



**Australian Government**  
**Refugee Review Tribunal**

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# Country Advice

## Iraq

### Iraq – IRQ37990 – Treatment of Former Ba'athists – High Risk of Kidnapping

12 January 2011

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**1. Deleted**

**2. Please provide information on the current situation for, and treatment of, former Ba'athists in Iraq.**

According to a Danish Immigration Service fact finding report, the consensus from the NGO's working in Iraq is that the process of 'de-Ba'athification' within Iraq has practically ceased; although everything is possible in Iraq, given the context of events within the country. It is not uncommon for a person to be kidnapped and ransomed or possibly murdered and these incidents occur for reasons other than because a person was once associated or affiliated with the Ba'ath Party. The primary causes of kidnappings and killings are lawlessness, sectarian violence, corruption within the armed forces and armed criminal groups seeking an income opportunity.

Senior Ba'athist have fled Iraq long ago and the intense and effective 'de-Ba'athification' process that occurred with the arrival of US forces which outlawed the party, dismissed 30 000 individuals from the public service and which signalled the end the Saddam Hussein era has died down considerably with the majority of Iraqis wanting to move on believing the process has now been completed.<sup>1</sup>

In respect to the winding down of the 'de-Ba'athification' process, an excerpt sourced from United Kingdom's Home Office operational guidance notes dated 1 October 2010 stated:

**'...Treatment** According to Article 135 (5) of the Iraq Constitution "Mere membership in the dissolved Ba'ath party shall not be considered a sufficient basis for referral to court and a member shall enjoy equality before the law and protection unless covered by the provisions of De-Ba'athification and the directives issued according to it".

Members of the former Ba'ath Party may further face discrimination on the basis of their affiliation with the former regime. The Justice and Accountability Law of January 2008, which was aimed at (partly) reversing the effects of the previous 'De-Ba'athification' process, under which approximately 150,000 former Ba'athists, mostly Sunni Arabs, were excluded from government employment and

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<sup>1</sup>Danish Immigration Service 2010, *Security and Human Rights in South/Central Iraq: Report from Danish Immigration Service's fact-finding mission to Amman, Jordan and Baghdad, Iraq 25 February to 9 March and 6 to 16 April 2010*, September [http://www.nyidanmark.dk/NR/rdonlyres/7F24EA1B-1DC7-48AE-81C4-C097ADAB34FD/0/Rapport\\_Security\\_and\\_HR\\_in\\_South\\_Central\\_Iraq.pdf](http://www.nyidanmark.dk/NR/rdonlyres/7F24EA1B-1DC7-48AE-81C4-C097ADAB34FD/0/Rapport_Security_and_HR_in_South_Central_Iraq.pdf) - Accessed 22 December 2010.  
Attachment 1

pensions, is not yet being implemented, depriving many former Ba'athists and members of the former regime of government employment or pensions entitled under the law.

There have also been reports that the Shi'ite-dominated Government is discriminating against former Ba'athists in public sector employment. Further, it cannot be ruled out that previous Ba'ath Party affiliation may increase the risk to a detainee of being subjected to unfair treatment or abuse if held in a Shi'ite dominated detention facility. Since the elections in 2005, when Shi'ite parties came to power, former Ba'athists have been subject to systematic attacks, mainly by Shi'ite militias. **For various reasons, targeted attacks against former members and associates of the Ba'ath Party and the former regime appear to have lessened to a large extent. One possible reason is that a large number of former Ba'athists and associates of the former regime have already fled Iraq since 2003, while those remaining have often been able to align themselves with the current parties in power and/or have been reemployed into the public sector or the ISF.** Another reason is that Shi'ite militias have been lying low or were weakened after military operations in 2008. **While members of the former Ba'ath Party and regime are no longer systematically targeted, they may still fall victim in individual cases, for example as a result of personal revenge of former victims or their families against perpetrators of detention, torture or other violations of human rights.** While some killings of former Ba'athists or members of the former regime have been documented in the media in 2008 and 2009, mainly in the Central Governorates, other cases may go unreported, not least because the exact motivation behind an attack may not always be known. **Today, many former Ba'athists have found a new identity in the Iraqi society as politicians, professionals or tribal leaders.**<sup>2</sup>

A December 2010 media report stated that former Ba'ath Party members who had previously been banned from participating in government due to their past affiliation with the Ba'ath Party are now being allowed to take up their seats in parliament in the newly formed coalition government after a vote by the legislature to lift the ban.<sup>3</sup>

### **3. Are there any reports of businesspeople having been harmed due to connections with the Ba'ath Party?**

There are reports of business people being harmed or killed. The reasons are varied but often these casualties are linked to:

- Bomb blasts destroying a place of business, such as a restaurant, a hotel or a place of worship because a number of people will congregate in the area.
- The current issues of Iraqi politics or an individual's political aspirations or,

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<sup>2</sup> UK Home Office UK Border Agency, 2010, *Operational Guidance Note: Iraq*, 1 October.  
<http://ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/countryspecificasylumpolicyogns/iraq-ogn?view=Binary> - Accessed 22 December 2010 Attachment 2

<sup>3</sup> 'EXTRA: Iraqi parliament lifts ban on three former Baathists' 2010, The Earth Times 18 December.  
<http://www.earthtimes.org/articles/news/358773.ban-three-former-baathists.html#> - Accessed 23 December 2010. Attachment 3

- Businessmen who are involved in government tenders or corporate contracts to service infrastructure projects or involved in the highly lucrative and corrupt Iraqi oil industry.<sup>4</sup>

There is no information that would indicate that business people have been harmed or killed solely based upon their past association with the Ba'ath Party. In general, business people or their family members are more likely to be the target of kidnapping due to their perceived susceptibility to extortion demands. Although a business person has been kidnapped and a ransom paid, in some instances the victim has been murdered.<sup>5</sup> As an Amnesty International 2010 report states on the security situation in Baghdad and Iraq:

‘Civilians in Iraq are being targeted by political militias, most of them linked to Shi'a political parties represented in the Iraqi parliament. Armed groups and militias with an extremist Islamist agenda – including al-Qa'ida and affiliated Sunni Islamist groups as well as the Mahdi Army, a Shi'a militia – have killed women and men because of their political views, their religious or other identity, and their perceived or alleged transgression of traditional gender roles or moral codes.’<sup>6</sup>

In most instances the authorities have failed to conduct thorough and impartial investigations into many attacks on and other violent crimes against civilians, and a climate of impunity prevails.<sup>7</sup>

#### **4. Is there any information to indicate that the presence of a spouse in a place such as UAE would give rise to any risk of harm in Iraq?**

A report on organised crime in Iraq provided examples of overseas based Iraqis returning to Iraq for reasons of locating business opportunities in their former homeland and being kidnapped for ransom. Therefore, it is likely that if it became known that a spouse of a Baghdad resident was living in the UAE and was able to pay a ransom, then this information could potentially draw the attention of any prospective group of kidnappers.<sup>8</sup> Those involved in kidnapping do not discriminate and make no allowances due to a persons' age or sex.

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<sup>4</sup> International Committee of the Red Cross 2009, *Civilian without Protection: Ongoing conflict claims the lives of hundreds every month*, August <http://www.iauiraq.org/documents/139/Newsletter%20-%20Violence%20against%20Civilians%20-%20eng.pdf> - Accessed 23 December 2010. Attachment 4 and ‘Five killed in attack north of Baghdad: police’ 2010, *Associated Foreign Press* 6 September <http://www.google.com/hostednews/afp/article/ALeqM5h-ePDMhozP3xDRO9tGi9lsfaTfNw> - Accessed 23 December 2010. Attachment 6 and Amnesty International 2010, *Iraq. Civilians Under Fire*, April, [http://www.iauiraq.org/documents/113/Amnesty\\_Civilians\\_underfire.pdf](http://www.iauiraq.org/documents/113/Amnesty_Civilians_underfire.pdf) - Accessed 23 December 2010. Attachment 5

<sup>5</sup> U.S. Army War College - Strategic Studies Institute 2009, *Criminals, Militias, And Insurgents: Organized Crime In Iraq* June <http://www.strategicstudiesinstitute.army.mil/pdffiles/pub930.pdf> - Accessed 4 January 2011. Attachment 9

<sup>6</sup> Amnesty International 2010, *Iraq. Civilians Under Fire*, April, [http://www.iauiraq.org/documents/113/Amnesty\\_Civilians\\_underfire.pdf](http://www.iauiraq.org/documents/113/Amnesty_Civilians_underfire.pdf) - Accessed 23 December 2010. Attachment 5

<sup>7</sup> Amnesty International 2010, *Iraq. Civilians Under Fire*, April, [http://www.iauiraq.org/documents/113/Amnesty\\_Civilians\\_underfire.pdf](http://www.iauiraq.org/documents/113/Amnesty_Civilians_underfire.pdf) - Accessed 23 December 2010. Attachment 5

<sup>8</sup> U.S. Army War College - Strategic Studies Institute 2009, *Criminals, Militias, And Insurgents: Organized Crime In Iraq* June <http://www.strategicstudiesinstitute.army.mil/pdffiles/pub930.pdf> - Accessed 4 January 2011. Attachment 9

Reports indicate that a 2 month old baby was abducted from a child care centre,<sup>9</sup> and girls and boys as young as 13 years old are commonly taken outside of schools and held until a ransom is negotiated and paid.<sup>10</sup>

As noted previously, the Iraqi population as a whole is constantly under threat of danger from suicide bombings, shootings and car and truck bombs at any public space. In addition to the risk of being a random victim of such attacks, there is the high incidence of kidnappings. The targets of kidnapping can be unpredictable because the perpetrators' reasons for kidnapping can also be for a wide range of causes that range through the political, religious and economic spectrums.<sup>11</sup>

## **5. Have there been any reports of returnees from Australia or similar countries being harmed due to their time in the west?**

There are no specific reports of returnees being targeted merely because they have spent time in the West. Rather, the reports indicate that since 2003 individual Iraqis and their families have been targeted *in* Iraq by extremist groups due to their association with the 'West' by working for US occupation forces, the UN, NGO's or foreign firms in Iraq.<sup>12</sup>

Instead, recent reports indicate that if a person returned to Iraq from the West, or if other family members remained in a Western country, the risk exists that they would be targeted for kidnapping and possible murder because the perception would be that they or their family had the means to pay a ransom because they have the monetary capacity to do so.

'The gangs also targeted families with relatives in the United States and elsewhere outside Iraq—on the grounds that these relatives could contribute towards the ransom. Several businessmen born in Iraq but with Canadian citizenship returned to Iraq for business, but were kidnapped and in some cases killed.'<sup>13</sup>

At the time of the US invasion and occupation of Iraq in 2003, estimates of Iraqi exiles at that time ranged from two to four million people, and since the US invasion, the country has not witnessed the return of these millions but instead the loss of more professionals, academics, and artists, who are mostly from the middle class.<sup>14</sup> This exodus of Iraq's middle class and elite and their continuing hesitation to return is reflective of the current poor security situation.

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<sup>9</sup> NGO Coordination Committee for Iraq 2010 *Security Updates: ISF Rescues Kidnapped Girl, Arrest Captors* 19 October [http://www.ncciraq.org/S\\_Updates/index.php/reports/?c=23](http://www.ncciraq.org/S_Updates/index.php/reports/?c=23) - Accessed 24 December 2010. Attachment 11

<sup>10</sup> U.S. Army War College - Strategic Studies Institute 2009, *Criminals, Militias, And Insurgents: Organized Crime In Iraq* June <http://www.strategicstudiesinstitute.army.mil/pdffiles/pub930.pdf> - Accessed 4 January 2011. Attachment 9

<sup>11</sup> U.S. Army War College - Strategic Studies Institute 2009, *Criminals, Militias, And Insurgents: Organized Crime In Iraq* June <http://www.strategicstudiesinstitute.army.mil/pdffiles/pub930.pdf> - Accessed 4 January 2011. Attachment 9

<sup>12</sup> United Nations High Commissioner for Refugees (UNHCR) 2009, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum-seekers*, April, pp.168-169/paras. 291-293 <http://www.unhcr.org/refworld/pdfid/49f569cf2.pdf> - Accessed 11 January 2011

<sup>13</sup> U.S. Army War College, Strategic Studies Institute 2009, *Criminals, Militias, And Insurgents: Organized Crime In Iraq* June <http://www.strategicstudiesinstitute.army.mil/pdffiles/pub930.pdf> - Accessed 4 January 2011. Attachment 9

<sup>14</sup> Sasson, J. 2008, 'Iraq's Refugee and IDP Crisis: Human Toll and Implications. 'Brain Drain and Return'' *The Middle East Institute Viewpoints special edition Chapter IV* 25 July <http://www.iauiraq.org/documents/270/iraqs-refugee-and-IDP-crisis.pdf> - Accessed 23 December 2010. Attachment 10

After the in US invasion ‘militias and criminal gangs began killing or kidnapping professionals (particularly doctors, lawyers, and academics). Unlike in Saddam’s era when doctors and academics left Iraq because they were individual victims of the regime, in post-2003 Iraq they became targeted as a group.’<sup>15</sup>

Dr. Joseph Sassoon, Senior Associate Member, St. Antony’s College, Oxford has written that:

‘Estimates of the number of doctors who have left Iraq since 2003 vary widely, ranging from 3,000 to 17,000. What is clear, however, is that Iraq lost a large percentage of its specialists (some say 70%) and probably 25-35% of its overall medical staff. These are massive numbers considering that the majority of the exodus occurred over just 18 months. With the departure of its professional elite, Iraq lost a wealth of experience. Data about academics and professionals who were assassinated is more accurate. The Brussels Tribunal compiled a list of 350 names of those professionals (the vast majority being PhD holders) who were murdered. The Iraqi Lawyers Association published a list of 210 lawyers and judges killed since the invasion and said that the number of lawyers in Iraq has decreased by 40% since the invasion. **It is doubtful that many of those who managed to get to the West (usually specialists and members of the different minorities) will return to Iraq.** For those in Syria, Jordan, and Egypt, the situation is somewhat complicated. Many of these professionals have not managed to get jobs commensurate with their qualifications, and a large number are frustrated with their professional lives. But even for these, a number of basic conditions must be in place before large numbers head home.’<sup>16</sup>

Due to the level of past violence, currently Iraq is experiencing up to 1.55 million internally displaced persons and an additional 1.7 million who are living abroad.<sup>17</sup> Although the level of violence has declined, the statistical downward trend is tenuous and Iraqis remain fearful of returning to their place of origin because of the lack of security.<sup>18</sup>

## **6. Please provide information on the prevalence of kidnapping in Iraq and in Baghdad in particular.**

Kidnapping in Baghdad is highly prevalent. Kidnappings occur for any number of reasons. Aside from ideals of sectarianism, disrupting the fledgling civil society and being vehemently anti-West, which are the main motivators for some of the kidnappers, kidnappings also occur for financial gain.<sup>19</sup> Kidnap victims are from a broad spectrum of the population as are the

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<sup>15</sup> Sasson, J. 2008, ‘Iraq’s Refugee and IDP Crisis: Human Toll and Implications. ‘Brain Drain and Return’ *The Middle East Institute Viewpoints special edition Chapter IV* 25 July <http://www.iauiraq.org/documents/270/iraqs-refugee-and-IDP-crisis.pdf> - Accessed 23 December 2010. Attachment 10

<sup>16</sup> Sasson, J. 2008 ‘Iraq’s Refugee and IDP Crisis: Human Toll and Implications. ‘Brain Drain and Return’ *The Middle East Institute Viewpoints special edition Chapter IV* 25 July <http://www.iauiraq.org/documents/270/iraqs-refugee-and-IDP-crisis.pdf> - Accessed 23 December 2010. Attachment 10

<sup>17</sup> United Nations 2010, *Iraq 2010 Humanitarian Action Plan*, 14 July <http://business.un.org/en/assets/d5798605-056e-4a28-a625-fb6ec089d887.pdf> - Accessed 24 December 2010. Attachment 12

<sup>18</sup> United Nations 2010, *Iraq 2010 Humanitarian Action Plan*, 14 July <http://business.un.org/en/assets/d5798605-056e-4a28-a625-fb6ec089d887.pdf> - Accessed 24 December 2010. Attachment 12

<sup>19</sup> Just kill him, desperate father told gang who kidnapped his six-year-old son’ 2009, TimesOnline, 7 October. <http://www.timesonline.co.uk/tol/news/world/iraq/article6863774.ece#> - Accessed 24 December 2010.

Attachment 13 and Danish Immigration Service 2010, *Security and Human Rights in South/Central Iraq: Report from Danish Immigration Service’s fact-finding mission to Amman, Jordan and Baghdad, Iraq* 25 February to 9 March and 6 to 16 April 2010, September <http://www.nyidanmark.dk/NR/rdonlyres/7F24EA1B-1DC7-48AE->



reasons for the kidnapping. The high profile kidnappings that involve high ranking religious figures, government officials and mass kidnapping of scores of individuals at a time are usually perpetrated by equally high profile militia groups or terrorist cells.<sup>20</sup> Less publicised in the media are the kidnapping and death of men and women due to their sexual orientation or because of their perceived un-Islamic behaviour. Advocates of human rights and women's rights have also been kidnapped and killed.<sup>21</sup>

In many cases kidnap victims are not released alive and they are often killed and their bodies having been mutilated and showing signs of torture which include cigarette burns drill holes and other unpleasant violations.<sup>22</sup> No one is immune from being a kidnap victim and the perpetrators can sometimes be those who are also the upholders of the law.<sup>23</sup> Sectarian militia groups are often also members of either the Iraqi police force or the Internal Security Force and they have used the paraphernalia of the police force and security forces to gain trust and access to areas that ordinary citizens would not be able to reach then proceed to kidnap or kill their targets.<sup>24</sup>

More generally, the capacity of the Iraqi security forces to provide state protection is compromised due to the current situation in Iraq with high unemployment and underemployment and the tenuous grip the Iraqi government has on security. Crime plays a major part in the volatile security situation in Iraq. Gangs are looking to make money in any way possible and the availability and ease in obtaining small arms and other weapons makes for a dangerous environment for civilians in many urban centres.<sup>25</sup>

## Attachments

1. Danish Immigration Service 2010, Security and Human Rights in South/Central Iraq: Report from Danish Immigration Service's fact-finding mission to Amman, Jordan and Baghdad, Iraq 25 February to 9 March and 6 to 16 April 2010, September [http://www.nyidanmark.dk/NR/rdonlyres/7F24EA1B-1DC7-48AE-81C4-C097ADAB34FD/0/Rapport\\_Security\\_and\\_HR\\_in\\_South\\_Central\\_Iraq.pdf](http://www.nyidanmark.dk/NR/rdonlyres/7F24EA1B-1DC7-48AE-81C4-C097ADAB34FD/0/Rapport_Security_and_HR_in_South_Central_Iraq.pdf) - Accessed 22 December 2010.

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<sup>20</sup> US Department of State 2010, *International Religious Freedom Report 2010*, 17 November, [www.state.gov/g/drl/rls/irf/2010/148821.htm](http://www.state.gov/g/drl/rls/irf/2010/148821.htm) - Accessed 4 January 2011. Attachment 16

<sup>21</sup> Amnesty International 2010, Iraq. Civilians Under Fire, April, [http://www.iauiraq.org/documents/113/Amnesty\\_Civilians\\_underfire.pdf](http://www.iauiraq.org/documents/113/Amnesty_Civilians_underfire.pdf) - Accessed 23 December 2010. Attachment 5

<sup>22</sup> International Committee of the Red Cross 2009, Civilian without Protection: Ongoing conflict claims the lives of hundreds every month, August <http://www.iauiraq.org/documents/139/Newsletter%20-%20Violence%20against%20Civilians%20-%20eng.pdf> - Accessed 23 December 2010. Attachment 4

<sup>23</sup> Danish Immigration Service 2010, Security and Human Rights in South/Central Iraq: Report from Danish Immigration Service's fact-finding mission to Amman, Jordan and Baghdad, Iraq 25 February to 9 March and 6 to 16 April 2010, September [http://www.nyidanmark.dk/NR/rdonlyres/7F24EA1B-1DC7-48AE-81C4-C097ADAB34FD/0/Rapport\\_Security\\_and\\_HR\\_in\\_South\\_Central\\_Iraq.pdf](http://www.nyidanmark.dk/NR/rdonlyres/7F24EA1B-1DC7-48AE-81C4-C097ADAB34FD/0/Rapport_Security_and_HR_in_South_Central_Iraq.pdf) - Accessed 22 December 2010. Attachment 1

<sup>24</sup> 'Gunmen Stage Mass Kidnapping at Baghdad Research Center' 2006 Associated Press November 14. <http://www.foxnews.com/story/0,2933,229423,00.html> - Accessed 24 December 2010. Attachment 14 and NGO Coordination Committee for Iraq 2010 *Security Updates: Civilian Kidnapped By Armed Men Disguised in ISF* 15 August [http://www.ncciraq.org/S\\_Updates/index.php/reports/?c=23](http://www.ncciraq.org/S_Updates/index.php/reports/?c=23) - Accessed 24 December 2010. Attachment 15

<sup>25</sup> The Center for Defense Information 2006, *Uncontrolled Small Arms Perpetuate Insecurity in Iraq* 6 December. [http://www.cdi.org/program/document.cfm?documentid=3745&programID=82&from\\_page=../friendlyversion/printversion.cfm](http://www.cdi.org/program/document.cfm?documentid=3745&programID=82&from_page=../friendlyversion/printversion.cfm) - Accessed 12 January 2011 Attachment 18

2. UK Home Office UK Border Agency, 2010, *Operational Guidance Note: Iraq*, 1 October.  
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6. 'Five killed in attack north of Baghdad: police' 2010, *Associated Foreign Press* 6 September <http://www.google.com/hostednews/afp/article/ALeqM5h-ePDMhozP3xDRO9tGi9lsfaTfNw> - Accessed 23 December 2010.
7. Deleted.
8. Deleted.
9. U.S. Army War College - Strategic Studies Institute 2009, *Criminals, Militias, And Insurgents: Organized Crime In Iraq* June  
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<http://www.timesonline.co.uk/tol/news/world/iraq/article6863774.ece#> - Accessed 24 December 2010.
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