

United States Institute of Peace and The World Bank

ADDRESSING PROPERTY ISSUES ARISING FROM POST-2003 DISPLACEMENT AND RETURN

Workshop
13-15 July 2008
Amman/Jordan

Outcome Document

1. Introductory Note:

In consonance with the lofty goals sought by **The United States Institute of Peace**, and in cooperation with **The World Bank**, the property issues arising from the phenomenon of displacement and return to which the people of Iraq have been subjected, and which have expanded to take various forms and levels, have been taken up by the participants in this **Workshop** with a view to finding appropriate solutions that would ensure the principles of humanity and peace. It was to this end that the workshop was convened.

2. Procedures

First: Invitations for participation were made to representatives of the Iraqi branches of government: the legislative, executive and judicial authorities. Additionally, participation was sought from experts and specialists in human rights and international and national civil society organizations.

Second: The workshop continued for three days, over 13-15 July 2008. Plenary and break-out group meetings were held to discuss and exchange views on the possibilities related to the Workshop's subject matter.

3. Suppositions

First: Mass displacement represents an exceptional situation that has resulted from exceptional circumstances. [The participants further agreed these extraordinary circumstances require measures that go beyond the existing legal and institutional framework].

Second: Displacement has taken place in all Iraqi governorates at various levels, with Baghdad being the most affected area.

Third: Most of the displaced families were tenants at the time of displacement. [The participants further agreed that special measures should be adopted to protect tenants who

lost their rights under their lease due to their displacement. See Fifth Recommendation below.]

Fourth: The impact of displacement is further aggravated by the loss of documents and instruments substantiating property ownership, by both property owners and state property institutions, as a result of accompanying acts of looting, burning and destruction.

Fifth: The displaced have been suffering from high levels of unemployment, meager sources of income, and savings depletion as a result of the loss of income and resources and high expenses as a result of their displacement.

Sixth: There is reluctance amongst the displaced to return home willingly. [The participants further recognized that this reluctance is due in part to security concerns, the absence of basic services, the potential risk of reprisal from secondary occupants, and the lack of available housing].

Seventh: There is a huge gap between the number of housing units available and the actual housing needs in Iraq. [The participants further agreed that the housing shortage pre-dated the displacement problem, particularly in Baghdad. Some experts estimated the shortage prior to 2003 to be roughly three million housing units.]

Eighth: On-going violence and instability has made it difficult for some government authorities to discharge their responsibilities. [The participants identified enforcement of judicial orders as an area where on-going violence has particularly impacted governmental action].

Ninth: There is a lack of development in the technology used to input and store property records and a lack of support for this task. [The participants further noted that this has made assessing and identifying solutions to property issues related to displacement more difficult].

Tenth: Slowness and inefficiency in the allocation of compensation hinders the ability of the displaced to renovate, rebuild, or refurnish their homes, which is a humanitarian need.

Eleventh: There is a need for either new legislation or legislative amendments to address issues of displacement and return that are not accounted for in the current laws.

Twelfth: Operation Law & Order (i.e., the Baghdad Security Plan) has not been fully implemented [which explains, in part, the lack of security in certain neighborhoods in Baghdad].

4. Recommendations

First: To hail the efforts made by the government to enforce the rule of law, a matter, which has put an end to new instances of displacement and resulted in returns.

Second: It is necessary to conduct a comprehensive survey in cooperation with all competent authorities and with the support of:

- a. citizens,

- b. the State - government,
- c. civil society organizations and,
- d. international parties and organizations.

to establish a comprehensive database assessing [property issues caused] by displacement in Iraq.

Third: To adopt dispute resolution methods which are consistent with local customs and social norms, in cooperation with civil society organizations, the neighborhood support councils and any other supporting party, in order to resolve the displacement problem in a manner consistent with existing laws.

Fourth: The legislative framework must adapt to emerging needs as soon as possible, including through:

- a. amendments to the provisions on property ownership/transfer by use of coercive force in addition to forgery. [Participants recommended that the Property Registration code be amended to ensure that transfers made under coercion are not recorded, and that transfers recorded since 2003 may be reexamined on the basis of evidence of coercion],
- b. enactment of a law exempting the victims from court and other administrative fees for a period of time, or decreasing any interest incurred.
- c. enactment of a law compensating victims, to be prepared by the relevant parties/agencies.
- d. enactment of regulations and instructions or amendments to existing ones in a manner that meets the current needs to implement the laws [or that enables practical implementation of the laws].

Fifth: To help tenants, especially those who have signed leases but have been deprived of their rights due to eviction judgments and who have no legal access to housing units.

Sixth: To digitize property registration information and benefit from lessons learned in other countries to assure the owners of easy access to property records and supporting documentation and to prevent forgery.

Seventh: To support the Bar Association in order to facilitate the provision of legal assistance and the hiring of lawyers.

Eighth: To simplify legal procedures for issuing proof of missing and/or dead relatives, particularly related to property ownership documentation, especially for widows and vulnerable individuals in a manner that is not inconsistent with existing laws.

Ninth: To resolve the problems arising from secondary occupants the government:

- must intervene to quickly find solutions to resolve each case according to its facts.
- build housing complexes.
- distribute plots of land according to criteria and instructions which ensure justice.
- provide building materials at subsidized prices as much as legally possible.
- assist tenants to pay their rent for a reasonable period of time according to instructions issued for this purpose.

Tenth: To review all compensation decisions and programs, those that have been implemented and those that are expected to be implemented, in order to consolidate them and ensure justice.

Eleventh: To enact a law providing for the establishment of a Victims Fund to support displaced persons and those returning home. The Fund shall be affiliated with the Ministry of Migration and its purpose, administration and structure shall be organized by law.

Twelfth: The international community should continue providing technical expertise and assistance in this field.

Thirteenth: To support the national policy put forward by the Ministry of Migration and approved by the Council of Ministers in order to turn it into action plans.

Fourteenth: Restoring property rights of the displaced persons must be a priority in order to end the displacement problem.

Fifteenth: The judicial authority may disseminate instructions to the courts to benefit from the neighborhood support councils as: 1. arbitrators, 2. social researchers (to make recommendations to the court on a particular case), or 3. experts.

Sixteenth: The judicial authority may issue orders to accelerate the adjudication of property claims, and to provide effective means to facilitate access to the courts by displaced persons.

5. Conclusion

To implement the recommendations made by this workshop it is resolved that:

First: All participants shall present the outcomes, recommendations and deliberations of the Workshop to their respective institutions to support them according to their ability and specialization.

Second: The Ministry of Migration and the Parliamentary Committee on the Displaced Persons shall coordinate and follow up these recommendations. The Ministry shall send these recommendations to other ministries and departments to activate their roles.

Third: A conference in Baghdad is necessary to follow up the recommendations and review the progress made therein, and to benefit from international experience.

And, in conclusion we thank and appreciate the efforts of all of the participants.

May the peace and blessings of God be with you.