being fined if they overstay their permits. In July 2008, about a month after a deadline to get residency paperwork in order had expired, the government announced that it would no longer issue any permits to Iraqis.<sup>54</sup> A 1998 Memorandum of Understanding (MoU) between the Jordanian government and UNHCR does allow Iraqi asylum-seekers to stay pending status determination and then allows recognized refugees to remain a further six months pending resettlement elsewhere. However, this arrangement only covers those registered with UNHCR. While work permits are available, they can be difficult to obtain as there are a number of criteria to be met.<sup>55</sup> As in Syria, the effect is that the majority of Iraqis in Jordan are there illegally and unable to obtain permission to work.<sup>56</sup>

Saudi Arabia is building a fence along its border, primarily as a security measure to prevent the crossing of insurgents; it also has the effect of stopping Iraqis fleeing persecution from entering.<sup>57</sup> The Iraqi government itself has in the past encouraged its neighbours to restrict access to asylum.<sup>58</sup>

The Syrian and Jordanian governments have no procedure for granting refugee status, and neither country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol (collectively referred to henceforth as 'the 1951 Convention'). While both Syria and Jordan have been generous in receiving so many Iraqi refugees, it should be noted that the risk of deportation or being turned back at their borders mean that the two governments violate the principle of *non-refoulement*, whereby no refugee should be forced to return to a situation where her or his life or freedom are in danger.<sup>59</sup> This principle is contained in Article 33 of the 1951 Convention but is now increasingly considered to be a part of customary

international law and thus binding even on states that are not signatories – including Syria and Jordan (see ‘Legal protection for Iraq’s minority refugees’ below, p. 31, for further discussion).

UNHCR continues to register refugees in both countries and provides certificates. These certificates are very important for refugees, particularly those applying for resettlement in third countries (which was the case for almost all those interviewed). Iraqi refugees who come from outside the KRG-controlled area only have to prove this, as persecution is then assumed. For those from the KRG-controlled area, an assessment of persecution is carried out, which is a very time-consuming process: three to nine months – meaning that the applicant has to be able to support themselves and their family in the country of refuge for that time.<sup>60</sup>

A number of refugees stated that their interview at UNHCR, in both the Amman and Damascus offices, was with a ‘woman with a veil’, and felt that their testimony had not been given credence. Some said that they had not felt comfortable recounting the details of their case and had withheld information. One Christian refugee in Amman reported, ‘At UNHCR, they asked us why we left Iraq. They are all Jordanian. They asked, “What is the problem with Muslims?” And I immediately felt shut down.’<sup>61</sup> UNHCR rightly assumes that all of its staff should be capable of carrying out interviews without prejudice. Nevertheless, it is understandable that traumatized refugees, who may have fled direct violence and hate speech targeted against them, may feel – rightly or wrongly – that they cannot give the details of their case in such circumstances.

More generally, minority refugees’ assessments of the work of UNHCR were mixed. In Syria a number complained that the hotline set up to deal with refugees’ problems never answers. UNHCR says that the numbers of registered refugees that it deals with are enormous, but that it deals with between 500 and 1,000 enquiries per day, and has set up a weekly session at which staff provide updates on cases.<sup>62</sup>

In Syria and Jordan, Sabian Mandaean whom MRG interviewed reported difficulties with official papers, in particular marriage certificates. The lack of these papers can block asylum and resettlement applications. As one community representative said, ‘Embassies require a civil certificate and we only have religious ones which were recognized in Iraq. If I go to a civil court in Jordan, they won’t give me a marriage certificate based on this. These are issues we have never thought about. And we can’t go back. Being without these documents is like slow death.’<sup>63</sup>

Some Sabian Mandaean also have problems convincing foreign embassy staff of their religious conviction when having their cases processed for resettlement; their

names are usually the same as Shi’a Muslims, and in some cases they were registered in Iraq as Muslims.<sup>64</sup>

While many refugees are concentrated in urban areas, close to UNHCR offices, religious institutions and NGOs offering aid, some are more isolated. For example, there is a community of Iraqi Yazidis in Al Hasakah governorate in northeastern Syria; they complained that UNHCR, church and NGO services were not available in their location.<sup>65</sup> However, UNHCR states that it has contracted a third party to distribute food and other items to Iraqi refugees, and organizes regular missions to Al Hasakah to enable registration, interviews and assistance services to be carried out.<sup>66</sup>

## Discrimination

While most refugees interviewed in Syria or Jordan reported that they had not experienced discrimination from the general population, there were a small number of exceptions. In particular, in both Syria and Jordan, non-Muslim children complained that fellow pupils and teachers were prejudiced against them. In Jordan, widespread discrimination against Iraqis in general has also been reported, and some observers fear a rise in tensions as poor Jordanians and Syrians see the price of accommodation being pushed up and jobs becoming scarcer.<sup>67</sup>

With very few exceptions, those interviewed reported that they had suffered no discrimination by government officials, nor when accessing public services. Some were effusive in their expressions of gratitude to the countries that have offered them refuge. In Jordan, religious minorities are able to opt out of the usually compulsory religious education classes.<sup>68</sup>

One Sabian Mandaean reported that her son was bullied at school because he is not circumcized, and that she feels threatened when she is asked why this is the case.<sup>69</sup> The community members are afraid of bringing these issues up with the authorities, as they fear that if they cause trouble they may be sent back to Iraq. Some may be in Jordan illegally. This helps to explain why an Interior Ministry official was able to say that he had never received any complaints from Sabian Madaeans.

## The struggle to maintain identity

Many refugees interviewed felt that their cultures would disappear from Iraq permanently. Sabian Mandaean, furthermore, are very concerned that their culture will die out completely, due to the small size of their community, its dispersal to several countries, and restrictions on

belonging (it is not possible to convert to the Mandaean religion, and to be recognized as a Sabian Mandaean, both parents must be members of the community).

The community struggles to maintain customs in exile; the Mandaean religion requires specific facilities for religious practices, involving clean running water. In Damascus, the community has secured the use of a private spring. However, the ordaining of a priest is a seven-day ritual, and the community must apply in advance to the Syrian Interior Ministry to obtain the use of the facility for this period.<sup>71</sup>

In Jordan, the situation appears to be worse. The community has no priest to carry out weddings, baptisms or funerals, and community members interviewed were very unhappy with the facility for water rituals, which is about 80 km from Amman (where most of the community is located). ‘There is no place for girls to change clothes so that they can be immersed ... It is also not deep and it is difficult to baptize. We don’t know the source of the water. Is it clean or not? We don’t know, it could be a sewer,’ said one Mandaean woman.<sup>72</sup> To perform rituals there the community has to apply to the Ministry of the Interior two weeks in advance; since security has been tightened after the Amman hotel bombings in 2005 (an Iraqi woman was sentenced to death for her part in the bombings<sup>73</sup>), approval for these rituals has been withheld.<sup>74</sup>

The Mandaean language – a form of Aramaic – is listed by UNESCO as being extinct in Iraq and critically endangered in Iran.<sup>75</sup> Now, only priests speak it. With the dispersal of the community to different countries, it will become more difficult to ensure the transmission of the language to the next generation of priests.

The Christian refugees interviewed all stated that they had no problem practising their religion in Syria and Jordan – both countries have a strong Christian presence. According to the priest of an Armenian church in Damascus, many Armenian refugees are very keen to maintain their culture, and even when very poor, make sacrifices so that their children can study the Armenian language in church schools.<sup>76</sup> There are approximately 400 Iraqi Armenian families registered with Armenian churches in Syria.<sup>77</sup>

The Yazidis interviewed reported no issues in this regard either, stating that theirs is a religion that can be practised on an individual level. One Yazidi refugee noted that he was satisfied with practising his religion in his home, saying, ‘If you worship God, that is enough. If you speak with your soul, it is good.’<sup>78</sup> However most agreed that they missed their temples in Iraq.

## Psychological trauma

Many refugees described the emotional and psychological trauma that they had suffered as a result of their experi-

ences. The impact on children is particularly severe. A Turkmen woman described how her son, 10-years-old at the time of the incident, was affected by being separated from his parents and made to sit outside a cell where KRG soldiers were interrogating his mother:

*‘He has psychological stress, he is afraid, even of walking in the streets alone. Sometimes he sits and just cries. He has nightmares, he thinks people want to grab him by the neck or stab him. He stays with me only.’<sup>79</sup>*

A Chaldean Catholic, who had been shot at and had received threats from men who had called him a pig and told him to leave Iraq, reported that his son’s teacher worried that he talked about blood in school. He also asked his father if it was a crime to be a Christian.<sup>80</sup> A Sabian Mandaean boy, described as a ‘brilliant student’, was kidnapped at the age of 17; now he has a speech impediment and nightmares, and is so afraid of being kidnapped even in Syria, that he will not open the door when someone calls. He refuses to go to a clinic for help.<sup>81</sup>

Almost unanimously, those interviewed were praying for resettlement to Europe, North America or Australia. Those who make it, however, continue to suffer trauma. A Sabian Mandaean woman interviewed in Sweden described being attacked at her workplace in Iraq by people who called her an unbeliever; she was beaten, tied up and put in a sack, then abandoned when her attackers were disturbed by passers-by. She reported that, even in Sweden, she wakes suddenly in the night, afraid, and often closes the door and cries on her own. She is receiving psychological treatment.<sup>82</sup>

According to a report on the psychological situation of Iraqi refugees issued by IOM, ‘Psychosocial suffering is characteristic of most individual and collective experiences of displacement and war. Usually displacement, especially war-related displacement, is accompanied by several main stress factors. These include economic constraints, security issues, breakdown of social and primary economic structures and a consequent devaluation or modification of social roles, violence, persecution and discrimination, loss of loved ones, direct exposure to violent acts. Moreover, unstable and precarious life conditions, including difficult access to services together with the loss of one’s own social environment and system of cultural meaning, contribute to create a very uncertain future.’<sup>83</sup> Despite this, very few of those who reported suffering from trauma in interviews were receiving professional support. This may be due to the cost. In Syria, with funding from UNHCR, the Syrian Arab Red Crescent provides 80 per cent of medical fees, but even the remaining 20 per cent may be beyond the means of refugees who have no income. A committee is in

place, to review the situation of those refugees who cannot cover the remaining 20 per cent, but those refugees interviewed did not appear to be aware of its existence. There may also be a cultural factor at play, in that seeking such

help is seen as a sign of weakness. One mother, who was advised to seek trauma support for her son, said she thought he was grown up and did not want to spoil him; she preferred to sign him up for sports activities.<sup>84</sup>

### Testimony

A 44-year-old Catholic Chaldean man, now living in Damascus, is polite and smiling. He relates the horrors that he and his family have gone through.

'I was working for a US contractor as security. We were in convoy which was rammed from one side by a car packed with explosives. It killed 11 of my team. I took six months' leave; my leg was broken and my face burnt.

'Then I started receiving death threats from *Jihad at Tawheit* – Jihad for Unity. They gave me three choices – convert, pay 150,000 Dinars a month, or leave Iraq with only the clothes on my back.

'My eight-year-old son is nervous all the time. He is getting psychosocial assistance from the Syrian Brotherhood organization. My daughter is in school, but the teachers and pupils don't treat the Iraqis well; they shout at them, and don't include them in activities.

'I was interviewed by UNHCR 11 months ago. Normally they tell you within two months if they have recommended you for resettlement. I have heard nothing – how can it be with all this persecution? I have heard of people who got resettled, they didn't work with the Americans, or receive death threats. What are the criteria? I don't understand.

'I wouldn't go back to Iraq if they paid me \$1 million. They [the groups that targeted him and his family] made me hate my country.'<sup>85</sup>

### Testimony

One refugee is a 55-year-old Armenian man from Baghdad. He lives with his family and his brother's family in a two-room flat in Damascus. There are nine of them.

'In Baghdad there was unlimited suffering – fear of kidnapping, killing. When you go to work it's like going to fight in a war. I didn't get a mobile because I was afraid of receiving threats by mobile. On my son's birthday, I went to get a cake, I was surrounded by four people with masks, threatening me with a gun. They were from the Islamic parties. They told me that they are investigating me, my work with the Americans. They told me to pay \$50,000 or be killed; my cousins paid \$15,000. After they released me, I decided to leave Iraq; next time they might kill me. They also told me to leave the house because it wasn't mine.

'First we came to Syria, then Armenia. There is a foundation that helps you settle in Armenia, but you have no rights there, they just give you temporary residence. Armenia is very poor. My salary was \$250, working eight a.m. to midnight, seven days a week. It was better than Iraq, at least we could sleep well.

'They put my daughter and son in classes two years below their age. I asked why; they said Maths is in English, they have to learn it from scratch. Then the support from the foundation ended, my wage was too little, so I came back to Syria.

'The kids are confused. They were studying in Russian in Armenia, here in Arabic, possibly another language if resettled. They lost three years of studies. They will suffer in the future.'<sup>86</sup>

### Palestinians

There are three camps now housing Palestinian refugees; Al Waleed in Iraq (housing 1,800), Al Hol in Syria (housing 350), and Al Tanf which lies in the no-man's land between the two countries (housing 700).<sup>87</sup> The conditions in these camps are extremely difficult.<sup>88</sup> Al Tanf suffers searing heat in the summer, leading to fire hazards. There are also strong winds. Two children have been killed after straying too close to a road that carries heavy goods vehicles between the two countries. Many residents have serious health problems. 'The old people are too frail to survive another harsh winter,' said one resident. 'The children are

developing mental health problems. Do you know how it feels not to be able to fulfil your child's basic needs?'<sup>89</sup> The refugees are not allowed to enter Syria (or in the case of Al Hol, leave the camp to enter Syria proper), and are afraid of persecution if they go back to Iraq. However, 300 were allowed in exceptionally in 2008.<sup>90</sup>

In 2008, UNHCR, reporting on the camps, said that there was an 'urgent need for humane solutions and proper medical care for the destitute population ... The nearest proper medical facility in Iraq is more than 400 kilometres away and patients have to be transported by taxi. Neighbouring countries such as Syria have restricted

entry requirements, particularly for Palestinians, and it is extremely difficult to admit patients with urgent medical needs for treatment.<sup>91</sup>

'There have been a number of resettlement initiatives. According to Refugees International, Brazil, Canada, Chile, Iceland and Sweden have resettled Palestinians, as has Norway.<sup>92</sup> A camp in Jordan, Al Ruweished, was closed in 2007 when its residents were resettled to Brazil, Canada and New Zealand, and some were admitted into Jordan by royal decree.<sup>93</sup> Despite appalling conditions in the camps, and the lack of options open to the residents, the pace is very slow. UNHCR officials are frustrated with the lack of progress, 'With Palestinians we see a certain gap. We would like governments in the region to take

responsibility. But they are more difficult to resettle because of the politics involved. Some believe the resettlement undermines the right to return, but UNHCR believes that something needs to be done for these people, to give them legal status.'<sup>94</sup>

Palestinians are not an indigenous Iraqi minority, and do not have citizenship. However, MRG argues that this should not detract from their enjoyment of the same rights as others: almost all were born in Iraq and know no other country. There is an urgent need to address the situations both of those in the camps, who are effectively prisoners living in inhuman conditions, and those still in Iraq, who are under constant threat of persecution.

### Testimony

All that one Sabian Mandaean refugee remembers is that he was sitting in his house with his family, when he heard a loud explosion. He woke up in hospital, to find out that he was the sole survivor of a rocket-propelled grenade strike on his house. 10 members of his family died. He has significant burns on his face and hands, for which he is getting treatment, but there is no treatment available for the psychological trauma.

'Life is very difficult. I am in pain constantly from the burns and I have nightmares,' he says. He stares at the floor for most of the time as he talks, and has developed a speech impairment as a result of the experience.

'All the time we are talking about the people who died,' says his father, who had been in Syria at the time of the attack. He reports that some months earlier, an insurgent militia had sent leaflets to the five Sabian Mandaean families who owned shops in the town, telling them to hand over their shops. The shop owners were beaten and their shops seized.<sup>95</sup>

### Testimony

A Sabian Mandaean refugee couple from Baghdad now live in a plain two-room apartment in Amman with their two girls; the wife is pregnant.

[Husband] 'An American patrol came into my jewellery store for 10 minutes, and then said they would come back. After they left, three of the Mahdi Army came and called me a dirty Mandaean. They asked, "Why did you let the Americans come into your shop – why are you dealing with them? You must be a spy." '

[Wife] 'Afterwards, they sent a threat, then they broke into the house. They held my daughter with a knife to her throat and threatened to kill her if I didn't tell them where my husband was. I didn't know what to do. They tore at my clothes, they were going to rape me. I said I was pregnant. They kicked me and said, "This is what you deserve, you filthy Mandaean." I bled, I fainted. I miscarried after the trauma. It is hard for me to talk about this.

'We have lost hope here, but at least we are secure. When I hear loud voices I feel traumatized and scared. I wake in the night and I am afraid, even when someone just slams the door. This is reflecting on my daughter. I don't let her go out. She is always asking me, "Why don't you let me go and play?" I embrace them even when I am sleeping.'

[Husband] 'I pressurize my wife because I am so tired. When I go out she gets angry and I get upset. We have thought of separating because of the pressure we have been through. I am supposed to support her, look after her and the kids and prepare for her delivery. I see myself unable to do anything. Everyone has left. Why not us? We are stuck here.'<sup>96</sup>

## Testimony

One refugee is a shy 20-year-old Yazidi man who twists his hands nervously as he talks. He was a small child when his family tried to flee Iraq to Syria. Border guards opened fire on the group and in the confusion he was separated from his family and left behind. Since then, he has not seen his family, who are in the USA. He came to Jordan in 2004.

He spends all night sleeping, and all day watching TV. He has problems speaking Arabic and is scared to go out – if the police catch him he cannot communicate with them. He is afraid of being sent back to Iraq.

There are four young men staying together in a two-room apartment. Food is expensive. He tries to cook his own food but he says it is a mess. He does not talk about his religion as he worries about how it will be perceived in the apartment. He practices the religion privately, inside himself, 'Yazidism is simple. You don't have to meet to practice it; you only have to pray.

'I feel like I am dead. I don't need financial help. I just want to see my parents again; they are old and they may die.'<sup>197</sup>

MRG later learnt that this man had been resettled to the USA.

# Asylum outside the region

Many refugees, including the vast majority of those interviewed in Jordan and Syria, hope to move permanently to one of the wealthier industrialized countries – usually in the EU, North America or Australia. There are two ways in which this can be achieved. The first is by applying directly for asylum, either in-country from Iraq (which is almost impossible) or upon arrival outside the region. The second way is through resettlement programmes operated by a number of countries, including USA, UK, Sweden and Australia, which aim to resettle a small number of the most vulnerable refugees in Iraq's neighbouring countries.

## Accessing asylum

Generally, applications for asylum are only possible once the person concerned has left the country of origin. Thus, it is not possible to apply for asylum in another country directly from Iraq, although Amnesty International has reported that the USA has set up a programme of in-country assessment.<sup>98</sup> EU embassies within Iraq do not accept asylum claims. Moreover, airlines are forbidden from transporting people without valid visas.<sup>99</sup>

Thus, most Iraqis facing persecution will either become internally displaced or go to one of the neighbouring countries, stuck in an untenable limbo. The host country is unable to offer adequate employment or anything beyond the most urgent health and education services; however, being in a country deemed to be safe, they are no longer considered to be in immediate danger and thus remain unable to access asylum procedures in developed countries. As António Guterres, the United Nations High Commissioner for Refugees, notes, 'Efforts to improve the situation of refugees in developing regions are certainly needed, but they must not be used as a pretext by the world's most prosperous countries to dump humanitarian-protection problems on states with fewer resources and less capacity to deal with mass influxes. Refugee protection in the South can never be an alternative to asylum in the North.'<sup>100</sup> Guterres' words express a frustration with industrialized countries' restrictive asylum and resettlement policies, which have little impact on a situation in which millions of refugees languish in poor countries, barely able to survive.

A number of refugees interviewed said that they had opted to be smuggled to a developed country, or were

considering it. Many who had relatives in developed countries stated that they had been smuggled there. However, this choice is not without serious risks. One person interviewed had a brother who had been sentenced to two years' imprisonment in Thailand for using people smugglers.<sup>101</sup> According to a Sabian Mandaean community leader in Sweden, people smugglers often take the money and disappear; Mandaean women travelling alone have also been raped.<sup>102</sup> Furthermore, given that people smugglers ask up to \$10,000 per person, it is clear that, except in the case of relatively wealthy Iraqis, it requires enormous sacrifices, including selling homes.

Upon leaving the region, Greece is the most common entry point of Iraqi asylum-seekers to the EU because of its geographical location. Human Rights Watch has reported that Greece, 'systematically rounds up and detains Iraqi asylum-seekers and other migrants in dirty, overcrowded conditions and forcibly and secretly expels them to Turkey.'<sup>103</sup> Thus, many asylum-seekers will wish to move beyond Greece to other countries in the EU.

The number of Iraqis seeking asylum in EU countries doubled between 2006 and 2007, to 38,286.<sup>104</sup> However, there are disturbing discrepancies between EU countries in the approval rates for Iraqi refugees, varying from 97 per cent in Hungary to 0 per cent in Slovenia and Greece.<sup>105</sup> The UK is at the low end of the scale, at 13 per cent, a rate that has been steadily decreasing since 2003, when it was at 55 per cent.<sup>106</sup> The Refugee Council, an NGO working to support asylum-seekers and refugees in the UK, now advises all rejected asylum-seekers to appeal; of those that do, around 50 per cent see their rejections overturned.<sup>107</sup> The variability and obstructiveness of asylum systems raises serious questions concerning the political will of governments in developed countries to uphold the right to seek asylum.

Figures for 2008 showed notable changes. Iraqis lodged 40,500 asylum claims in industrialized countries in 2008, compared with a figure of 45,100 claims in 2007. Half of all the claims were made in only three countries: Turkey (6,904 claims), Germany (6,697 claims) and Sweden (6,083 claims). In comparison with 2007, applications doubled in Turkey and tripled in the Netherlands (5,027 claims) and Norway (3,137 claims), while they declined by over 60 per cent in Sweden and Greece (1,760 claims). The UK saw little change, receiving 2,030 claims in 2008 compared with 2,075 claims

in 2007.<sup>108</sup> A number of factors may be at stake, including developments inside Iraq, which affected different groups differently, as well as shifts in the national asylum authorities' interpretation of the situation there.

In assessing individual claims, countries of asylum that are parties to the 1951 Convention should be guided by its principles. Most national immigration authorities, in addition, draw up their own guidelines on the specific situation in the asylum-seekers' country of origin, in order to help in the assessment of asylum claims. For example, the UK Border Agency's (UKBA) guidance note on asylum claims from Iraq recognizes that serious human rights violations are committed in Iraq, including 'discrimination against women, ethnic and religious minorities.' It also recognizes that, 'Private conservative and radical Islamic elements continue to exert tremendous pressure on other groups to conform to extremist interpretations of Islam's precepts.' It documents violations against Christian minorities at length but mentions no other minority by name – an omission that may reinforce commonly held perceptions that Christians are the only persecuted minority in Iraq.<sup>109</sup>

The Swedish Migration Board has ruled that Sabian Mandaean are a particularly vulnerable and exposed group in Iraq and that, when carrying out an individual assessment of an asylum-seeker, a lower threshold is required in order to grant refugee status.<sup>110</sup> However, the ruling is intended only to serve as guidance. Nuri Kino, an Assyrian-Swedish journalist working closely with Iraqi minorities seeking asylum in Sweden, notes that the ruling is implemented very inconsistently, and a number of cases of Sabian Mandaean have been rejected, often because the asylum-seeker's lawyer was not sufficiently knowledgeable about the situation for minorities in Iraq.<sup>111</sup>

It is clear that levels of protection vary from one country of asylum to the next, and at times even within the same country; additionally, national adjudication bodies interpret legal standards increasingly restrictively. George Yanko, an experienced asylum lawyer working in Sweden with minorities from Iraq, stated that, 'Having read all those letters of denial and those few letters of granted asylum, I can state that the lack of consistency is remarkable.' He also denounced an organizational culture which encourages automatic distrust of the claimant, whereby an asylum-seeker who forgets a small detail of their story when lodging their first application – usually on the same day of arrival 'after a ten-day journey by truck, traumatized and escaping war and persecution' – and then remembers that detail to add to the claim at a later point, is assumed to be attempting to manipulate the system.<sup>112</sup>

## Testimony

One Christian refugee, now living in Södertälje, Sweden, told us his story.

'I was working in a place where alcohol is sold. It was attacked by militia with bombs. They blindfolded the owner and me and tied our hands. They took us away and started to interrogate us. When they found out the other man was the owner, they fired a bullet in his head in front of me. The next day they let me go. We are both Christians, I think this Islamic group believes it is not religious to sell alcohol in Iraq.

'After my release I travelled to Jordan, where I met a man who took \$10,000 for a passport to come to Sweden.

'I am living with relatives in a studio. There are three people with me, women are sleeping on the ground. In the morning I go to school to learn Swedish. Yes, it is important that there is a community here. A friend told me that Sweden is secure, it is a democracy, they are nice people and accept foreigners.

'It was a big psychological trauma, especially when I remember the man I worked with for 10 years. I feel unhappy and depressed. I can't sleep well, I can't go freely where I want.'<sup>113</sup>

## Resettlement

Given the obstacles which Iraqi refugees face in attempting to go directly to an industrialized country, some will stay in the region and seek resettlement. Resettlement in developed countries is, at present, only a small element in the refugee protection system. And in the medium to long term, the ideal solution is clearly for the security situation and minority rights protections in Iraq to improve to an extent whereby return becomes both realistic and desired by the refugees themselves. In the short term, however, for Iraqis in Syria, Jordan and other neighbouring countries, who are in a desperate situation, resettlement is the only option. UNHCR estimates that more than 60,000 Iraqis, mostly in Syria and Jordan, need resettlement.<sup>114</sup>

With regard to Iraq, the record of the UK is particularly poor, having played a leading role in the events which unleashed the exodus of refugees from the country. A target of 750 individuals has been set for resettlement for the 2008-2009 financial year, of which 500 places are allocated for Iraqis and some Palestinians from Iraq.<sup>115</sup> This is fewer than Canada (10,600-12,000 places with approximately 30 per cent going to Iraqis) and Sweden (1,900 places with 800 set aside for selection missions to Syria and Jordan during 2009), each of which has a significantly smaller population and economy.<sup>116</sup> It is not even certain that the UK's target will be reached. In the

previous four years, the target for the UK has been reached only once; it is reported that only five Iraqi refugees were resettled in 2008.<sup>117</sup> Australia and the USA top the league table, with 13,500 and 75,000 resettlement places for 2008-09 respectively.<sup>118</sup> The USA, which initially reacted very poorly to the Iraqi refugee crisis, has been stung by criticism and has pledged to offer 17,000 places in 2009.<sup>119</sup>

The entire process is very time-consuming. Refugees are assessed first by UNHCR, based on a number of criteria.<sup>120</sup> If approved, they are assessed again by the prospective host country. Activists working with minority Iraqi refugees in Egypt, Jordan and Syria stated that their clients waited to hear about resettlement requests for between one to three years.<sup>121</sup> One refugee interviewed was accepted for resettlement in Australia but waited almost two years before he could travel.<sup>122</sup> These delays may be for legitimate reasons, such as making the necessary arrangements for arrival and integration. Meanwhile, however, refugees are depleting their savings and children may be suffering from disrupted schooling, so families are unable to begin making a new start to their shattered lives. While UNHCR has reached targets for resettlement assessments, the prospective host countries' processes are very slow and unable to cope with the number of UNHCR referrals. Sabian Mandaean community representatives, however, claim that 800 families are waiting for resettlement requests to be processed by UNHCR in Syria alone.<sup>123</sup>

Family reunification is an important factor in the resettlement process, yet many countries operate family reunification policies that exclude sons and daughters if they are over 18 years old. A number of those interviewed had direct experience of this and were shocked that families could be split up, particularly if it involved a female dependent, given that in some cultures an unmarried daughter is never considered to be truly 'adult'.<sup>124</sup> One Sabian Mandaean refugee in Amman recounted that his sister, who was kidnapped, raped and assaulted for five days, had been resettled in Australia, but he and his mother were not accepted:

*'When we heard about it we just collapsed. How can she go there as a woman by herself? We are very worried about her. Dividing and spreading us will lead to fading and killing of our beliefs. Do you think governments care about that?'*<sup>125</sup>

### Testimony

A young Sabian Mandaean refugee, living in Damascus in 2008, was working as a goldsmith in Baghdad when he was kidnapped and held for four days. He was released on payment of \$63,000. He was blindfolded and beaten,

and left with four or five slipped discs, and damaged cartilage. He was advised to have an operation but could not afford it.

He had an interview with UNHCR in Syria in late 2007. They told him they would contact him if he was selected for resettlement. 10 months later, he had heard nothing, and has tried to ring the hotline, but said that no one ever answers the phone.

His wife said she feels that the UNHCR has too many people to deal with. She said that people use smugglers because they have no hope from the resettlement process through UNHCR or embassies. There are too many refusals, it takes too long, and it is very expensive. Her sister tried to reach France through smugglers but was caught and sent back.<sup>126</sup>

MRG subsequently learnt that the couple were resettled in May 2009.

## Group resettlement

Germany has mooted specific measures to resettle Iraqi Christians, and also pushed for measures to be taken at the EU level in April 2008. This, however, has been resisted. The Slovenian government, which held the Presidency of the EU at the time, responded that, 'International standards are such that they do not permit differentiation on the basis of religions or race.' Instead it proposed that measures be taken to provide protection for all of Iraq's minorities, regardless of religion.<sup>127</sup>

Eventually, Germany organized the resettlement of 2,500 Iraqis in March 2009. The government stated that priority was given to 'refugees from persecuted minorities, vulnerable cases with specific medical needs, traumatized victims of persecution as well as female-headed households who have family in Germany.'<sup>128</sup> It was widely publicized in the press, however, that the majority of those resettled were Christians.<sup>129</sup> The German initiative was part of a EU initiative to resettle 10,000 Iraqis.<sup>130</sup>

France has also proposed specifically to resettle Christian Iraqis. Foreign Minister Bernard Kouchner stated, 'They are especially targeted. I realized this and I am going to try, at my small scale, and remedy it.'<sup>131</sup>

Apart from these proposals specifically targeting Christians, a number of countries have policies that create a special category for religious minorities. The USA's Refugee Crisis in Iraq Act of 2007 required the government to create a new priority category for resettlement of members of religious minorities from Iraq; however, the new policy established by the State Department only mentions applicants with a close family connection to a US resident.<sup>132</sup> For resettlement purposes, the Department of State asserts that, 'We take claims of persecution based on religion very seri-

ously during the adjudication process.<sup>133</sup> Germany has also exempted religious minorities, among other categories, from a policy of revocation of refugee status accorded to Iraqis during Saddam Hussein's regime (see below, 'Enforced return to Iraq', p.26). Policies that recognize the particular vulnerability of minorities are needed, but focusing on religious minorities fails to take into account the persecution that Muslim ethnic minorities such as the Circassians, Palestinians, Shabaks and Turkmen face.

Iraqi minorities have suffered from and are still vulnerable to specific forms of persecution, and need to be considered as a category requiring specific protection. The simple fact of their belonging to an ethnic or religious minority can expose them to death, torture, hate speech, rape and denial of the right to religious freedom. Amnesty International argues that resettlement programmes should first target vulnerable groups such as minorities, female-headed households, trauma victims and children, because of the hardships they have suffered and also because they 'often have difficulty in protecting themselves, including in a host country.'<sup>134</sup> Vulnerability has to be the main concern, however, and proposals for one specific minority community need to be based on very strong arguments that this community is at particular risk.

The Palestinians, for example, are stateless and stranded in camps in desperate living conditions. Sabian Mandaean no longer have established communities to which they can return in Iraq, and fear for the survival of their culture. The Yazidis and Bahá'ís are subject to particularly vehement prejudice because they are considered not to be 'people of the Book' (that is, followers of one of the Abrahamic religions, namely Christianity, Islam and Judaism). Yazidis were victims of the single most brutal attack on a minority since the fall of Saddam Hussein: the truck bombings in August 2007 that killed more than 400 Yazidis. None of these groups, apart from small numbers of Palestinians, are targeted specifically by resettlement programmes.

The fact that France and Germany have set their sights on Christians suggests that the main concern driving these policies is a perception that Christians will integrate more easily in the host country. Indeed, in some countries such as the Netherlands, resettlement policies include the capacity to integrate as one of the criteria in assessing applications.<sup>135</sup> It is important to avoid any suggestion that the capacity to integrate might depend on the ethnic background or religious conviction of the individual. Such proposals can cause great frustration and resentment among other refugees who feel that the persecution they have suffered is no less than that of Christians (see testimony below). They may also be seized upon by Islamic militias who are already telling Christians that they do not belong in Iraq.

### Testimony

A Turkmen refugee in Amman believes that her husband was killed by Kurdish militia in Iraq. She moved to Kirkuk, but then left Iraq in 2005 when she began to fear for her sons, because the militia were arresting young men without charge and transferring them to Erbil or Sulaymaniah, in order to displace Turkmen and bring in Kurds instead.

'We have not been resettled yet. We are depressed and I'm very sad because I have left my house, my country, everything, my husband. The international community is very discriminatory. Each day I see on the TV that countries like France or Canada are giving [refugee status] to Christians only. What about us, aren't we human beings as well? Are we dogs? Wasn't my husband killed too?'<sup>136</sup>

### Testimony

A 59-year-old Circassian woman from Diyala is now a refugee in Amman.

'My village was attacked and burnt by militia, so I left with my son and daughter. No-one supports us, each sect is supported by its parties but we have no-one. We have our own traditions, but they are not accepted in Arab culture.

'Here in Jordan we do not have residency. Once, a policeman stopped us. I was terrified that they would deport my son, but luckily they only asked for the driver's licence. I can't stop worrying that my son will be caught each time he goes out.

'We are torn apart now. We used to have our village, our community, but now we have nothing. We have become divided. We applied for compensation for our land and property, but we received nothing. We want to be recognized by the government, and the EU should consider our problems.'<sup>137</sup>

## Maintaining identity in new surroundings

The survival of an ethnic, religious or cultural identity impacts on communities in different ways, depending on their size and the resources for supporting their culture extended by the host country.

There are considerable numbers of Sabian Mandaean in Sweden and Australia, but smaller communities are to be found in a number of other countries. As in Jordan, this gives rise to problems of availability of priests and facilities for rituals. One priest in Sweden taught a man in Denmark over the phone how to clean a body for burial, but commented that the work would be in vain: since the body could not be buried the same day, it would become unclean again.<sup>138</sup>

While such matters may appear to be of secondary importance in the midst of a refugee crisis triggered by war, there is much evidence that ritual is of prime importance to displaced people seeking to understand and process their traumatic experiences. Ritual provides a reassuring source of familiarity when everything else is new and confusing; conversely, when rituals cannot be performed, it serves to compound the feeling of disorientation and upheaval. This can contribute to long-term problems regarding integration into the host community. It explains, for example, why refugees in camps may use newly-distributed blankets to wrap up bodies for burial, much to the frustration and incomprehension of aid workers.<sup>139</sup> Most rituals relate to births, marriages and deaths, and hence are the cornerstones of a community's ability to maintain its identity; therefore, they assume even greater importance when a community fears that its existence is threatened.

In the long term, Sabian Mandaean worry for the sustainability of the community. According to research by the Sabian Mandaean Association in Europe, only one in five Sabian Madaeans in Europe are marrying within the faith.<sup>140</sup>

Many of those interviewed – in Syria, Jordan and Sweden – stated that they would like to see all or most of the Sabian Madaeans fleeing Iraq to be collected in one place, so that they can maintain their culture. According to a UNHCR official in Amman, Australia is positive about resettling Sabian Madaeans.<sup>141</sup> One member of the community claimed that most Sabian Madaeans see Australia as an ideal destination because the climate allows for open-air freshwater rituals.<sup>142</sup> The size of the community already there – 5,000-6,000 – speaks in favour of Australia as a possible group resettlement location. Of course, any such initiative must be voluntary and respect the principle of family unity.

Yazidis appear to be less concerned about the long-term survival of their culture, at least outside of Iraq. Most of those interviewed stated that the culture would be eradicated from Iraq as a result of the current waves of persecution but were confident that it would survive worldwide. This is probably due to a number of factors: the size of the community (estimated at 500,000 in Iraq currently); the flexibility of their spiritual practice; and membership regulations less stringent than those of the Sabian Madaeans.

Some countries do not register the ethnic background or religious conviction of those they resettle.<sup>143</sup> The compiling of disaggregated data of refugees' ethnic background and religious conviction is essential for the design of programmes that assist in promoting minorities' identities and cultures. The principle of self-identification is important; Germany, for example, documents Yazidis as

Zoroastrians, on the basis that their religion is thought to have its origins historically in that religion.<sup>144</sup> This is not acceptable, as the Zoroastrian label may have no meaning for Yazidis and violates their right to identify their faith in the way they prefer. It can also have consequences for the services provided to Yazidis, including confusion with currently existing Zoroastrian communities, and is especially unhelpful given the fact that there is such a large number of Yazidis in Germany: about 40,000. One community member interviewed predicted that with the exodus from Iraq, Germany would soon house the majority of the global Yazidi community.<sup>145</sup>

Similarly, a Shabak refugee claimed that the Swedish Migration Board refused to recognize his Shabak identity: 'For the Migration Board we are Shi'a, that's it. They know Mandaean and Yazidi, but not Shabak. It seems they don't want to have any more minorities.'

He also feared for the loss of the Shabak culture, saying, 'We are separated all over Europe now. In our home we speak mixed Arabic and Shabak; we try to keep the mother tongue alive, but the children are more Swedish than Shabak.'<sup>146</sup>

## Dispersal and integration

As a policy, dispersal has serious implications for refugees' capacity to maintain their identities. Currently, in the UK, the Immigration and Nationality Directorate of the Home Office has a policy of locating asylum-seekers and resettled refugees in diverse locations around the country, in order to reduce the strain on services in specific locations.<sup>147</sup> Sweden has no such policy; many Iraqi Assyrian Christians, for example, have chosen to settle in Södertälje, outside Stockholm, which is also home to Assyrians from other countries such as Iran, Syria and Turkey.

Sweden's lack of a dispersal programme has often been challenged. Anders Lago, mayor of Södertälje, commented, 'We want new legislation to spread refugees all over Sweden to get the best for them: better schools, jobs, health and better integration.'<sup>148</sup> If refugees had benefited from moving to other parts of Sweden, it is worth inquiring into why they have not done so of their own accord. Refugees tend to gravitate towards areas inhabited by members of the same community. This can be seen not only in Sweden, but also in Jordan and Syria, where refugees can freely choose where to live. Like participating in rituals, being with other community members can provide traumatized refugees with a reassuring reference point, an element of familiarity. Certain public services, such as language training, may even benefit from target communities grouping together in fewer locations.

Moreover, the community members themselves can organize more effectively to support each other; for exam-

ple, Södertälje has a professional football team, Assyriska, which was founded by Assyrians from Turkey. It is supported by Assyrians around the world, and finished fourth in Sweden's second division last year. According to journalist Nuri Kino and to Robal Haidari, the club's marketing director, it serves as a focal point for the community, making a positive contribution to Assyrians' sense of identity and self-esteem, and helping to reducing crime.<sup>149</sup>

Integration in the host society is a parallel issue driving officials' concern over concentrations of communities in places like Södertälje. Officials claim there are schools where 97 per cent of the pupils are of foreign origin, and that they do not receive sufficient support from central government to deal with such a high concentration of refugees, as exists in Södertälje.<sup>150</sup> Language is a further issue: as a number of refugees interviewed stated, they had not made much progress in learning Swedish and did not need to use it as most of their dealings were with other members of their community. There is a clear need for programmes that promote contact and understanding between refugee and host communities, but forcing people to live in isolation, away from any of their ethnic/religious kin, can only serve to make the readjustment process more traumatic, and can actually be an obstacle to integration by contributing to anti-social behaviour patterns, particularly in children.

Research carried out into the UK dispersal system backs up these findings. Patricia Hynes, National Society for the Prevention of Cruelty to Children (NSPCC) senior research officer, said punitive aspects of UK dispersal policy were an obstacle to the promotion of cohesion and integration 'because of the lack of space for restoring trust.'<sup>151</sup>

This is an issue for all refugee communities and not just minorities, but minorities may have specific issues with the experience of integration into host communities. Firstly, they often carry with them the memory of being a rejected community in their own country. This may lead to a heightened sensitivity regarding their treatment in the country of asylum. Secondly, the communities are usually smaller, and therefore less sustainable; the issues of isolation and loss of culture described above, with regard to small communities such as the Shabak and Sabian Mandaeans, will only be exacerbated by dispersal policies.

Rather than a policy of dispersing people and hoping they will fit in, comprehensive support regarding integration is needed. The Swedish government operates a yearlong programme of support with integration, in which religious/ ethnic needs are a specific element.<sup>152</sup> A number of refugees interviewed mentioned the focused help they are getting with language classes. Such programmes can be delivered more efficiently if refugees are

concentrated in a smaller number of locations. This helps to achieve an effective balance between integration on the one hand, and emotional support for the individual in the process of adaptation, which can be better provided by family and community than by state officials.

### A view from Södertälje

By Assyrian-Swedish journalist Nuri Kino

Iraq's Christians and other minority communities have put Södertälje, Sweden on the world media's map. When those same Iraqis are expelled back to Iraq, however, the silence thickens.

Red tablecloths cover the round tables. The room is dense with cigarette smoke. Iraqi refugees gather to watch the news. Iraqi Prime Minister Nuri al Maliki has met with the Pope and promised him that he will protect the Christians who wish to return to Iraq. 'How will he protect anyone? He doesn't even dare to leave the Green zone.' One of the older men shakes his head and shows me a document from the Swedish Migration Board. It says that he is refused asylum. The Migration Board says it doesn't doubt the applicant's claims of murder threats, murdered relatives and persecution. It's just not enough to grant asylum in Sweden. The Migration Board opines that he does not have enough individual reasons to stay here.

Södertälje is a small city with Swedish pretzels as its symbol. The city is surrounded by water and elegant greenery that grows like nowhere else in the country. New neighborhoods with stone villas are constructed by the canal and the water.

But the town has seen an influx of people in 2008 that has put Södertälje in the media spotlight. The Iraqis that are packed together there are even discussed in the American Congress.

It's been thirty years since the Swedish welfare state's working-class town was first filled with new immigrants. In the factories of Astra and Saab-Scania you could hear Greek, Finnish, Hungarian, Yugoslavian and Turkish. And then there was a language that people couldn't figure out what to call in Swedish: the mother tongue of Jesus. The people who spoke the language consisted of two different denominations, Assyrians and Syriacs. Thirty years later a third denomination was added: Chaldeans, also known as Assyrians.

Regardless of what we call ourselves and why we haven't been able to decide what we should be called, Assyrians are part of the story of modern Sweden. It started in 1967 when two airplanes were filled with so-called quota refugees: Assyrians without a state, who 'fled' to Lebanon from Turkey and Syria. The planes landed in Sweden. Swedish industry was screaming for workers and the Assyrians, most of them young, were invited to dig in.

Nobody had any idea that two wars would eventually make Södertälje the capital of Assyrians all over the world. Today, 'Mesopotälje' has taken in 6,000 people from Iraq: more than the USA. Many of those who are still in Iraq would leave as soon as they could, if they could. Mesopotälje would be the obvious choice, with its soccer teams Assyriska and Syrianska, its satellite TV Suroyo, and the Archbishop for the Syriac Orthodox church of Scandinavia.

The people of Mesopotälje have reluctantly become part of the war. New Iraqi refugees come to the municipality every day. It is estimated that one out of every four living in Södertälje is Assyrian.

In February 2008 the government of Sweden made an 'Agreement for the return of Iraqis' with the government of Iraq. Iraqi Prime Minister Nuri al Maliki has promised Swedish Prime Minister Fredrik Reinfeldt to protect the Iraqis that are sent back to cities such as Baghdad. After that the forced deportations were supposed to speed up. In Stockholm county, where the police had received 3,600 cases from the Migration Board, 3,400 people have gone underground and are now wanted by the police.

The stories are so similar to each other. Stories about sudden and brutal death in Iraq. About fleeing and fraudulent smugglers. Stories that rhyme badly with a summer lunch in Sweden, but in Mesopotälje they are no further away than today's special.

I meet Nemer at my cousin's lunch restaurant. In the summer of 2007 he fled from Iraq. Three family members had been brutally murdered by fundamentalists and four survivors decided to go to Södertälje. They sold everything they owned to pay the smuggler. First they were taken to Turkey, then to Ukraine. In Kiev the smuggler disappeared with all their money. For six months they were stranded.

A Russian Assyrian helped them to find work informally. Their salaries, together with money wired from relatives in Sweden, were enough to contact and pay a Swedish smuggler. He promised that they would be in Södertälje within a week. He went to Kiev, gave them false passports and drove them to Slovakia.

He took them to a barn in the countryside and told them he'd be back within 24 hours. After three days without hearing from the smuggler and out of food, they decided to leave the barn. They walked and walked for 10 hours, until light beams were pointed in their faces. It was the police. They were interrogated and they told the truth about their escape from a city in Iraq where the majority were Muslim and where fundamentalists had either killed Christians or forced them to flee.

Finally they were released. The smuggler had been arrested and had to stay behind bars. A relative bought

them new false passports so that they could come to Sweden. Finally in Sweden they told the truth to the authorities. By doing so they gave up their right to seek asylum in Sweden.

The Schengen accords state that the country that the asylum-seeker first enters is also the country that should handle the asylum application process. You are therefore sent back to that first country within the EU. The very day that I met Nemer, his family had an appointment at the Migration Board. They were to be given notice on when they would be sent to Slovakia and what the specifics of the deportation would be. From Slovakia, people get deported to Iraq. The family won't go. They stay in a basement in Mesopotälje. They share that type of living situation with two thousand asylum-seekers in Södertälje, who don't have anywhere to stay in the crowded town according to the mayor. But, as one man said, 'I'd rather live in a basement in Södertälje than in a castle in Iraq.'

## Enforced return to Iraq

Some countries, including the UK, are operating enforced returns of rejected asylum-seekers to the officially recognized KRG-administered area, arguing that it is peaceful in comparison to the rest of Iraq.<sup>153</sup> UK asylum guidelines advise that it is safe for Christians to seek refuge in the KRG-administered area. They do not mention abuses committed by Kurdish government officials and militias against non-Kurds, both in the KRG region and in the disputed regions bordering it, where there are many minority communities. These abuses are described by a number of the interviewees, and noted by UNHCR in its guidelines on Iraq.<sup>154</sup> In fact, the UK Home Office guidance note describes the *peshmerga* as 'a large, well-trained and well-organized security force' that is controlling the security situation in the KRG-administered governorates.<sup>155</sup>

Most worryingly, the UK Asylum and Immigration Tribunal ruled in the case of *KH* (Iraq) in April 2008 that Iraqi rejected asylum-seekers could be returned to war-torn regions of Iraq, including Baghdad.<sup>156</sup> The Refugee Legal Centre's appeal in this case fell because the applicant had to return to Iraq, and there are media reports that further returns are occurring.<sup>157</sup> The same organization, now called Refugee and Migrant Justice, has appealed in two other cases with similar implications, *QD* and *AH* (Iraq), which they recently won. These landmark judgments are said to have filled protection gaps not only for Iraqi asylum-seekers, but also for all asylum-seekers fleeing generalized violence in armed conflicts.<sup>158</sup>

The Migration Court of Appeal in Sweden has ruled that returns to central and southern Iraq are safe as it holds that there is no armed conflict there.<sup>159</sup> The Swedish

Migration Board has also found that there is no conflict in Iraq, and returns are considered on a case-by-case basis. This followed on from a MOU between the governments of Iraq and Sweden allowing for the forcible return of rejected asylum-seekers.<sup>160</sup> The agreement included an assurance by the Iraqi government that returnees would be protected; however, in February 2009, a Swedish court appeared to doubt the value of this guarantee when it granted asylum to an Assyrian family who had fled the Northern city of Mosul.<sup>161</sup> In August 2009, a Swedish Radio News investigation revealed that Iraqi Christians whose asylum applications have been rejected by the Swedish government and who have been forcibly, or have voluntarily, returned to Baghdad, are once more fleeing the country. Out of 25 interviewed for the programme, including seven children, 'all but one are now on the run again from widespread persecution in Iraq.'<sup>162</sup> The Swedish News investigation has led to an intensive debate. Iraq's Migration Minister Abdul Samad Rahman Sultan responded that his country would not receive a single rejected asylum-seeker who was forcibly returned. 'We do not want to force anyone to return and cannot accept that anyone is forced,' he said.<sup>163</sup>

Although some special consideration has been given to Sabian Mandaean communities because of their plight, other communities such as Christian, Shabak and Yazidi remain vulnerable to being returned from Sweden.<sup>164</sup> Speaking to MRG, many said that if their asylum applications were rejected, they would not return voluntarily.<sup>165</sup> Representatives of the small Shabak minority have reported that over 750 Shabaks have been assassinated by armed groups since 2004.<sup>166</sup> It is vital that their plight, as well as that of other minorities, is understood in the context of

their very difficult situation in Iraq, and applications for asylum be considered accordingly.

Denmark has also signed an agreement with the Iraqi government offering aid in return for Iraq's willingness to take back 282 rejected asylum-seekers.<sup>167</sup>

After the fall of Saddam Hussein, Germany began revoking the refugee status of Iraqi refugees who had arrived during his rule. After considerable criticism it suspended revocations for some categories including religious minorities.<sup>168</sup>

The position of UNHCR is that asylum-seekers from Central and Southern Iraq should be given refugee status. While it accepts that the situation in the officially recognized KRG-administered areas is safer, it advises that returns to this area of Iraqi rejected asylum-seekers not originating from there, 'must be carefully assessed on a case-by-case basis,' and provides a lists of categories of persons, including minorities from the disputed areas along the KRG-administered border, who may be at risk of persecution, may not be able to access services, or may be refused entry to the Kurdistan Region.<sup>169</sup> Amnesty International is opposed to all forcible returns to any part of Iraq, and feels that Iraqis from Northern Iraq should receive temporary protection if they do not qualify for refugee status or complementary protection.<sup>170</sup>

Testimonies collected by MRG document persecution of minorities in the KRG-controlled areas, particularly Shabaks, Turkmen and Yazidis, by both KRG officials and *Asayish* (intelligence services). Given these uncertainties about the future, as well as the strain that IDPs are placing on local resources, MRG also holds that no forcible returns of persons belonging to minorities should be taking place to any part of Iraq at this time.

# Prospects for return

In December 2008, USCIRF called for Iraq to be designated 'a country of particular concern,' under America's International Religious Freedom Act.<sup>171</sup> The reason for this was particularly because of the situation for Iraq's smallest religious minorities, including Chaldo-Assyrian Christians, other Christians, Sabian Mandaean, Shabaks and Yazidis. Commission Chair Felice D. Gaer said, 'The lack of effective government action to protect these communities from abuses has established Iraq among one of the most dangerous places on earth for religious minorities.'<sup>172</sup> Minorities who have fled to neighbouring countries and beyond bear witness to the threats they face when they speak about why they left, and what they endured to escape.

The daily situation faced by Iraqi refugees from minority communities in neighbouring countries puts a large amount of strain on individuals and families to survive, as well as to keep their religious and cultural traditions alive. It is telling that despite these conditions, however, a large proportion of those interviewed for this report say that they have no intention of ever voluntarily returning to Iraq. The USCIRF report confirmed this in its assessment of returnees since 2007 to 2008, stating that out of those who had returned from neighbouring countries, 'Chaldo-Assyrian Christians, Mandaean and Yazidis are not believed to be among these returnees.'<sup>173</sup> A report from the Brookings Institution said, 'from hundreds of conversations and interviews with Iraqi refugees, it is clear that many would like to return to their country. The only ones to express greater ambivalence are the minorities who fear they no longer belong in Iraqi society.'<sup>174</sup>

Five Mandaean brothers interviewed in Södertälje, Sweden, for this report, said they paid \$15,000 per person to get to Sweden after they were threatened in Iraq. In Sweden, they were living together in a small flat, while their wives and children were in Syria waiting to join them. They said, 'We will never go back, it is impossible. We will suffer death if we go back ... If you stay in Iraq, you will convert to Islam or be killed. For that reason, the future is dead for us there.'<sup>175</sup> These sentiments were echoed by many other refugees from minority communities interviewed for this report.

## Incentives and their impact

In a statement issued on 16 July 2008, the Iraqi government announced financial incentives in an attempt to

encourage internally displaced Iraqis, and those who have fled to neighbouring countries, to return to their former homes.<sup>176</sup> The statement took into account the growing sectarianism in the country, the problem of people returning to find that their homes had been occupied, and gave as motivation for the decision the desire to re-establish and promote diversity in Iraq. 'These decisions are designed to facilitate and expedite the return of displaced families to their houses to boost the peaceful coexistence among Iraq's different components in mixed areas,' the statement said.<sup>177</sup>

Registration is required to claim the financial incentive. But with reference to the Christians who fled Mosul following the attacks outlined above (p.11), UNHCR spokesperson Ron Redmond said, 'Returnee families are to receive from the government a cash grant upon return of up to \$800 ... many do not register for fear of exposure or uncertainty of their return.'<sup>178</sup> As is documented in this report, the same fear holds true for minorities in neighbouring countries.

The Iraqi government has established other incentives specifically for refugees, including free airline tickets for Iraqi refugees in neighbouring countries and third countries if they return voluntarily to Iraq, free shipment of their belongings, and compensation for damaged property.

Incentives are coupled with deals made with neighbouring countries to expedite return of refugees displaced therein. After discussions with the Iraqi authorities, Jordan announced in March 2008 that it would waive fines for Iraqis who overstay their permits, providing they leave Jordan. The fines accrued are 1.5 Dinars a day (about \$3). For those who paid half the fines, a three-month temporary residency permit would be available.<sup>179</sup>

In Syria, incentives have been offered for returnees and for six months after return. But almost all minority refugees interviewed rejected the possibility of return. An Armenian man, who fled after receiving threats because of his work as a barber, said, 'It is impossible to go back. I have no home, no house, no salary ... They know you are Christian and you are an infidel. If they know you get remittances, they kidnap you.'<sup>180</sup>

As has been widely noted in this report and by others, the Iraqi refugee crisis has put massive strain on infrastructure and services in Jordan, Syria and other countries in the Middle East. Adel al Hadid, Coordina-

tor for Refugee Affairs at the Ministry of the Interior in Jordan, said, 'Iraqi refugees are burdens.' He said, 'It is out of the question for Iraqis to settle here. They are temporary guests.' He also confirmed that the Iraqi government had requested tighter visa restrictions be imposed on Iraqis entering Jordan in May 2008.<sup>181</sup>

Swedish practice now includes offering 30,000 Swedish Kronor for those who agree to return voluntarily after having been denied asylum. During the first half of 2009, approximately half have said no. During the same period, the Migration Board has handed to the Swedish police over 939 cases of persons who have either gone into hiding or have a deportation decision pending against them.<sup>182</sup> As the Iraqi-Swedish MoU makes clear, the option of 'voluntary' return is being offered to those who have been rejected and have no other option; if they do not choose to return voluntarily, they 'may be ordered to leave Sweden as an option of last resort.'<sup>183</sup> In light of these circumstances, the 'voluntary' nature of any of the deportations can be debated.

Given the situation of IDPs and refugees as extensively catalogued both here and in numerous other reports, it is clear that to use terms such as 'voluntary' or similar phrases is misleading in light of the desperate situations and lack of options facing many refugees. The pressure of dwindling resources, the fear of losing their livelihoods and reports of increased security presence, the difficulty in accessing places of safety, as well as, of course, being rejected by countries of asylum all force people to return. The financial incentive offered in such conditions may only help motivate the decision. For minorities, however, a different picture is emerging, one that highlights the level of fear of continued eradication of their communities from Iraq.

In its July 2008 statement, the Iraqi government offered 1.8 million Iraqi Dinars (about \$1,500), 'to families who are illegally occupying the houses of other displaced families from a different sect and who want to return to their homes.'<sup>184</sup> According to the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) news service IRIN, the statement said the aim of the money is to help those families to rent other places.

USCIRF reports that the Iraq Property Claims Commission (IPCC) accepts claims made by people who lost real property or an interest in real property between 18 March 2003 and 30 June 2005 as a result of ethnicity, religion or sect or for purposes of ethnic cleansing. The deadline to file claims was initially 30 June 2005 but was subsequently extended to 30 June 2007. A Mandaean human rights activist has commented, 'As far as we know, there has not been any Mandaean property that has been returned to its rightful owners.'<sup>185</sup>

Through recent Orders 101 and 262, the Iraqi government intends to provide means for property restitution and eviction of squatters, of whom some may become secondarily displaced.<sup>186</sup> The impact of these orders is unclear, particularly for minorities who may feel unable to report crimes for fear of discrimination on ethnic or religious grounds. In the KRG-administered areas, Christians and Yazidis have reported that court judgements on return of properties are not being upheld.<sup>187</sup> In situations such as this, as UNHCR has highlighted, minorities do not have access to the same traditional conflict resolution mechanisms as majority communities do, and therefore have less access to protection.<sup>188</sup> The Iraqi government must address these issues decisively and transparently to implement and give credence to Iraqi Prime Minister Nuri al Maliki's statement in a letter to the parliament and electoral commission that 'The minorities should be fairly represented in the provincial councils and their rights should be guaranteed.'<sup>189</sup>

Despite the push from countries of asylum and pull from the Iraqi government, it seems that the trauma that minority communities have suffered, and continue to suffer, in Iraq means minorities who have fled to neighbouring countries have no plans to go back. In April 2008, a survey of 994 Iraqi refugees in Syria found that 89.5 per cent were not planning to return. Of those surveyed, 20 per cent were Christian, 4 per cent Mandaean, 0.2 per cent Yazidi and 1 per cent refused to specify their religion. 65 per cent said they had fled 'because of direct threat to themselves or their families,' and 61 per cent said that they did not want to return because of this. The survey showed that an inability to afford to live in Syria was a key motive for those who returned.<sup>190</sup>

Interviews conducted for this report show the level of fear of the situation in Iraq among refugees from minority communities remains high, making it unlikely that persecuted minorities will return voluntarily. Many do not believe that accepting incentives is any guarantee of safety.

One Iraqi Christian family with daughters aged seven, five and three, fled Iraq because they were attacked in their home. Now living in two rooms in a poor part of Amman, Jordan, the girls cannot go out, because their parents are afraid of being caught by Jordanian authorities. The girls have no access to school and very little stimulation. Despite the conditions they must cope with in Jordan, their mother said, 'I would never go back, not even if I was the President.'<sup>191</sup>

Protection for women from minority communities remains unaddressed. The climate of increased religious intolerance is compounding the pressure felt by women from minority communities, who may have been victims of rape and/or abduction because of their religious affiliation, have been forced to wear *hijab*, and have reported

being unable to walk outside freely without male escort.<sup>192</sup> Although the violence against Christians is mainly targeted against men, according to Joël Voordewind, MP for the Netherlands Christian Union Party, who made a field visit to Northern Iraq in April 2008, this is compounding the vulnerability of the women left behind. 'Not only adults are targeted, but youngsters of only 14,' his report states. 'It seems that one is attempting to destroy two male generations at once.'<sup>193</sup> The vulnerability of minority women and the limitations it places on their ability to provide for their families and feel a sense of self-respect and safety in Iraq could have an impact that will last for generations. The Iraqi government, the KRG, the UN and other organizations working on the ground in Iraq must take this seriously if these women, who often take on the role of head of the household, are to have any sense of safety in the new Iraq.

A 34-year-old Sabian Mandaean man from Baghdad who came to Sweden illegally in 2007 said:

*'We paid \$50,000 to come to a new life. We were afraid when we first left Iraq – we came through Turkey, it was a difficult journey. Everything is much better here than in Jordan or Iraq: safety, security and personal freedom for my children, my wife and me. I can't return to Iraq because maybe the same people are present. I don't know, but I don't think the situation has changed.'*

He added that when he first arrived in Sweden, his children, who were five years, two years and three months old at the time, could not sleep for many months. They woke at night crying. He said, 'I heard governments are offering money to return, but this will not affect me. I am not seeking money. I seek a better life for my children, and I think they will find it here.'<sup>194</sup> Furthermore, as a Sabian Mandaean spokesperson has commented, 'There is no safe geographical area for Sabian Madaeans to return to as they have previously lived among other religious sects.'<sup>195</sup>

For the Turkmen community, return from Turkey and Syria, to which many have fled, may be more likely. They are struggling for the right to self-identification following years of assimilationist policies, and therefore have a strong desire to retain a foothold in Iraq. A Turkmen woman said, 'We are fighting to stay in Iraq. I have relatives like my grandmother, they feel it is OK to flee to Sulaymaniyah or Erbil, even though it is Kurdish and they don't speak the language. They don't want to leave Iraq.'<sup>196</sup> But staying or returning might depend on what happens in Northern Iraq, where the issue of minority identity and safety is now at a crucial stage.

In August 2008, a group of over 100 Iraqi and international NGOs issued a statement warning that it was not safe to return. UNHCR holds the same view. In June 2009, Ron Redmond, a UNHCR spokesperson said, 'It is UNHCR's opinion that Iraqis should not be forced back, which would be detrimental to the safety of those concerned and would negatively affect the fragile absorption capacity of the country.'<sup>197</sup>

With reference to the situation in Mosul, on the Nineveh Plains, UNHCR in October 2008 said, 'Those who remain displaced say they still fear the uncertainty and political instability in the region. The general lack of law and order in Iraq's second largest city has been a serious concern not only for Christians but other minorities as well, including Shabaks, Yazidis and other minority groups who were forced to flee their homes in recent years.'<sup>198</sup> Serious attacks have continued in 2009. On 10 August 2009, bombs detonated in the Shabak village of Khazna, near Mosul, killed at least 23 people.<sup>199</sup> The Turkmen community was struck on 7 August 2009 by a bomb in northern Mosul, killing at least 37.<sup>200</sup> On 20 June 2009 in the Turkmen village of Taza Kurmatu, south of Kirkuk, over 70 were killed by a bomb.<sup>201</sup> 'The bombings of minority communities near Mosul and Kirkuk are more than just an expression of religious hatred,' said Mark Latimer, MRG's Executive Director. 'They are a deliberate attempt to grab control over contested territory in northern Iraq by pushing out the minorities who live there.'

# Legal protection for Iraq's minority refugees

The 1951 Convention defines a refugee as any person who:

*As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.*<sup>202</sup>

When it was drafted, the 1951 Convention was restricted to protecting those who had fled events that had occurred prior to 1951. Moreover, states could limit its applicability to events in Europe. Its 1967 Protocol extends the applicability of the 1951 Convention to events occurring after 1951 and removes the geographical restriction.

Jordan, Lebanon and Syria have not ratified the 1951 Convention. Turkey has ratified the 1951 Convention but took the option to limit its applicability to events occurring in Europe. This has potentially serious consequences for Iraqi minorities, given the very high proportion of Christian and Turkmen Iraqis in Turkey. All the other major countries of asylum for Iraqi refugees – including Australia, Canada, France, Germany, Sweden, UK and USA – have ratified the 1951 Convention or its 1967 Protocol, and in most cases both.

While Iraqi refugees in Jordan, Lebanon and Syria may not benefit from the full protection of the 1951 Convention, there is an increasing consensus that the principle, contained in Article 33, of *non-refoulement* – that a refugee cannot be sent back to a country where his or her life or freedom would be threatened due to one or more of the grounds enumerated in the refugee definition – is an obligation under customary international law. In other words, the *non-refoulement* principle is binding on all states, regardless of which conventions they have ratified.<sup>203</sup> Furthermore, these countries are all parties to the United Nations International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture, and as such are obliged to avoid any action that places individuals at risk of torture, arbitrary detention, extrajudicial execution and other violations prohibited by those instruments. These provisions prohibit states from

sending back a refugee to a situation where the person would seriously risk such violations. Given the *non-refoulement* principle, returns to Iraq must be truly voluntary, safe and dignified. The implicit coercion of some of the 'voluntary' return policies described in this report constitute constructive *refoulement* and thus are in violation of treaty obligations and customary international law.

Iraqi minority asylum-seekers applying in member states of the Council of Europe (CoE) can also claim protection under the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), for example Article 3 (prohibition of torture or inhuman or degrading treatment or punishment), Article 9 (freedom of religion) and Article 14 (prohibition of discrimination with regard to the enjoyment of the rights contained in the convention).<sup>204</sup>

Asylum-seekers have turned to the European Court of Human Rights (ECtHR) to challenge rejections by national adjudicating bodies, including in cases involving minorities. They have claimed that if returned to their country of origin they would be subjected to a real risk of torture or inhuman and degrading treatment due to their belonging to a minority group. The Court has found a violation of the Convention under Article 3 in several cases, following its judgment in *Salah Sheekh v. the Netherlands*.<sup>205</sup> *Salah Sheekh v. the Netherlands* decreed that in such cases where the applicant has established her/his membership of a minority group (in this case the Ashraf, a minority group in Somalia), and credible sources document the threats to that minority, the applicant should not be required to offer further proof of the risk of persecution, which might be impossible to document, as discussed below. Clearly, requiring proof where it cannot be provided could render the protection against torture offered by Article 3 meaningless.<sup>206</sup>

The Grand Chamber of the Court confirmed in *Saadi v. Italy* that:

*[I]n cases where an applicant alleges that he or she is a member of a group systematically exposed to a practice of ill-treatment, the Court considers that the protection of Article 3 of the Convention enters into play when the applicant establishes ... that there are serious reasons to believe in the existence of the practice in question and his or her membership of the group concerned.*<sup>207</sup>

A recent European Court ruling is less favourable to Iraqi minority asylum-seekers. In *F.H. v. Sweden*, the ECtHR ruled against the applicant, despite his claim of fear of persecution as an Iraqi Christian among other grounds. While the Court noted that there had been incidents against Christians, including an attack that led to the killing of 12 Christians in Mosul in October 2008, it considered that these had been committed by individuals and not by groups. The Court noted that the Iraqi authorities had spoken out against the attack, and found that the applicant would be able to seek the protection of the authorities and did not face a real risk of persecution on this ground, if returned.<sup>208</sup> Judges Powers and Zupančič dissented, underscoring that the judgement was ‘difficult to reconcile with such objective evidence as is available.’<sup>209</sup> Furthermore, the case is complicated by the fact that the applicant had previously been found guilty of murder. This may have led the Court to interpret the ECHR more restrictively.

## Persecution of minorities – some specific issues in refugee law

Given the tendency on the part of many asylum countries to apply the 1951 Convention more restrictively, it is worth looking at the opening line of its refugee definition more closely. The key words ‘well-founded fear’ contain two critical components: an objective criterion of well-foundedness, and a subjective criterion of fear. The objective component refers to the situation in the country of origin. Asylum adjudication authorities have a tendency to focus on this aspect when reaching a conclusion on an individual asylum claim. They may well base their judgement on any sign of improvement, however fragile, in the conditions that induced the asylum-seeker to leave. In its authoritative *Handbook*, however, UNHCR clearly emphasizes that weight must also be given to the asylum-seeker’s subjective state: ‘Since fear is subjective, the definition involves a subjective element in the person applying for recognition as a refugee. Determination of refugee status will therefore primarily require an evaluation of the applicant’s statements rather than a judgement on the situation prevailing in the country of origin ... The term ‘well-founded fear’ therefore contains a subjective and an objective element, and in determining whether well-founded fear exists, both elements must be taken into consideration.’<sup>210</sup>

Many of the acts of persecution of which minorities complain are committed by non-state actors such as insurgent militias. While the 1951 Convention talks of the need to offer protection to persons who are no longer

protected by their own state, it is important to emphasize that refugees do not need to have been persecuted directly by government actors to qualify for this status. Asylum must also be provided if it is clear that the state is unable or unwilling to provide protection against those committing persecution.<sup>211</sup>

Most asylum adjudication authorities place the burden of proof on the asylum-seeker; however, persecution by non-state actors on the basis of ethnic membership and/or religious conviction is not always easy to document. UNHCR places equal responsibility on the adjudicator: ‘While the burden of proof in principle rests on the applicant, the duty to ascertain and evaluate all the relevant facts is shared between the applicant and the examiner.’<sup>212</sup>

There is a growing body of refugee case law providing guidance to officials adjudicating asylum claims involving allegations of persecution by private individuals or groups. In *Korablina vs. INS*, the petitioner appeals a decision of the Immigration and Naturalization Service (INS)<sup>213</sup> of the USA to deny her asylum claim.<sup>214</sup> Korablina, a Jew from the Ukraine, alleged that her family was persecuted by extreme right-wing racist groups. The INS had determined that she had been the victim of discrimination, not persecution, and that this did not suffice for the approval of refugee status. The Court of Appeal considered Korablina’s testimony regarding, ‘the police’s unwillingness to help her and her fear that they may actually have been collaborating with the ultra-nationalists.’ She also provided corroborating testimony from her daughter, and articles showing that the authorities had not responded to complaints made by Jewish victims in Kiev. The court found that, ‘A single isolated incident may not “rise to the level of persecution, [but] the cumulative effect of several incidents may constitute persecution.”’<sup>215</sup> A key factor in the case was evidence showing that the police, at best, failed to take any action in response to Korablina’s complaints, and at worst, may have actively sympathized with the racist groups.

The case of *Kraitman and others vs. Canada* established that the government’s claims to operate an anti-discrimination policy is not, on its own, sufficient reason to throw out asylum claims based on ethnic/religious persecution.<sup>216</sup> In another case, involving a Roma family from Hungary who were subjected to systematic racist attacks by skin-heads and applied for asylum in Canada, the Federal Court overturned a ruling by the Immigration and Refugee Board (IRB). The IRB was found to have been mistaken in two of its findings: that there was no evidence of racial motivation behind the attacks on the family; and that the government’s willingness to address the Roma problem constituted sufficient protection in itself.<sup>217</sup> A similar situation exists in Iraq, where the government’s statements of good will towards minorities, and

its stated intent to deal with persecution, cannot disguise the lack of real protection. This assessment is supported by the UNHCR's guidance on Iraq, which states that:

*Where the applicant is at risk of harm at the hands of a non-State actor, the analysis of the well-foundedness of his or her fear requires an examination of whether or not the State, including the local authority, is able and willing to provide protection. In the situation of the Central Governorates, given weak government structures, and the fact that government security forces are infiltrated by radical elements from militia groups, protection from State authorities would, in almost all cases, not be available. Consequently, an asylum-seeker should not be expected to seek the protection of the authorities, and failure to do so should not be the sole reason for doubting credibility or rejecting the claim.<sup>218</sup>*

## The European Union

The EU has drawn up further provisions for refugee protection. The Temporary Protection Directive allows for the granting of temporary protection for a year, which can then be extended at six-month intervals to a maximum of three years.<sup>219</sup> It has been argued, however, that this directive was designed to cater for the kind of massive influx of refugees into EU states that was seen during

the Balkans conflicts, and not for situations like Iraq where most refugees are currently in non-EU countries.<sup>220</sup>

The EU's Qualification Directive aims to 'ensure that Member States apply common criteria for the identification of persons genuinely in need of international protection, and, on the other hand, to ensure that a minimum level of benefits is available for these persons in all Member States.'<sup>221</sup> According to the directive, protection should be provided to – among others – those subjected to discrimination in matters including legal, administrative or police measures or in access to justice.

Importantly – particularly in cases of persecution by non-state actors such as militias, as is the case in Iraq – the directive provides a recognition that while the burden of proof of persecution lies with the asylum-seeker, it may not always be possible to document certain kinds of persecution. In such cases, the requirement of documentary evidence will be waived if the applicant fulfils a certain number of requirements, including explaining why documents could not be provided, and has made a credible and coherent case.<sup>222</sup> It also stipulates that member states should take into account the difficulties asylum-seekers may have in providing supporting documentation (such as marriage certificates – see the Sabian Mandaean example on p.15). The Qualification Directive will hopefully bring EU member-states adjudication policies more in line with UNHCR's *Handbook* provision quoted above.

# Conclusions

The people of Iraq are rightly very proud of their heritage as one of the oldest civilizations in the world. As the successor to Mesopotamia, the country lays claim to being the birthplace of writing, the wheel, and the civilizations of Ubaid, Sumer, Akkad, Assyria and Babylon. Some of the communities most closely linked to that ancient heritage are now fleeing the country in large numbers, as documented in this report. UNESCO lists eight endangered languages in Iraq.<sup>223</sup> Taking only the criterion of linguistic diversity, the disappearance of these cultures from Iraq would be a great loss to the country, as is the loss of any aspect of cultural heritage. Their presence acts as an invaluable brake on the potential drift towards supremacist ideologies motivated by sectarian hatred and the ultimate division of the country along religious and ethnic lines.

In the long term, the objective must be to maintain that diversity by ensuring that minorities, who said that they would not go back 'even if they beg' or 'even if I were President,' can learn to see the country as their home again. The Iraqi government must do more than make rhetorical gestures about safeguarding minorities in order to recreate a sense of belonging. It must pass laws guaranteeing minority rights, building on Article 125 of the Constitution, and set up mechanisms for minorities to participate effectively in decisions that affect them. Security must be provided, by involving minorities themselves in policing, and by strengthening discipline and accountability.

As UNHCR notes, that stage has not been reached, and it is not an option to return Iraqi refugees, minorities or not. The international community must therefore provide genuine access to protection. Asylum procedures must be fair and asylum adjudicators must recognize the continued instability and uncertainty facing minorities in Iraq. The international community must therefore ensure that the principle of *non-refoulement* is respected. Resettlement must remain available for the most vulnerable Iraqi refugees in the region, including minorities. Additionally, the world community must give more support to the already overburdened countries in Iraq's neighbourhood that are home to the vast majority of the displaced.

Ethnically and religiously, the Middle East is a highly diverse region, and Iraq is no exception. In Western media reporting on minorities affected by the Iraq refugee crisis, however, MRG has noted an editorial

blindness towards the situation of minorities other than Christians. If they are mentioned at all, it is usually in the catch-all term 'religious minorities,' thus ignoring the plight of Muslim ethnic minorities.<sup>224</sup> This perception of bias appears to have informed government policy and practice in some instances, as documented in this report, and contributes to a perception by Muslims in Iraq and leaders of other Muslim countries that the West is only interested in protecting Christians. This risks exacerbating resentment towards this community and acts as an obstacle towards reconciliation. In fact, our research showed that most, if not all, of Iraq's many minority communities have been caught up in the refugee crisis. It is also important that any proposed solutions recognize the different views and opinions that exist within those communities, and does not homogenize their identities or their needs.<sup>225</sup>

The psychological trauma and fear that Iraqi minority communities have experienced strike at the heart of their religious, cultural and ethnic identities. It is not easily forgotten or healed. Return under such circumstances is an almost impossible concept, as this report shows. The idea that some returns are 'voluntary' is undermined by various interconnected issues, including the economic pressure many refugees are facing, rejection by third countries and incentives from the Iraqi government. Even so, these pressures have not been enough to force minorities outside Iraq to return in any large numbers. As they struggle to make their homes elsewhere, often lacking status or citizenship, return may seem increasingly out of the question. The main criteria for considering any return must be that it is voluntary, safe and dignified.

The continued violence by insurgent groups against minorities in Iraq, the lack of adequate protection by the Iraqi government, and threats and coercion from the KRG in the North give Iraqi minority refugee communities little encouragement to return. Those who are internally displaced remain in a precarious position. Neither group has a solid reason to trust that their rights will be protected in the new Iraq and on this point, Assyrian Christians, Sabian Mandaean, Shabaks and Turkmen representatives expressed their dismay to MRG, individually and collectively. An Iraqi bishop who did not want to be named for security reasons, as many leading figures of the Iraqi Christian church have been killed since 2003,<sup>226</sup> said, 'Now Christians, [Sabian] Mandaean, Yazidis, Turkmens and others will never trust any democ-

racy in Iraq ... Both the Iraqi national and the Kurdish ... governments disappoint, but both have shown now that it was all just empty promises.<sup>227</sup>

In the absence of any effective guarantees, international standards on human and minority rights are clearly being ignored. Article 3 of the UN Declaration on Human Rights states that everyone has the right to life, liberty and security of person. Article 18 states that everyone has the right to freedom of thought, conscience and religion. Article 27 of the ICCPR affirms the right of persons belonging to ethnic, religious or linguistic minorities to enjoy their own culture, to profess and practise their own religion, or to use their own language.

It is clear that these and other standards are not being met. The human tragedy is there for all to witness. If this continues, the consequences will also have an impact on Iraq, and change its diverse demography perhaps irrevocably. Unless the Iraqi government, supported by the KRG and the international community, acts more swiftly to protect and promote the unique identities and rights of Iraq's minority communities, the damage to the presence of these ancient peoples may already have been done. In the meantime, Iraq's uprooted minorities must be able to find safe havens elsewhere.

# Recommendations

## To governments of countries of asylum/resettlement:

- All Iraqis who can demonstrate credibly that they fear persecution should have access to protection. The *non-refoulement* principle must be respected and authorities must facilitate procurement of permissions to stay and work permits.
- All countries, particularly those on the borders of the EU that are often the point of first access, must fulfil their obligations to Iraqi asylum-seekers, including dignified reception facilities and a fair and transparent process to assess asylum claims.
- Asylum authorities should recognize that, in view of the evidence of widespread persecution of ethnic and religious minorities in Iraq, membership of such a group should be considered sufficient grounds to establish a *prima facie* case for asylum. This should be noted expressly in guidance for staff carrying out refugee status determination.
- Asylum authorities should recognize all of the various ethnic and religious minorities from Iraq, including smaller groups such as Shabaks, and the specific forms of discrimination and persecution that they may face. Where possible, the principle of self-identification should be respected: for example, Germany should recognize and document Yazidis as such, and not as Zoroastrians. In policy statements, authorities should recognise the persecution suffered by Muslim ethnic minorities, including Circassians, Faili Kurds, Palestinians, Shabaks and Turkmen, as well as religious minorities.
- In view of the extensively documented persecution they have suffered, minorities should be considered as a priority for resettlement programmes; however, the criteria used must be objective and emphasize vulnerability so as not to exclude other vulnerable categories. There is a specific and very urgent case to resettle the Palestinians, who remain in desperate conditions in camps in the border regions of Iraq, Jordan and Syria.
- There is an urgent need to resettle a larger number of the most vulnerable Iraqi refugees currently in Iraq's neighbouring countries. States who participated in the multinational force have a particular moral obligation to these refugees. The response of the UK government to date, in particular, has been notably poor. The resettlement screening and administration process should be speeded up considerably.
- In order to avoid dispersing small minorities such as the Sabian Mandeans and Shabaks, and risking the complete disappearance of their cultures, governments of resettlement should consider cooperating to find a solution, with a view to identifying one country that could accept most refugees from a given community, notwithstanding family reunification issues.
- Governments should increase support to the already-overburdened neighbouring states which are hosting most Iraqi refugees, in order to support social services.
- Communities arriving in countries of asylum and resettlement should not be dispersed against their will. Should they choose to settle in concentrated areas, resources should be focused on those areas in order to promote integration, for example, through national language teaching, and cultural or other activities that promote contact with host communities.
- Asylum countries should promote better institutional understanding of Iraq's minority communities, their experiences since 2003 and their particular needs as refugees.
- In light of extensive documentation of abuses committed against minorities, governments should not forcibly return members of Iraqi minorities to Iraq.

## To the government of Iraq:

- The government should increase support to the already-overburdened neighbouring states, using a percentage of income from oil revenues, in order to support social services for Iraqi refugees.
- In order to act decisively to address the root causes of the flight of Iraq's minorities, the Iraqi government should:
  - Take concrete steps to improve the security of minority communities, including minority women who are particularly vulnerable;
  - As an important confidence-building measure, allocate more resources to the Commission for the Resolution of Real Property Disputes, to enable it to speed up processing of claims of returning refugees and those expressing a desire to return, and internally displaced persons. The government should consider widening the remit of the Com-

mission to consider claims relating to events after April 2003.

## **To UNHCR:**

- UNHCR should provide training to all staff on registering refugees who make claims of minority rights violations, and monitor frontline staff to ensure that all cases are dealt with fairly.

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## Uncertain Refuge, Dangerous Return: Iraq's Uprooted Minorities

Since the start of conflict in Iraq in 2003, the country's minorities have suffered disproportionate levels of targeted violence because of their religions and ethnicities. Inside Iraq they continue to suffer this violence. Outside, they form a large proportion of those displaced, either by fleeing to neighbouring countries or seeking asylum further afield.

But as this report clearly shows: having passed Iraq's borders is no guarantee of safety. Asylum-seekers risk being turned back at the Greek border; if they continue into other member-states of the European Union they face increasingly restrictive asylum policies. For minorities the ramifications of this are stark. If rejected, they risk being sent back to Iraq. Dispersal policies which divide refugees of the same nationality between cities and towns have a serious impact on minority communities whose numbers may already be at the limits of sustainability. Such policies also ignore the needs of minorities, especially the need to maintain, as a community, their cultural identity

and religious practices. There is also a tendency to ignore the plight of Muslim ethnic minorities in reporting and processing asylum claims.

Drawing on numerous first-hand interviews with Iraq's minority communities across the Middle East and Europe, this report details the considerable difficulties they face in the struggle to gain safety. It highlights that, for many minorities, return to the extremely precarious existence they face in Iraq is an impossible prospect.

As asylum countries continue to use a combination of voluntary incentives and force to return Iraqi rejected asylum-seekers and refugees, this report offers an urgent analysis of the impact of such measures on minorities. It calls on the Government of Iraq and the international community to give greater consideration to the specific needs of Iraq's religious and ethnic minorities in all matters of asylum, resettlement and return.