



Preparatory study

Iraq

Preparatory study Iraq Housing, Land and Property rights

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1. Background

Iraq, a country with a population of around 40 million, has a history full of conflicts and displacement. Throughout the past few decades, Iraqis have been living under conflicts (internal and external), spelling chaos in different aspects of life. Poverty, displacement, violence, and corruption are widespread in society. Recent conflict with ISIS exacerbated the situation and affected large swathes of land that were under their control. After freeing the areas under ISIS control, huge challenges emerged in the process of return, recovery and rebuild. The fight with ISIS destroyed cities and villages and explosive materials left behind hinders safe return processes. Therefore, the international community pledged to support the return and reconstruction process. Yet we stand today after five years of ISIS defeat and many people are still displaced. Ruins and rubbles are still on the ground and people have no shelter to protect them, which is in fact a basic human rights.

The displacement waves were not a creation of only ISIS conflict, but an accumulation of several displacement waves. However, the last one was the largest in size with 6 million people displaced internally. That has left many people in poverty, while they lost their housing, land and property (HLP) rights documentation. Conflict, poverty and lack of shelter left people with no option but squatting on state land or residing in informal settlements and refugee camps. With the victory over ISIS declared in 2017, many were ready to return home and start over, but the reality was not conducive. Reasons for this continuing displacement include destruction of property, lack of livelihood, lack of services, inaccessible aid, etc.

The destruction of housing and infrastructure, and even land administration buildings, made the return process cumbersome and exhausting. Property rights were systematically targeted by ISIS, and people suffered from forced sales, forgery of documentation, expropriation and destruction. Claiming back HLP rights after ISIS is not and will not be an easy process. Due to the inefficiency of land registries, loss of documentation, corruption, outdated registries, and unlawful occupation, amongst others. The efforts by the international community together with national stakeholders to restore HLP rights led to some improvements in the situation. But a lot still needs to be done.

To understand the extent of HLP issues in Iraq it is important to understand the country's land administration system and different categories of land types, as well as the events that affected the system and have weakened it throughout the years. This context has left millions in vulnerable situations, especially minorities and women. Moreover, the formation of the Iraqi society is unique with several religions and ethnical groups sharing one area and living together for hundreds of years. This situation was exploited by extremism and terrorism in an effort to create a gap between different minorities while weakening the Iraqi social cohesion through resource confiscation, forgery and forcible eviction amongst others.

1.1 Land administration and types of land

The modern land administration system in Iraq has its roots in the Ottoman Empire and was also impacted by the British colonial era. It was then transposed into the Iraqi civil code in 1951 which is based on Sharia law. Land in Iraq is divided into five categories:

- *Mulk*: private ownership
- State owned land
- *Matroukah*: state public land
- *Mawat*: dead land
- *Waqf*: endowment land

Each type of land has its characteristics and laws; eventually revised by law no. 43 of 1971. The most important category which is related to HLP rights is Mulk Land. The registration of private ownership is done through RERDs (Real Estate Registry Departments) which fall under the authority of the Ministry of Finance but also overseen by the Ministry of Justice. RERD is the only body in Iraq responsible for registration of HLP rights and production of cadastral maps.

It is estimated that 90 per cent of Iraq's land belongs to the state and 10 per cent is privately owned (USAID, 2015). As mentioned, HLP registration in Iraq is governed by Law no. 43 of 1971 that preserves tenure rights of owners registered at the RERD and does not apply to non-registered rights. Iraq's Land Administration System (LAS) can be characterized as inefficient and unreliable. Land registries are outdated and mostly paper based. Forgery of documents is widespread, and the property registration process is long and costly. The situation of land administration worsened during the recent conflicts from 2003 until now mainly due to corruption, informality and negligence. The big waves of internal displacement exercised an enormous pressure on land and its administration system. This comes in addition to the systematic destruction of land registry buildings that ISIS carried out during 2013-2017 in occupied areas.

1.2 Displacement waves

To understand the impact of conflict on HLP rights in Iraq, it is important to understand the waves of displacement throughout the past few decades:

- The Arabization movement of expelling Kurds and Turks out of Kirkuk governorate and settlement of Arabs. This movement took place between the 1970s and 1990s of the last century and affected thousands.
- The Iran-Iraq war from 1980-1988 that resulted in destruction of around 3500 Kurdish villages and forcibly dislocated thousands of Kurds.
- The Gulf war and the forcible eviction of Marsh Arabs after the war.

- The sectarian violence between Shiaa and Sunaa from 2006-2008, affecting primarily governorates in Central Iraq.
- The ISIS conflict that affected and displaced around 6 million people in Iraq and affected many governorates, including Anbar, Diyla, Kirkuk, and Salahaddin, and most importantly Ninewa.

The successive waves of displacement and the resulting numbers of displaced people exhibits the intense pressure on land and land systems, as well as the competition for housing. This resulted in weak tenure security, including confiscations, occupations, evictions, forgery of documents and destruction of property and documents.

1.3 Rebuilding and recovery

After ISIS was defeated in 2017, the international community came together in the International Conference for Iraq Reconstruction in Kuwait in 2018, to support the rebuilding process with a focus on physical and humanitarian dimensions. The conference pledged 30 billion USD for the rebuilding process. In addition, the EU community pledged an extra 400 million EUR for early response, humanitarian aid and sustainable development. According to the Iraqi government at least 90 billion USD is needed for the rebuilding process over a period of 10 years. Funds are to protect and assist the most vulnerable displaced people and to support them to return without discrimination based on identity (Reliefweb, 2018). The process of rebuilding would be done through the collaboration of the Iraqi government with UN agencies, while also opening the space for investments and the private sector to be part of the rebuilding process.

1.4 Objective of the study

The current study focuses on mapping active stakeholders and HLP rights projects and programmes in areas of return in Iraq. Specific attention will be given to economic and political factors and challenges, as well as the gender dimensions of these programs. To meet this objective a questionnaire was prepared for key stakeholders. In addition to an extensive literature review of the legislative Iraqi system and published reports by organizations focusing on HLP rights. The study focuses on Ninewah as the most affected governorate in terms of conflict and number of displaced and returnees.

2. Literature review

Since the liberation of areas under ISIS control, especially Ninewah, many stakeholders rushed in to participate in the rebuilding process. Stakeholders have faced many challenges over the past five years, derived from the challenges the returnees themselves are facing, that hinder or obstruct returns. This

literature review focuses on these challenges and the reasons behind it. The review will also look into the estimated budgets for rebuilding and recovery, specifically for the HLP sector.

2.1 HLP Issues in Iraq

2.1.1. Informality

The availability of housing dropped significantly after the Iranian war from 1980-1988 and efforts were made to increase availability of housing again after 2003 (IOM, 2021). Yet, shortage of housing in Iraq persists and was already estimated to be 1.4 million housing units pre-conflict, in addition to units required to absorb the population growth rate of 3.1 per cent (World Bank, 2018). In 2003, informal settlements started to grow rapidly and become phenomena around major cities, especially Baghdad, Mosul and Basrah. Together, informal settlements amount to almost 2 million informal housing units. In the period from 2013 to 2016, due to the ISIS invasion, the number of informal settlements reached 3.687 across Iraq (excluding the Kurdistan region). Such informal settlements are either built on agricultural land or land designated for public use and future expansion of cities, therefore putting an extra burden on the cities infrastructure and blocking the development and growth of the cities as laid down in master plans.

2.1.2. Minorities and HLP rights

During the ISIS occupation of certain areas in Iraq there was a systematic targeting of minorities and ethnical groups (Christians, Yazidi, Assyrians, Kurds and Shabak). Leaving these minorities in desperation through eviction of housing, land and property, the burning of cultivated lands and confiscation of documents. This led to an overall decrease in the minority populations in these areas, even after the return process started. Minorities were reluctant to return in fear of experiencing a similar situation again.

Yazidis are considered the most discriminated minority in Iraq. During the Baath time they were forced to change their lifestyle and settle in Mujamaat¹ communities built by the regime. The discrimination of this group was also visible in terms of accessing documentation and reluctance of governmental institutions to provide documentation to prove their claims.

Many international organizations are focusing their efforts on helping minorities and support different ethnical groups, especially in Ninewa. However, this work resulted in resentment from other groups who haven't received efforts or aid for rebuilding and recovery. This in some cases contributed to widening the gap that ISIS created between different minorities.

¹ Mujamaat are a set of communities built in the 1970s and 1980s to house Yazidi's and change their nomadic lifestyle.

2.1.3. Documentation

ISIS targeted documentation of HLP rights systematically through burning RERD offices and targeting people carrying their HLP documentation with them, with a focus on certain ethnical groups. They even started their own land administration system depending on their interpretation of the Sharia law. This resulted in the expropriation of HLP rights of Christians, Yazidis and Assyrians in the formerly occupied areas. Even though the Ministry of Justice in its issued statement of 2014 declared that all documentation and transactions processed by ISIS are invalid, the chaos of documentation loss and its aftermath still persists today (IOM, 2015). Loss of documentation is one of the major problems affecting compensation and return process. Many of the dislocated people under ISIS have either left their documents behind while fleeing for their own safety (Saieh & Petersohn, 2019) or destroyed it on purpose to avoid questioning and execution by ISIS. This resulted in a large-scale loss of documentation. Both civil documentation and HLP rights documentation were affected, and this is now an issue not only for getting compensation, but also for those who have relatively large plots and intend to sell part of it in order to rebuild the rest and return. A lack of documentation also means a higher possibility of illegal eviction, which occurs often in Iraq. The most affected area by illegal eviction due to lack of documentation is Sinjar (NRC, 2020).

The process of obtaining new documentation is also hard, especially in Mosul where security clearance is needed to enter the city and access the responsible institutions for this purpose (UN-Habitat Iraq).

2.1.4. Outdated land administration system

The land administration system in Iraq is mostly paper based. Especially in the liberated areas which suffered destruction of land registries most land registries are outdated, and information doesn't represent the reality on the ground due to several reasons:

- Through the past decades of conflict, hundreds of thousands of people went missing, leaving families behind. The families of those missing people can't sell or buy the property rights due to the absence of the owner. They also can't claim their rights in case of destruction. Though some exceptions have been made recently, this is still a major issue.
- Inaccessibility of land registries for villagers obstructs registering or updating HLP rights (NRC, 2020).
- Citizens avoid updating the land registry in case of inheritance or land transfers to avoid the cumbersome time and cost inefficient process.
- In rural areas, many citizens have their land plot divided for sons, usually to build a house after marriage. This division process is usually not registered to avoid payment of the division tax.
- Many women in case of inheritance renounce their rights to their brothers or elder sons. In such cases the inheritance process is not reported and the brother becomes the de facto owners of the land.

2.1.5. Corruption

The Iraqi system ranks 157 out of 180 countries on the Corruption Perception Index, and has a score of 23, making it one of the highly corrupted countries in the past decade (Corruption Perceptions Index, 2022).

Forgery of HLP documentation started to appear after 2003 and remains widely spread, targeting ethnical groups, arable lands, HLP rights of Iraqis living outside Iraq, conversion of state land to private land for personal interest, use of public facilities without lease agreements, etc. The faith of citizens in the land administration system was fading especially during 2006-2008 due to the sectarian conflict that targeted Muslim Sunni's. In Ninewah, the Mosul West Side Land registry directorate was closed for about one year due to documentation forgery with 15 of its employees arrested. This incidence highlighted the scale of corruption in the land administration system (shafaq news, 2021) and further deteriorated the trust of citizens in land administration institutions. Another corruption incidence occurred in 2022 involves a government-founded association for land allocation benefiting the employees of the Ninewah electricity directorate. The association sold multiple plots to elites for high prices, taking advantage of government-owned land dedicated to low-income households².

2.1.6. Gender inequality

Art 14 of the Iraqi constitution of 2005 grants equal rights to both women and men and prohibits discrimination based on gender. In Iraq, as is the case across the MENA region, there are three types of laws and practices in terms of women's rights to access property: 1. Islamic (Sharia) law; 2. Statutory law, mostly based on Islamic law; and 3. Informal law (traditions and norms) or in Iraq called the tribal system. Traditions and norms are ruling above both Islamic and statutory law in some areas and often contribute to gender inequalities in accessing land. This scenario is particularly prevalent in inheritance cases, where women renounce their rights in benefit to their brothers or sons (Sait & Lim, 2006). Further, women in Iraq are deprived of their HLP rights in two inheritance scenarios: a) inheritance from her family side; b) inheritance in case of husband's death.

Some women give up their inheritance rights to avoid family conflict, avoid societal disparagement, or in fear of losing access to their children (NRC, 2020). The recent conflict has left many widows struggling to claim their rights to HLP. A recent Prindex survey has shown high insecurity of tenure of women in the case of death of a spouse, with 31 percent of women reported feeling insecure versus only 14 percent of men reported insecurity in this case (Prindex, 2020). According to the latest NRC report about women in displacement, one in every four women reported having no inheritance rights in practice while one in three women reported receiving nothing after a divorce (NRC, 2020). Prindex data shows similar results in the case of divorce: 32 percent of women reported insecurity of tenure versus only 7 percent of men (Prindex, 2020). These staggering numbers exhibit the vulnerability of women based on life events such as marriage, divorce, death of spouse, which is added to the existing conflict and displacement situation.

² shafaq.com) نينوى.. اعتقال 5 موظفين في الكهراء باعوا اراض للدولة خلافا للقانون

dorar-aliraq.net) اعلان 7 - القوانين والتشريعات العراقية

Access to justice is limited to men: women who are seeking justice whether through governmental institutions or customary law, need to be accompanied by men as an intermediary person. Accessing tribes' sheikh's alone is socially unaccepted and might put women in an even more difficult situation with her family members (Bobseine, 2019).

Lack of documentation of women's HLP rights is also a widespread phenomenon that puts them at higher risk of illegal evictions. 24 percent of women in Sinjar reported being evicted illegally due to lack of HLP documentation like Tapu³ or tenant agreements (NRC, 2020).

2.1.7. Lack of awareness of HLP rights

Lack of awareness about HLP rights is more prevalent amongst women. This is another obstacle for women. One third of women didn't know how to claim their HLP rights through the statutory system or whom to ask for support in doing so (NRC, 2020). Yet in general both men and women affected by the reported unawareness of the compensation law itself and the documents required to apply for compensation. Moreover, people are unaware of which institutions to approach for filing compensation claims (IOM, 2016).

2.1.8. Disputed areas

Due to the demographical change instigated by the Baath regime in northern Iraq through its Arabization movement, many areas are still disputed between the Government of Iraq (GOI) and the government of the Kurdistan Autonomous Region (KRG). According to Article 58 of the transitional period post-2003, the GOI is to address the issue of demographic change in disputed areas - especially Kirkuk - and to set up a mechanism to resolve property disputes. The new Iraqi constitution of 2005 has addressed this issue in Article 140 that obliges the government to hold a referendum before 2007 in the disputed areas and give its citizens the right to decide who they belong to. This article is not implemented up until today and those who are living in these disputed areas are suffering from negligence in the rebuilding process. The GOI and KRG are arguing which side should cover the cost of rebuilding. While the citizens of these areas are mostly still displaced due to lack of jobs, services and absence of compensation. Simultaneously, we must take into consideration that property disputes from the Baathist times are still open and not resolved.

2.1.9. Agricultural land

One third of Iraq's land is considered to be arable with 30 percent of the population living in rural areas pre-conflict. Agriculture is considered the largest source of employment (World Bank, 2018). Fertile land in governorates of Ninewah, Salahadeen and Diyala were under ISIS control; ISIS has targeted rural life and systematically destroyed orchards, wells and canals in addition to burning cultivated lands. This has

³ Tapu is an old title deed from the Ottoman Empire.

influenced the livelihood of farmers and has declined their income sometimes to zero, directly impacting food security in Iraq.

In Sinjar and areas around Mosul, ISIS deliberately sabotaged wells that were used to irrigate agricultural lands. The sabotage of these wells left people unable to rebuild or recover; therefore, many villages especially to the south of mount Sinjar remain empty until today (Amnesty International, 2018). The estimated damage to agricultural land, including machinery, is 3.4 billion USD (World Bank, 2018). According to the Regional Food Security Analysis Network (RFSAN), Iraq's farmland production has dropped by 40 percent after the conflict.

2.1.10. Obstructed return

The return of displaced people is constantly blocked by military and security forces who quote the lack of necessary documentation to prohibit re-entering the areas of origin. In other cases local communities and tribal leaders block the return of those suspected of ISIS affiliation by their community (IOM, 2021).

In many incidents throughout the intense fighting with ISIS, the Iraqi military and Hashd Alshaabi⁴ have asked people to evacuate their homes to avoid human suffering. And the people are then allowed to return once fighting is over. However, the people of Jurf Al-Saxr never returned home and the area is still under the control of militia's who used to be part of Hashd Alshaabi. This leaves around 160,000 people in displacement up until today, mostly in Babel. Such practices by militia's hinder the process of safe return and contribute to food insecurity since this area is well known for its arable land and fish basins for fish production. The displacement also left inhabitants in poverty because they relied on farming for their livelihood. According to IOM there are around 300 locations of obstructed return in the seven liberated governorates, including Ninewah.

2.1.11. Other challenges faced by returnees

Many internally and externally displaced people are still not willing to return to their homes and prefer to stay in areas of displacement due to many reasons. According to recent surveys done by several organizations, as well as open questions asked to citizens, the main reasons include:

- Mines: Iraq is considered as one of the countries most contaminated with mines. Despite international efforts to demine, big swathes of land and many buildings are still mined. This was one of ISIS' strategies to prevent citizens from returning home (Amnesty International, 2018) (World Bank, 2018).

⁴ To stop ISIS advancement, many militias came together and joined efforts under the name of Hashd Alshaabi and fought ISIS fiercely and contributed to the victory over ISIS. However, some of these militias have considered themselves in charge of the liberated areas and started practicing their illegitimate authority.

- Lack of health services: in big cities like Mosul and Fallujah, as well as the small cities in between, services like hospitals were shelled and bombed by ISIS, leaving millions out of medical service. Even with the efforts of the international community only basic medical services can be delivered. People from the East Mosul side and the rural areas need to travel far in order to reach a hospital in the west side of the city for medical treatment. Moreover, such institutions are usually overwhelmed. The pandemic itself played a role in worsening the situation of the already collapsed health system in areas of return.
- Lack of employment: the destruction of refineries, roads, markets, and arable land left many without jobs. Returning home and starting all over again requires capital that can only be obtained through employment. The rate of unemployment rose from 9.26% in 2013 to 12.97 post-conflict. Even though many rebuilding projects have started, many of these projects were stalled or even abandoned (Amnesty International, 2018) (World Bank, 2018). This has left the working force of the returnees struggling for an income that could help in the recovery process. Many international organizations have offered cash for work programs that operate on daily bases, yet these wages are symbolic and do not match with the needs of the returnees.
- Water resource scarcity: mainly caused by the systematic destruction of wells and irrigation canals in rural areas (Amnesty International, 2018). Barrages and dams were also targeted, as well as water plants. Drought, salinity and climate change are exaggerating water scarcity further. The cost of damage in the water sector is estimated at 207 million USD (World Bank, 2018).
- Land disputes: displacement, return processes, and the illegal sales of HLP rights during the conflict, have created secondary occupation⁵. Displaced people and returnees who don't have access to adequate shelter or access to HLP documentation are forced into secondary occupation. Land disputes arise when displaced people return to their residences to find it occupied by others. Since lack of ownership documentation is one of the major issues in areas of return, evidence of secondary occupation is often not available. This can lead to a secondary displacement or forced eviction, and sometimes even conflict (UN-Habitat). Reliance on informal dispute resolution mechanisms represented by local authorities, religious figures, community leaders and tribes' sheikh as an alternative to GOI institutions is important for this fragile situation, especially in remote areas where access to formal justice is not available (IOM, 2016).
- ISIS affiliation: those who are (suspected to be) ISIS affiliated or who are a family member of an ISIS affiliated person are facing the challenge of being accepted in areas of origin. Out of fear of revenge and discrimination by their communities they opt to stay in camps. Recently the Iraqi government has commenced with the return of ISIS affiliates residing in Al-Hol camp in Syria, these returnees will

⁵ Secondary occupation: is the occupation of housing, land and/or property of another person or public building in good faith, illegal occupation or as land grabbing.

face similar challenges. Even though the government is trying their best to re-integrate them, they are still being judged and discriminated against. ISIS affiliated returnees and displaced are mostly women and children. Discrimination against them by their home communities exacerbate their vulnerability and creates a gap that prevents integration in normal life, hence exacerbating a dangerous situation in an already vulnerable context.

2.2 Displaced and returnees in numbers

The conflict with ISIS left 6 million people in displacement, almost 16 percent of Iraq’s population. Since the defeat of ISIS in 2017 the return process has started. People started returning to their place of origin gradually and the number of displaced people declined significantly. As of April 2021, IOM reported that 1.2 million families have returned to their places of origin. While 206.000 families remain in displacement; 169.210 of which are living in out-of-camp settings (IOM, 2021).

2.2.1 Scale of HLP destruction and budget required for rebuilding

In Mosul alone, it is estimated that the ISIS occupation destroyed 138,000 residential units, half of it beyond repair. The estimated cost of the damage in Mosul ranges between 5.1 and 6.9 billion USD. Low-income housing has been most affected by the destruction and makes up 68 percent of the destroyed residential units, in turn affecting the low-income class disproportionately and deteriorating their already precarious living conditions further (World Bank, 2018). The east side of Mosul, where the old historical city is located, is still covered in rubbles five years after the declared victory over ISIS. The figure below shows the scale of housing damage per governorate (World Bank, 2018).

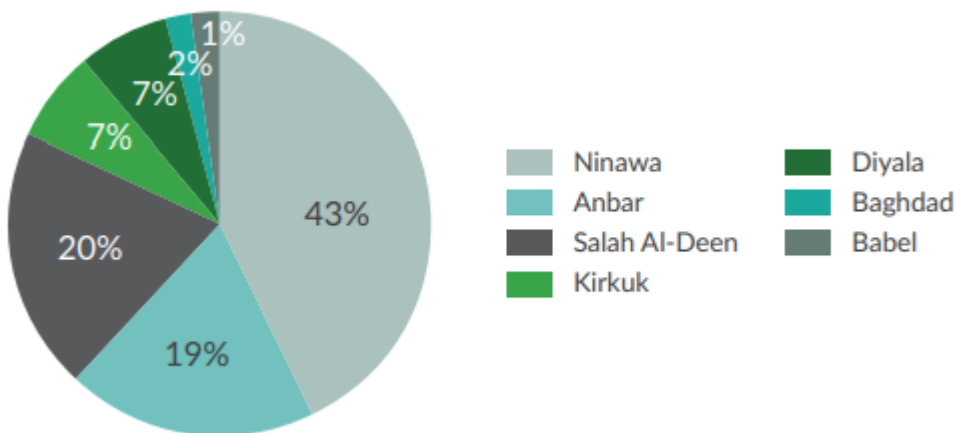


Figure 1 Share of housing damage per governorate. Source: World Bank, 2018.

2.3 Land legislation and regulations related to HLP

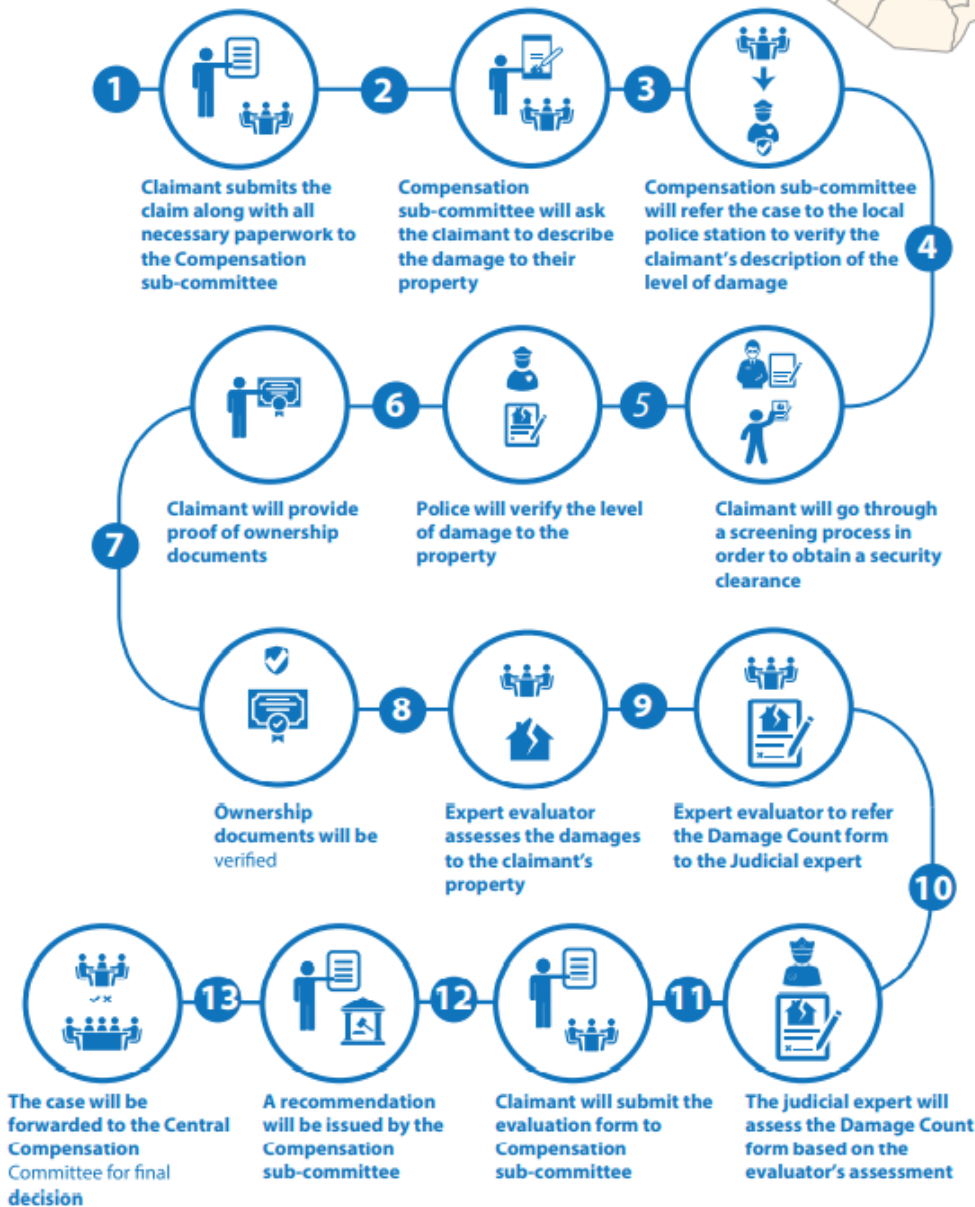
The main laws and regulations related to housing, land and property are the following:

- Law no. 20 of 2009: this law was enacted in 2009 to compensate the victims of military actions, military mistakes and terrorism actions. The compensations are in the form of payments for death, injury, disability and even HLP rights. The Central Committee to Compensate Victims (CCCV) was formed by GOI to accept applications from beneficiaries based on Law 20. It has offices in almost all provinces. The law was amended by law no.57 of 2015. The applicant's number rose significantly post-conflict, yet many of those who applied for compensation reported not receiving anything until today. The flowchart in Figure 2 shows the process of property compensation in the governorate of Ninewah⁶.
- Law no. 43 of 1971 require all transfers of land to be registered at the RERD. Under this law the tenure rights of all registered inhabitants are preserved by the state. The law also illustrates the procedure of HLP registration which is highly cost and time inefficient.
- Rental law no. 87 of 1979, amended by law no. 56 of 2000, regulates the process of renting, and clarifies rights of both the renter and the owner. However, this law doesn't apply to renters in public buildings owned by the government or to foreigners with rental arrangements in Iraq.
- In order to curb the expansion of informal settlements especially in and around big cities, the Government of Iraq has issued a series of laws. None of them is fully implemented. Law no. 44 of 2008 states that all occupants of informal settlements must evacuate within a period of 60 days from the day of law issuance and they shall receive a compensation between 1-5 million IQD. A year after the law was issued, the central committee recommended the abolishment of this law and made it effective only when alternative housing is available for the informal settlers. Even though Article 27 of the constitution provides protection to state properties which are usually used for informal settlements, several other legislations are contradicting this, including resolution 156 of 2001, which is amended by resolution 230 of 2002, and which exempts informal settlers from any payment for the years of informal occupation of public land.
- A law of supporting Yazidi women survived from the genocide which was issued by the Iraqi Parliament in 2019 provides for the compensation of Yazidi women through the provision of medical and psychological assistance and the provision of monthly wages and secure housing to start over with their lives⁷. The law is not implemented in reality and many Yazidis are still suffering in displacement or have opted to leave the country and seek refuge outside Iraq.

⁶ (Property Compensation Guidelines, 2018)

⁷ <https://www.ina.iq/84687--.html>

CLAIM PROCESS IN NINEVEH GOVERNORATE



The duration of the process is from six to twelve months

Figure 2 Property compensation guidelines. Source: Iraq HLP sub-cluster, 2020.

2.4 Main stakeholders working on HLP rights

Stakeholders working on HLP rights and contributing to rebuilding and recovery processes based on the literature review, include the following international stakeholders: UN-Habitat; IOM; UNDP; GIZ; USAID; and NRC. In terms of national stakeholders, the following are important: Municipality of Mosul; Ministry of Justice (court of Mosul & Sinjar); Office of Sunni Endowments; Church representatives; Academics; and Kurdistan Autonomous Region (KRG).

3. Data collection

3.1 Ninewah HLP Profile

The governorate of Ninewah is considered one of the most diverse governorates in terms of social composition. Different religions and ethnical groups live together and share resources since thousands of years. The area of Ninewah is 33.313 square kilometer and includes 31 administrative units and 10 districts⁸. The capital of Ninewah is Mosul, one of the old cities in the region, and the second largest city in Iraq after Baghdad in terms of area and number of inhabitants. Mosul is characterized by its heritage, vibrant center, culture and tourism. Ninewah - meaning the mother of two springs - relied heavily on agriculture due to its favorable weather conditions and fertile land that are either rain fed, depend on irrigation canals connected to the Tigris, or depend on wells in mountainous areas like Sinjar.

HLP rights in Ninewah are mostly inherited from one family member to another. The rate of formal property registration pre-conflict is only 10 percent. The vast majority of the governorate residents opt for informal alternatives in terms of registration of HLP rights (IOM, 2016).

Ninewah suffered the highest level of destruction compared to all other governorates attacked by ISIS. Infrastructure, housing, land, property, and livelihood opportunities are mostly destroyed beyond repair, particularly in the urban context. Mosul is composed of two sides, east and west of the Tigris. While the west side is characterized by its relatively new buildings mostly from the 1980s, the east side, which is called the old city, is characterized by its heritage. Old residential units - some of which are older than 200 years - and small plot sizes house a large portion of the city's population. Due to the old age of the residential buildings in the east side of Mosul, many didn't survive the shelling and most of its residential units are in ruins today. This includes its historical center and heritage sites like Al-Nouri Mosque, the shrine of Profit Jonas and profit Sheit, the old minaret of Hadbaa, and the big mosque.

⁸ https://cosit.gov.iq/ar/?option=com_content&view=article&layout=edit&id=1218

Mosul has two land registries, one for the west side called Az-Zohour which also covers towns north of Mosul and one for the east side which also covers towns south of Mosul. The two land registries are functional today though not fully: they process transactions and provide citizens with copies of ownership certificates of registered rights pre-conflict. The east side RERD is small and understaffed, therefore an office of the RERD is foreseen to be opened in Qayarah district to cover the towns south of Mosul and work in coordination with the east side land registry. In addition to the one opened in 2020 in Talafer district that provides services for both Telafar and Sinjar. Further, a request was made to the Minister of Justice to move to a bigger building or to build a new building in order to have the required space for the increasing number of citizens seeking RERD services⁹.

Ninewah has a great share of disputed territories according to article 140 of the Iraqi constitution including Zummar and Shekhan. Shekhan is populated mostly by Christians who have fled ISIS, many villages there are still empty due to a lack of support for rebuilding and a lack of livelihood opportunities. Zummar on the other hand consists mostly of Muslim Sunni and suffered more destruction than Shekhan in terms of infrastructure and residential units. The disputed territories are facing a high level of negligence. As mentioned earlier, both KRG and GOI are waiting for the other to support the returnees yet neither of them is doing anything out of fear of demographic change and accusations of land control that contradicts the agreed terms of Article 140 of the Constitution.

Mount Sinjar and Sinjar are populated mostly by Yazidis and some Muslim Sunni tribes and is known from the Yazidi's genocide. Wide destruction of wells and irrigation canals has taken place throughout the area. Due to the discrimination against Yazidis during Baathist time and until 2013, most Yazidis don't have a Tapu in their name. Land transactions were happening informally and were not registered. The conflict in combination with the recent drought left dozens of villages south of mount Sinjar empty and destroyed while its residents live in continued displacement, usually in camps in Dahok governorate just north of Mount Sinjar.

3.2 HLP related projects

Over the past five years many international and national organizations started working hand in hand with both the GOI and citizens on return and recovery process. HLP in particular was and still is one of the most tackled aspect in areas of return. This section presents international stakeholders active on HLP rights, ranked from the most active to the least active and introduces their HLP related projects.

UN-Habitat took a leading role in a variety of projects related to HLP. Due to the memorandum of understanding signed between the GOI and UN-Habitat, the later had great support from local authorities, courts and other governmental institutions to implement their projects. The projects aim to resolve land

⁹ <https://www.facebook.com/estate.registration>

disputes, raise awareness, assist returnees with obtaining civil and/or HLP documentation and provide minorities with certificates of ownership. Projects include:¹⁰

- Land Claim Registration and Occupancy Certificates project: the program is set to cover both internally and externally displaced people. UN-Habitat planned to register 17.000 claims by the end of 2024. Actual numbers registered until the time of the report drafting is 13.865 claims that account for 75.566 beneficiaries. While for refugees, 9.347 claim certificates are already registered. And the goal is to reach 16.112 claims by the end of 2024. The focus area of this project is Sinjar, where Yazidi communities are located. The next stage of this project is to move the registered claims to the land registry. UN-Habitat is working closely with GOI.
- Awareness raising project: this project aims to raise awareness of the displaced people about HLP rights and the importance of exercising and enjoying HLP rights through sessions. The total number of beneficiaries from the sessions to date is 7.608.
- Mediation and legal assistance project: through this project UN-Habitat was able to address and resolve 360 cases related to land disputes in areas of return through mediation sessions in collaboration with Mukhtar¹¹, Clerics and local authorities dependent on the type of dispute. The mechanism approached through mediation sessions for land dispute resolution is a combination of both statutory and customary law. This part of the project stopped due to a lack of funds. However, the mediators are all member of local communities who were trained to do the mediations and can continue to work with the experience they have. The 2nd part of the project, legal assistance, was provided to 1950 households in terms of obtaining necessary official documents to submit a HLP claim for compensation of destroyed/ damaged houses, including cost coverage of obtaining the required documents¹².

The International Organization for Migration (IOM) is the most active body in terms of data collection about displaced people and returnees. The presence of its offices in almost all camps and areas of return has made it easy for displaced and returnees to access. Even before ISIS was defeated, IOM had been working closely with displaced people. HLP related projects by IOM are¹³:

- Issuing and restoring HLP documentation: this project aims at issuing HLP documents for IDP's and returnees who have informal documents either through transaction papers, utility receipts, etc. that are endorsed by community leaders, local authorities and municipality. For those who had formal

¹⁰ The list of projects and related information are based on an Interview with UN-Habitat.

¹¹ Mukhtar is the head of community, a town or a village who oversees their inhabitant's needs and assist them when possible.

¹² (A brief Guide to Secondary Occupation and Mediation in Iraq)

¹³ The list of projects and related information are based on an Interview with IOM.

documents but lost those, documentation restoration is applied. The aim of this project is to strengthen tenure security especially amongst Yazidi's who lack tenure security.

- Stand-alone desk: this project supported beneficiaries in accessing compensation through submission of required documents. This project benefited around 4600 displaced people in 2021 and around 7000 in 2020¹⁴. Both genders have equal accessibility to compensation and support to obtain required documents.
- Resolving land disputes: this project supports resolving secondary occupation land disputes based on do no harm principle through mediation. Cases where the secondary occupier is a military actor are not taken up, to avoid possible friction.
- Shelter rehabilitation project: IOM offers shelter rehabilitation assistance to returnees after verification of ownership, especially in Sinjar area.
- Awareness raising: IOM raises awareness amongst internally displaced people and returnees through awareness raising sessions, some are dedicated only for women, information dissemination through leaflets, platforms and capacity development on HLP rights.
- Research and advocacy on HLP related issues.

Other international organization, like NRC, focus on conflict and non-conflict induced displacement. Their strategy for 2022-2025 focuses on 8 objectives, none of which is directly related to HLP. However, the legal assistance provided through some of these projects does contribute to HLP rights, as does the facilitation of access to civil documentation, which is a vital prerequisite for displaced people to claim their HLP rights. Other NRC projects focus on creating a sustainable livelihood, which in turn means a higher chance for displaced people to return and rebuild. Most other international stakeholders who are active in Iraq are focusing their efforts on rehabilitation and creating livelihood opportunities, including GIZ.

USAID, on the other hand, is funding IOM and working closely with Nadia's initiative¹⁵ to rebuild houses for the Yazidi survivors of Kocho's Genocide and have a memorial for those who were executed there¹⁶. The project exists of two stages: 1) HLP ownership verification that is done through IOM and 2) rehabilitation of housing, land and property once the ownership is verified.

The funds needed to support such projects vary greatly depending on the location that the project is targeting; e.g., remote camps and settlements require more funds due to the large distance from directorates that issues certain documents. This includes obtaining security certificates to enable freedom

¹⁴ (Property Compensation Guidelines, 2018)

¹⁵ Nadia's Initiative, an NGO directed by Nobel prize winner Nadia Murda which aims at supporting the Yazidi community generally and Yazidi women specifically. Especially those who were abducted and sexually abused by ISIS.

¹⁶ [New Housing and Community Support to Survivors of the Kocho Massacre | Program Update | Iraq | U.S. Agency for International Development \(usaid.gov\)](#)

of movement as well as accessing the justice system and land registries. The opening of land registry offices in some towns lowered the costs to some extent but it is still not easily accessible for many. All projects target affected population regardless of their gender, however norms and traditions often plays a role in limiting women accessibility.

3.3 Government role in the return and recovery process

In a move to facilitate the return process in addition to the compensation law no. 20, the Iraqi Cabinet has issued a list of 20 decisions in 2021 regarding Ninewah. These include budget requirements and identification of land dedicated for new residential areas, including the conversion of the Al-Gezlani¹⁷ military camp into a residential area.

The same Cabinet decided to form a committee including the Land Registry (Ministry of Justice); Ministry of Planning; Directorate of Government Property (Ministry of Finance); and representative from minority groups: Christians, Yazidi, and Sabeaa to look at tenure issues in minority towns in Ninewah¹⁸.

The government also started working on the revival of infrastructure in the city of Mosul and other big cities in the governorate, including Qayarah, Telafar and Bajjee. In 2021, the Cabinet directed the responsible directorates and municipalities to follow-up on stalled projects. Unfortunately, achievement on the governmental side are limited due to corruption amongst others.

Therefore, to improve service delivery by governmental entities, the GOI started to fight corruption. The biggest corruption file is the HLP file were HLP rights were being sold without the owner's knowledge, when public land is subdivided and sold, or when Waqf land is grabbed. Fighting corruption led to some arrest campaigns that targeted the land registry in Mosul and led to its shut down for a few months for investigation purposes. This uncovered the loss of 9000 files of HLP rights belonging to Iraqi refugees as well as public land, all for the benefit of elites and militia leaders who contributed to the fight against ISIS¹⁹. Yet the state role and law implementation are still very weak and often such cases are gone without notice or punishment due to elite power²⁰.

Active governmental entities in HLP issues are:

¹⁷ Al-Gezlani Military camp: one of the biggest military camps in Iraq, post conflict 3000 square meter are left for the ministry of defense and the rest is supposed to be dedicated for residential purposes to solve the housing issues in the city of Mosul.

¹⁸ pmo.iq مجلس الوزراء يصوت على 22 قراراً يخصّ نينوى في جلسته المنعقدة بالمحافظة برئاسة السيد رئيس مجلس الوزراء

¹⁹ aawsat.com الموصل: عمليات استيلاء منظمة على أملاك خاصة وعمامة | الشرق الأوسط

²⁰ Ibid

- Land registry RERD and its offices: one of the directorates providing people with a copy of ownership certificates to ease return, preserve tenure security, enable application for compensation and enable owner's claims in secondary occupation cases. A close collaboration has been established between UN-Habitat and land registries in different governorates including Ninewah through capacity building workshops and support. In addition to that, the land registry is practicing their normal activities of registering transfers and inheritance shares. However, one major hurdle - as mentioned earlier - is people's lack of awareness about the importance of updating land registry and registering their HLP rights formally.
- Directorate of Ninewah Municipalities/ Municipality of Mosul: The municipalities of Ninewah are making an effort to enable the recovery process and ease the reconstruction of infrastructure. Yet the amount of corruption and other challenges are enormous. There is an overall lack of interaction and coordination between different governmental entities and a lack of qualified capacities in risk management and post-conflict rebuilding mechanisms.
- Courts of Justice: In their efforts to fight corruption and establish justice in a fragile context, the Courts have been active in decision making on land (corruption) cases. Yet the number of land disputes is overwhelming and the lack of necessary HLP related documents are prolonging the decision-making process. According to Mosul Court most HLP related cases are inheritance related cases. The main focus of the Court at the moment is following up on corruption cases registered at the Court by the integrity commission, including cases related to land grabbing, misuse, illegal subdivision and conversion of land use.
- Office of Sunni Endowments: The office owns all lands where mosques are built, in addition to a few plots that are reserved for mosques in the master plan of each city. In addition, any land that is donated by individuals to endowment are within its properties. Over the past decades, mosques have been considered a safe haven for displaced and poor people who seek help and temporal shelter. In some incidents returnees have settled informally on Waqf land but only for a short period of time before moving out. A very small number of returnees are still settling on Waqf land today, usually in tents or an improvised shelter. There has been no legal action against those settlers due to the fragile situation and shortage of adequate alternative housing. After the ISIS destruction of big mosques in Ninewah, land grabbing started, targeting Waqf land and converting it to commercial land or use for private interest²¹. One of the biggest land grabbing cases was that of a 15 dunum piece of Waqf land that looks over a commercial street in Mosul. The land could have been used to shelter displaced, but instead it was grabbed by one of the elites²². The militias that were part of Hashd Al Shaabi are grabbing Waqf land under the name of the office of Shiaa endowment. Even

²¹ Interview with a presenter from the Sunni office for endowments.

²² shafaq.com يضع أراضٍ مميزة في نينوى.. بعضها تابعة للوقف السنّي "عدى" التواطؤ مع

though it is well known that the office of Shiaa endowments had no Waqf land in Ninewah pre-2013²³.

- Local authorities: local authorities are trying their best to support returnees to apply for compensation. A requirement is security clearance. The security clearance is also vital to facilitate freedom of movement, especially for those lacking civil documentation. The identity of these people can be confirmed in collaboration with community leaders. Even five years after ISIS was defeated many people are still lacking documentation, especially those who returned during the Covid-19 crisis. Local authorities have also been in close contact with community leaders to ensure security, particularly in small towns, and encouraging peaceful land dispute resolution through different mechanisms.
- Government of the autonomous region of Kurdistan (KRG): the KRG has a very important role in hosting displaced people. The biggest number of camps hosting internally displaced people and refugees from Syria are located in Dahok. KRG has supported the return process through provision of security clearances and assistance through different civil society organizations²⁴. The camps that are still open are housing thousands of families mainly from the two districts of Sinjar and Al Hamadaniya. Camps provide them support and aid in collaboration with international stakeholders like NRC and GIZ. Yet KRG is hesitant to intervene in HLP issues beyond its borders due to the unstable political situation between the GOI and KRG in recent years.
- Central Compensation Committee and Compensation sub-Committee: The committees were founded by the Iraqi Law no. 20 and its amendment no.57 of 2015. Their work is to verify and approve compensation applications. The sub-committee offices in various governorates are working actively on the cases they have, providing the Ministry of Finance with lists of those who should receive compensation and the amount of the compensation to be paid.

3.4 On the ground situation

The reality on the ground reflects two main things: the government struggles to meet its promises and community resilience in face of destruction and terrorism. Many of the promised recovery and reconstruction projects are either stalled or halted due to corruption, lack of funding, political instability and militia influence, leaving many who hoped for jobs through the reconstruction process jobless. The resilience of the communities and the close interaction between different neighbors to remove rubbles and rehabilitate their homes indicates returnees' willingness to recover and rebuild. However, this willingness is met with no or delayed compensation from the government.

²³ kirkuknow.com الوقف السنّي في نينوى يؤكد استمرار التجاوز على املاكه من قبل نظيره الشيعي

²⁴ Rawanga, is one of the most known CSO's that supported displaced and helped returnees. however they have no interest in addressing HLP related issues due to its sensitivity.

Residents of the old city of Mosul (or the east side as residents call it) have lost faith in both the government and religious entities to enable their safe return in a dignified manner. The old city is characterized by a) small plot sizes; b) outdated title deeds or Tapu; c) widescale destruction; and d) continued threat from mines and other explosives.

Even though the land registry of the east side is functioning, providing a copy of Tapu is not easy when the owner has passed away and the registry is not updated. Many citizens describe the process as cumbersome. On the one hand this is caused by a lack of staff to meet the high demand of services. On the other hand, the lack of trust in land registry - especially after the scandal of the west side land registry – plays a role. Yet many remain hopeful to obtain a copy of their title deed to enable their claim submission for compensation.

Land disputes are becoming more prominent in some areas of Ninewah, especially cities. Inheritance issues between widows are increasing. Secondary occupation of HLP rights, especially when the second occupier is an army or militia member are very problematic. To navigate such challenges, many are seeking informal ways to resolve land disputes due to 3 main reasons: 1. Lack of ownership documentation, 2. Lack of access to justice and lengthy processes and 3. Lack of trust in governmental entities especially in cases of the secondary occupier being an army or militia member. The informal mechanism to resolve such issues are either through old respectful members of the community or Mukhtar, local authorities, religious figures especially in minority areas, or through relatives with influence. Even though not all issues are solved this way it is considered an effective way of solving land disputes peacefully.

In rural areas where ISIS has burned cultivated land, it is becoming impossible to recognize plot boundaries. The drought of the past three years stood as an obstacle to return for many and start re-cultivating. But once the drought is over, land disputes will rise due to the absence of border demarcation. This issue requires immediate action to avoid violence between different tribes or minority communities in a fragile situation.

In many cases the Hashd Al Shaabi (or the militia's fighting under its name), who are supposed to be helping and facilitating the safe return of displaced people after defeating ISIS, are preventing displaced people to return home in an effort to take over their HLP rights and selling it. Or they let people return under the condition of a monthly payment in exchange for protection against possible attacks from ISIS, which is exposing the already exhausting returnee's financial vulnerability. The restriction of movements within cities and between towns that is exercised by Hashd Al-Shaabi is obstructing returnees from building up their livelihood and improving their financial situation to enable recovery²⁵. In other incidents the Hashd Al-Shaabi burned HLP documents of former generals from the Baathist era. They are also practicing threats and arrest

²⁵ alaraby.co.uk (فصائل مسلحة تمنع عودة نازحي القائم العراقية الى منازلهم)

campaigns every once a while that have pushed returnees to sell their houses for low prices and move to other governorates²⁶, or the already displaced families to stay in displacement.

ISIS affiliation is a red line for many. The condemnation of families of ISIS affiliated members by communities is on the rise. Leaving these families discriminated and vulnerable. According to many citizens in Mosul, if you help them, you are not different from them. This exclusion in interaction left many in displacement and with fear to return. Local authorities and the government refuse to issue death certificates for ISIS affiliated deceased. Families of such members are now struggling to prove ownership of property. Hence unable to access their inheritance rights and incapable of applying for a compensation. It is vital to address the issues around ISIS affiliated families since excluding so many families based on only one family member will lead to extremism amongst these families in a very fragile situation, that might in turn lead to new conflicts.

After declaring victory over ISIS many real estate offices were opened in multiple liberated cities, especially in Mosul. According to locals, these new real estate brokers are militia affiliated. These offices identify lands and houses whose owners are outside the country to forge its title deed and sell it illegally. Therefore, many citizens are afraid approaching these offices for transfer of property rights. Also, minorities like Christians were targeted by these offices²⁷.

The corruption in the system especially in the land administration sector was already there even before ISIS. After 2003, many land registry employees were being either threatened to collaborate with militia's or assassinated because they didn't agree to collaborate, this was especially the case in Mosul's west side land registry. Two of its directors were assassinated in 2006 and 2011. Many of the employees have fled the country in fear of their family's life. The situation exacerbated after 2016 until the land registry was temporarily closed and 23 employees were arrested for fraud and forgery²⁸ (see also earlier in the report).

Agricultural plots were also targeted post-conflict with more than 11.000 residential units destroyed in Ninewah, and therefore the demand for residential units and plots increased. The opportunists and elite put their hands on leased agricultural plots. Since the leaser is either displaced or killed during the conflict, or supposedly ISIS affiliated, division of such state-owned plots started and they were sold at high prices²⁹. According to Ninewah residents the housing associations that are protected by militias and Hash Al-Shaabi are responsible for such activities due to their access to information that allows them to track down plot numbers and see if it belongs to the state or not.

Distress selling of property rights takes place. Many displaced people, especially externally displaced ones, and are selling their property in under market value. They are aware that it is only a matter of time before

²⁶ thenewkhalij.news «الحشد الشعبي» يختطف 125 مدنيا من محافظة «صلاح الدين» ويمنع عودة النازحين إليها - الخليج الجديد»

²⁷ alaraby.co.uk مكاتب الميليشيات تهيمن على مشاريع إعمار الموصل: فساد مسلح

²⁸ NIRI - قوى مسلحة وأحزاب ومنتفدون يستحوذون على أكثر من 20 ألف عقار

²⁹ aawsat.com الموصل: عمليات استيلاء منظمة على أملاك خاصة وعامة | الشرق الأوسط

militia or a corrupted elite will put a hand on their property. Therefore, they are selling in a hope of using the money to secure another property elsewhere.

3.4.1 Civil society role in the return and recovery process

Residents are exchanging information about how to obtain a copy of their land titles or missing civil documentation in a safe and cheap way, in this process they rely heavily on those who have obtained it through IOM and old qualified agencies. Groups of experts, like engineering syndicates who are old engineers that used to work for the military during Baathist time, are very active in directing citizens to the right directorates to obtain required documents. A group of them were advising people to set marks on their property boundaries to avoid land grabbing. Also, for legal assistance on property rights, returnees receive support from a group of legal experts and lawyers.

Community leaders and tribe sheikhs have gathered to condemn the practices of Hashd Al Shaabi that prevent displaced people from returning home or evict returnees in more than one location. In collaboration with some parliamentarians³⁰ they have submitted lists of arrested and evicted people to the central government and have also documented the sabotaging of former Baathist officers. This led to the decision to declare the Hashd al Shaabi a part of the Iraqi army so that they take their orders from Iraqi commanders and not from militia's supported by other countries.

Religious figures, especially those representing minorities, have played and still play an important role in terms of providing shelter for displaced and returnees. They are also involved in land disputes resolution mechanisms through mediation or provision of an unbiased place for disputes resolution. They have also played a role in connecting the government and returnees. However, their role is curbed to such activities only, and out of fear from friction with Hashd Al Shaabi, they are executing these services in their areas of residence.

Many churches were destroyed. The Christian community has suffered from confiscation of property and related documents and land grabbing during ISIS control. Since ISIS was defeated, the church is working closely with both the government and Christian communities to ease the return process. The church is also playing a key role in mediating in land disputes. Yet the drought that hit Iraq in the past three years, in combination to the systematic destruction of irrigation systems by ISIS, has limited the farming practiced by Christian communities. Many of the Christian villages in north Ninewah are underpopulated or abandoned. The Christian minority population in the area pre-conflict was around 1.5 million, with most of them concentrated in Ninewah. Today's minority population is around 500 thousand, including those residing in the Kurdistan region³¹. The church is trying now to re-build churches and address the

³⁰ thenewkhalij.news «الحشد الشعبي» يختطف 125 مدنيا من محافظة «صلاح الدين» ويمنع عودة النازحين إليها - الخليج الجديد»

³¹ aa.com.tr مسيحيو العراق.. هجرة إجبارية وعودة صعبة

HLP rights related issues especially in the villages that are now mostly abandoned. However, due to the widescale Christian outmigration to other countries, the Christian groups are not receiving the support they need to preserve their tenure rights.

There are several NGOs and civil society organizations working on the ground, however, none of them is involved in HLP issues due to its sensitivity and out of fear from militia's. The main focus of the organizations is clearing rubbles, providing a hand in rebuilding houses, transporting building materials, or providing advice about obtaining which document from which directorate for securing tenure rights. Most recent practices by the security forces in terms of limiting movement of freedom, curbed the activities of such organizations and limited it. Only NGOs and CSOs that are functioning under UN related organizations (UN-Habitat, UNDP, and UNHCR) can work relatively freely in comparison to others.

3.4.2. Academics' role in the recovery process in areas of return

Academics have taken up a role in the rebuilding process: university consulting offices in Iraq are equipped with well-qualified staff who can re-plan and advocate for the rebuilding process. Of course this is in addition to their role as academics in education. In particular the University of Baghdad's urban planning consulting office has been highly active in Ninewah in terms or urban planning in Mosul itself and the other two cities in Ninewah (Shekhan and Hamdaniya). One of the projects is the planning of Mosul old city by the riverbank and rebuilding it using the rubbles of the old buildings in a way that the buildings don't lose its historical value while also ensure the safe return of the area's 273 families. Another project is the planning of Hamdaniya city center bazar, which was destroyed, in order to ensure livelihood opportunities and motivate displaced people to return to the area and to their jobs. Apart from these projects there is a close collaboration between the University of Mosul, the University of Baghdad and Mosul municipality to prepare some future projects. The most important one is administering housing and street numbers according to plot numbers in the land registry.

3.5 Lessons learned based on program experience

Throughout the five years of implementing various HLP related programs, stakeholders (local and international) have identified a list of challenges the returnees are facing.

- Drought: many returnees, especially in rural areas, were affected by the recent drought. This has caused abandonment of farms and has led to displacement, either to camps or the periphery of the city in an effort to improve their livelihood and access to aid.
- Security clearance: since ISIS defeated, freedom of movement became very restricted and a security clearance is required to enter certain areas and cities. These security clearances are not easy to obtain, an investigation is done to rule out possible ISIS affiliation. In addition, civil documents are needed which are yet another obstacle due to the loss and destruction of such documents during the conflict.

- Lack of income: most displaced people were either working in the agricultural sector or in refineries pre-conflict. The destruction of both arable lands and refineries resulted in big numbers of jobless people now unable to provide an income for their families. As a consequence, many have nothing to return to and therefore prefer to remain in camps where they at least receive some aid. The decision of the Iraqi government to close a number of camps amidst the Covid-19 pandemic has put further stress on those under the poverty line.
- Delays in disbursement of compensation: many returnees were hoping to use compensation money to rebuild their property. However, after 5 years, nothing has been paid and many families are still living in half destroyed shelters. Even though shelter rehabilitation is one of the most common programs of UNDP, UN-Habitat and IOM, they are concentrated in a limited number of areas and don't cover the whole governorate. Especially disputed areas of Article 140 are left behind.

According to different stakeholders, they do not face major blockages from the government in terms of implementing the projects. The challenges they face in implementing their programmes are mostly technical and were identified through interactions with refugees and returnees who access their programs.

3.5.1 Women returnees

The nature of the conflict left many widows behind from different ethnical groups, including Yazidi, Muslim and Christians. Many of these widows lack awareness of HLP rights and documents. Despite this, the Courts in Ninewah are receiving unprecedented numbers of land dispute cases, mostly inheritance related. The cases reflect the vulnerability of widows in a customary setting.

The discrimination of women is on the rise and asking for their HLP rights is met with violence, based on traditions and norms. Many women are returning to their families if they are still there or seek help from community leaders to access their rights. Many women are also simply returning to their homes with their children. Yet the lack of documents to prove ownership of a deceased or missing spouse is leaving many female-headed families in informality and thus unable to apply for compensation. The IOM legal assistance program delivers legal advice to women, by women, which is perceived as huge support by many women facing issues exercising their HLP rights.

Main challenges faced by women can be summarized as follows: 1. Lack of civil documentation, 2. Lack of awareness of both HLP rights and inheritance rights specifically, and 3. Lack of access to justice. The three challenges are exacerbated by norms and traditions.

Women who were abducted by ISIS and now have children of an ISIS member are the most discriminated against. They are signaled as ISIS affiliated members themselves; moreover, having a son from an ISIS member is considered a sin especially in the Yazidi community. This has resulted in secondary displacements of such women together with their ISIS born children, mostly to camps in Dahok.

All programs and projects by international stakeholders are available for both men and women yet the norms and traditions are curbing women's access to such programs. Only the beforementioned IOM legal

assistance project delivers specific services for women through female local lawyers. The Iraqi law no. 20 which deals with compensation, states that all who were affected by terrorism should be compensated equally without discrimination.

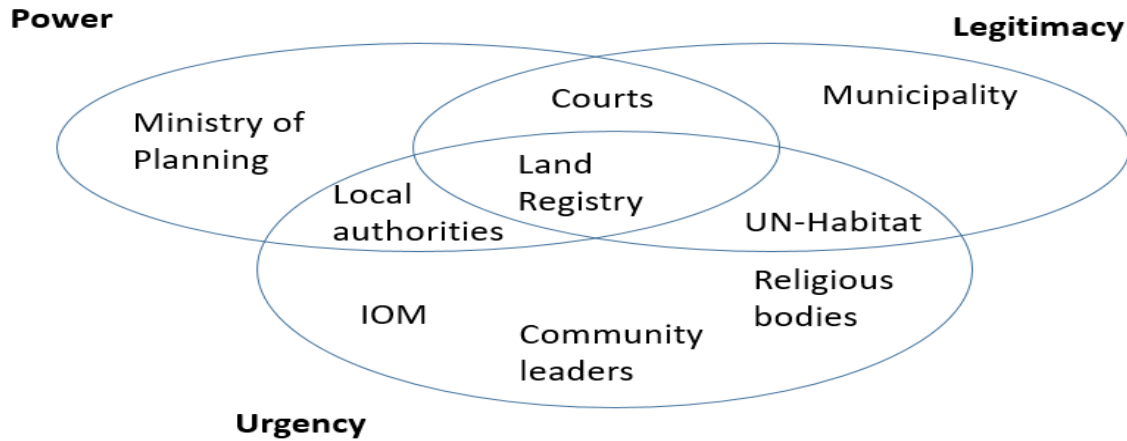
3.5.2. Compensation process and requirements

Even though the compensation process is governed by one law, the process varies between different governorates. It is described as vague because it doesn't provide a clear definition of property damage. Authorized experts who are listed by the Appeal Court Presidency are available to estimate the damage, however, the fees of those experts are to be paid by the returnees.

The lack of awareness of the law puts those returnees who have rehabilitated their property in a difficult situation, because they can't prove that the original damage was war-related. Even though there is a procedure for such situations, this procedure is lengthy and requires witnesses to testify and the completion of certain forms. The long list of documents required provides challenges considering the fact that many returnees have lost both their civil and HLP documentation. In addition, an extra inspection of the property will have to take place to verify that the rehabilitation is new. In general, submitting a claim in Ninewah takes about 6-12 months, which is longer than any other governorate.

3.6 Analysis and discussion

The data collected during the field study and the reality on the ground show that a limited number of active stakeholders is working on HLP issues. This is mainly due to its sensitivity and complexity. Yet there are international stakeholders who have a good working relationship with the government and a degree of protection from militias. If we apply the 'Power, Legitimacy, Urgency' stakeholder chart to the stakeholders present in Ninewah, the following results become visible:



Citizens show a high level of trust in international stakeholders like UN-Habitat and IOM, this is presenting an opportunity. The returnees and displaced believe that international organization are doing more than the government to support the return process through their various programs. And since such international stakeholders do not have a personal interest, they are perceived as a reliable source of support. Yet collaboration between international stakeholders and governmental entities is essential for the recovery, which requires building of trust to overcome the fragility of the post-conflict situation. In other words, enabling governmental institutions is part of the package that can deliver stability in post-conflict situations. Especially important when there are different minority groups and other vulnerable groups such as families of ISIS members. The collaboration between UN-Habitat and the GOI on HLP issues is resulting in improvements in terms of preserving tenure rights especially amongst Yazidi returnees.

The HLP rights-related programs have proven their effectiveness on the ground and aided the return of thousands of families in the past five years. Though some programs, by focusing on one minority group, are excluding other groups which can lead to some resentment, the approach itself is still durable and can be adapted in different communities and groups. More attention should be given to arising resentment.

Current HLP related programs in Iraq are conflict sensitive, the way that they avoid friction with militant groups through their implementation is a case in point. Raising awareness about the Iraqi law and supporting displaced people in obtaining security clearances exhibits the sensitivity and fragility of the situation on both short and long term.

The sustainability of the programs depends greatly on the issues they are tackling and the mechanisms used. Mediation programs may have no ensured sustainability in this specific context because there have been examples of two mediated parties who disagreed later to earlier agreements. Requiring them to still continue to Court at a later stage. Yet mediation can also serve to stabilize the situation at this critical stage and reduce land disputes in the overwhelmed Courts in addition to saving costs and time for disputed

parties. Claims registration activities, carried out by UN-Habitat and IOM seems to be very sustainable. Particularly when disputes erupt, returnees have paper to prove their claims to their property. Though registered claims are not digitized and their loss means losing tenure security, the returnees understand the importance of HLP documents in conflict and post-conflict context.

Preparation of documents for compensation claims is a time and cost intensive process for returnees especially for those who have lost their income as a result of the conflict. The projects by IOM and UN-Habitat are essential for many people to be able to go through that process.

3.7 Conclusion

The way towards return in dignity is still unpaved with many challenges ahead, even though the number of returnees is increasing, their living conditions are alarming especially for those who can't access or maintain access to their property. With a lack of compensation and a lack of income, accessing the system to obtain the required documents for compensation claims of exercising HLP rights is a big challenge for many.

Continuous support of ongoing programs by international partners is vital in facilitating the return process, and preventing new conflicts from arising. In parallel, a dialogue with the government is needed to address the main challenges like obstructed return, security clearance and the delay in delivering compensation.

Focusing efforts in one area and on one minority group can have its fallouts, therefore widening the overall support to HLP rights is essential to ensure inclusivity and avoid friction and discrimination between different minority groups.

The collaboration between UN-Habitat and GOI and the fact that UN-Habitat is working in synergy with governmental institution to implement their programs is giving UN-Habitat a great advantage in implementation. In addition to UN-Habitat's good reputation in rebuilding in Iraq, armed forces and militia are also protecting UN-Habitat staff and projects. UN-Habitat is the stakeholder that is best positioned at the moment to discuss HLP issues with the government. A number of other partners are playing pivotal roles as well, though many local organizations refrain from engaging in the field due to the sensitivities and complexity.

Awareness raising programs need to shed light on women's access to HLP rights in inheritance cases. The awareness raising should not only target women but also community leaders who play an important role at this stage in facilitating women's access to HLP rights. The awareness raising should be constant and should address decision makers as well as influential figures to ensure their involvement in a peaceful return process taking into account both men and women. In facilitating return especially tribal sheikh's and religious leaders from minority groups are important.

Disputed areas under article 140, are in a political and institutional vacuum between GOI and KRG with no support for recovery to enable return. This is one of the most challenging HLP files in Iraq that needs special care. At this moment no stakeholders (national or international) are active there.

The government lack of resources and capacity is feeding the distrust of returnees and displaced people. The failure to carry out compensation payments is putting many returnees in a difficult situation and push many to move away or leave the country to seek refuge elsewhere. The reliance on international stakeholders to solve issues of displaced people and returnees is stalling the institutional development and government involvement in the return and recovery process.

There is currently also a lack of collaboration between civil society and the government which could be of great advantage at this stage. While collaborations between international stakeholders and Iraqi academics could offer further innovative solutions. There is a general lack of conflict analysis and monitoring tools related to HLP rights. Loosing access to property often leads to disputes that can escalate to violent conflicts. A monitoring tool that oversees and monitors disputes and conflicts could add value.

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