

# IRAQ

## EXECUTIVE SUMMARY

Iraq is a constitutional parliamentary republic. Prime Minister Nouri Kamal al-Maliki was sworn in following free and fair elections in March 2010, once the major political parties reached a power-sharing agreement that allowed the government to be seated in December 2010. While the government is inclusive of all major political parties, significant unresolved issues continued to hamper its operation as permanent ministers of defense and interior had yet to be appointed at year's end. However, during the year, the role of the Council of Representatives (COR) and provincial governments increased. Iraqi Security Forces (ISF) reported to civilian authorities, but continuing violence, corruption, and organizational dysfunction undermined the government's protection of human rights.

During the year the most significant human rights developments were continuing abuses by sectarian and ethnic armed groups and violations by government-affiliated forces. Divisions between Shia and Sunni and between Arab and Kurd empowered sectarian militant organizations. These militants, purporting to defend one group through acts of intimidation and revenge against another, influenced political outcomes. Terrorist attacks designed to weaken the government and deepen societal divisions occurred during the year.

The three most important human rights problems in the country were governmental and societal violence reflecting a precarious security situation, a fractionalized population mirroring deep divisions exacerbated by Saddam Hussein's legacy, and rampant corruption at all levels of government and society.

During the year the following significant human rights problems were also reported: arbitrary or unlawful deprivation of life; extremist and terrorist bombings and executions; disappearances; torture and other cruel, inhuman, or degrading treatment or punishment; poor conditions in pretrial detention and prison facilities; arbitrary arrest and detention; denial of fair public trials; delays in resolving property restitution claims; insufficient judicial institutional capacity; arbitrary interference with privacy and home; limits on freedoms of speech, press, and assembly; extremist threats and violence; limits on religious freedom due to extremist threats and violence; restrictions on freedom of movement; large numbers of internally displaced persons (IDPs) and refugees; lack of transparency and significant constraints on international organizations and nongovernmental organizations' (NGOs) investigations of alleged violations of human rights;

discrimination against and societal abuses of women and ethnic, religious, and racial minorities; trafficking in persons; societal discrimination and violence against individuals based on sexual orientation and gender identity; and limited exercise of labor rights.

A culture of impunity has largely protected members of the security services, as well as those elsewhere in the government, from investigation and successful prosecution of human rights violations.

Terrorist groups such as al-Qaida in Iraq committed attacks against a wide swath of society, including Sunnis, Shia, and members of other sects or ethnicities, security forces, places of worship, religious pilgrims, economic infrastructure, and government officials. Their means were suicide bombings, attacks with improvised explosive devices, drive-by shootings, and other acts of violence aimed at weakening the government and deepening ethnosectarian divisions. Certain militant organizations, such as those influenced by Iran, also committed numerous terrorist attacks, primarily against foreign embassies and foreign military forces.

## **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

### **a. Arbitrary or Unlawful Deprivation of Life**

Violence against the civilian population perpetrated by terrorist groups remained a problem during the year, and bombings, executions, and killings were regular occurrences throughout all regions and sectors of society. During the year there were press reports and personal accounts that government employees committed arbitrary or unlawful killings connected to security operations, as well as of protesters and persons in custody. The outcomes of infrequent official investigations were often unpublished, unknown, or incomplete, and rarely credible in high-profile cases.

Confirmed government involvement in extrajudicial killings remained low but nevertheless occurred. For example, there were credible reports that soldiers arrested, tortured, and killed 35-year-old Waleed Khalid in Nineveh Province in February. His body was delivered to his family on February 23. Atheel al-Nujaifi, the Nineveh provincial governor, called for an investigation, but there were no known developments in the case at year's end.

On April 8, the army entered the facility known as Camp Ashraf, also known as Camp New Iraq. Camp Ashraf is home to approximately 3,300 Iranian exiles and

serves as the Iraq base of the Mujahedin-e Khalq (MEK), a terrorist organization that had worked for Saddam Hussein's regime. The camp's residents violently opposed the army incursion, and some fought the army with sticks, batons, and other improvised weapons. Thirty-six camp residents died as a result of the ensuing violence and more than 300 were injured. Many of the dead were shot; army vehicles crushed others. At year's end the government had not conducted a credible investigation into the incident despite assurances that it would do so (see section 2.d.).

There were accounts of attacks by persons falsely presenting themselves as ISF personnel. For example, on August 15, persons wearing military uniforms pulled seven men from a Sunni mosque during evening prayers in Youssifiyah, a town about 12 miles south of Baghdad, and shot them.

In Erbil, Suleimaniya, and Dohuk, the three provinces referred to as the Iraqi Kurdistan Region (IKR), under the authority of the Kurdistan Regional Government (KRG), there were press reports and credible accounts of KRG security forces committing arbitrary or unlawful killings.

On February 26, the day after violent demonstrations in Kirkuk, the bodies of four young men were found near the city; all had been blindfolded, handcuffed, and shot. Four men in military uniforms had taken one of them from a local hospital the previous day. There was suspicion among Arab residents of Kirkuk that Kurdish security services killed them as a warning to the Arab community to refrain from further protests. Kurdish authorities strongly denied the accusations.

Violence against the government and civilian population perpetrated by terrorists and extremist groups, including religiously affiliated militias, remained a problem during the year, and bombings, executions, and killings were regular occurrences. Casualty estimates varied. For example, Agence France-Presse (AFP) reported figures compiled by the ministries of health, interior, and defense that indicated that 1,578 civilians, 609 police officers, and 458 soldiers were killed during the year in comparison to 2,505 civilians, 671 police officers, and 429 soldiers in 2010. Direct monitoring by the UN Assistance Mission for Iraq (UNAMI) indicated that a minimum of 2,771 civilians were killed in 2011. In 2010 UNAMI recorded 2,953 civilian deaths.

From January through December, AFP estimated that 458 ISF personnel were killed in terrorist attacks and 1,093 were wounded. AFP also estimated that 609 Ministry of Interior personnel were killed and 1,302 were injured during the year.

Police officers, in particular, were targets. For example, on January 18, a suicide bomber blew himself up in the midst of police recruits in Tikrit, killing 60 and wounding 150 others.

There were reports of al-Qaida in Iraq attacks against Sunnis cooperating with the government--the Sons of Iraq, also known as the Sahwa (Awakening) Movement--and against Sunni tribal leaders. For example, on January 8 in Al-Hashamiyat, an improvised explosive device targeting a member of the Sons of Iraq killed the target's two young children instead of their father.

In the area under the authority of the KRG, there were significantly fewer reports of extremist violence than elsewhere in the country. On several occasions throughout the year, the Turkish government used military aircraft to attack areas where the Kurdistan Workers' Party (PKK), a terrorist organization, was active in the north; these attacks harmed civilians. For example, on August 21, local officials claimed that seven Iraqis were killed near the village of Kur Taka by a missile fired from a Turkish warplane. Turkey denied responsibility for the deaths.

Iranian forces regularly bombarded Kurdish areas along the Iran-Iraq border, targeting purported terrorist activities. The Iranian shelling resulted in civilian casualties. For example, on July 28, Iranian shelling near the town of Sidakan killed a 13-year-old boy.

There were no known developments in killings reported in 2010.

## **b. Disappearance**

The majority of reported cases of disappearances appeared to be financially motivated, and some kidnappers who did not receive a ransom killed their victims. On September 21, three Christians and one Turkmen were kidnapped while hunting approximately 20 miles south of Kirkuk. The kidnappers demanded a ransom of \$200,000 for each victim but released the victims 10 days later after payment of a \$150,000 ransom. Police believed that the majority of kidnappings went unreported.

Kidnappings also took place in the IKR. On September 24, three Yezidi men were kidnapped between the villages of Al-Jazeer and Sikiniya. Three million dollars was demanded for their release; no ransom was paid, and the victims were not released. The kidnapping remained unresolved at year's end.

New mass graves of persons who disappeared under Saddam Hussein's regime were found during the year. On April 13, the minister of human rights announced the discovery of a mass grave containing 812 victims, many killed with a gunshot to the back of the head between 1980 and 1989. More recent mass graves have also been discovered.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The constitution expressly prohibits torture in all its forms under all circumstances, as well as cruel, inhuman, or degrading treatment. Nonetheless, there were documented instances of torture and other abuses by government agents and similar abuses by illegal armed groups. Police across the country continued to use abuse and coerced confessions as methods of investigation.

In the IKR the Antiterrorist Law allows abusive interrogation under certain conditions, and such practices reportedly occurred in some detention facilities run by the internal security forces known as the Asayish (affiliated with the Kurdistan Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK)) and the party-affiliated intelligence services, the KDP's Parastin and the PUK's Zanyari.

Local and international human rights organizations continued to report allegations of torture and abuse in several Ministry of Interior (MOI) and Ministry of Defense (MOD) detention facilities, as well as in KRG security forces' detention facilities. The international NGO Human Rights Watch reported that torture continued in detention facilities under the control of the army's 56th and 54th brigades.

As in previous years, reports of abuse during arrest and investigation, particularly by the police and army, continued to be common. Allegations of abuse included use of stress positions, beatings, broken fingers, electric shocks, sexual assault, denial of medical treatment, death threats, and death in custody.

In April 2010 the local and international media reported the discovery of a secret prison operated by security forces under control of the Prime Minister's Office containing more than 400 Sunni detainees, of whom more than 100 were reportedly tortured. According to officials, the prison was closed shortly after its existence became known publicly, but human rights organizations reported that parts of the prison remained open during the year.

On February 1, Human Rights Watch announced that it had uncovered another secret prison at an Iraqi military base in northwest Baghdad holding 80 to 280 detainees, but the government denied the assertion. There have been reports that there are 10 secret prisons located in the International Zone.

There were indications that authorities took some disciplinary action against security forces accused of having committed human rights abuses as well as judicial action in some torture cases. Investigative teams from the Ministry of Human Rights uncovered 460 suspected cases of torture and took steps to transfer them to the Judicial Council. The internal court at the MOI disciplined several of its employees. For example, the court recommended firing a brigadier general for sexually harassing a subordinate and imprisoned a major for torturing a fellow employee.

### **Prison and Detention Center Conditions**

Four separate ministries--justice, interior, defense, and labor and social affairs--operated prisons, detention centers, and holding facilities. The country's fractured penal structure, in which the Ministry of Justice (MOJ) holds sentenced and unsentenced prisoners and the other ministries hold detainees, complicated detention and prison operations. By law the MOJ has full authority over all detention facilities, including two prisons in the IKR, except for MOD military justice facilities and those facilities in the IKR run by the KRG's Ministry of Labor and Social Affairs (KMOLSA). The law has not been fully implemented, although there was progress in transferring MOD detainees to MOJ detention facilities.

In the IKR, KMOLSA authorities operated prisons and pretrial detention facilities, security authorities operated prisons and pretrial detention facilities, and internal security forces and intelligence services operated separate detention facilities as well. Each of the three provinces has two prisons, one for men and another for women and juveniles. The KRG's Ministry of Interior, and not KMOLSA, supervises all pretrial male adults in the IKR.

The total capacity of MOJ's Iraqi Corrections Service (ICS) facilities--the only government entity with the legal authority to hold persons after conviction--was 34,124 beds for men and 553 beds for women. As of December the total number of prisoners in and detainees held by the ICS was 25,926. In the IKR there were approximately 2,200 posttrial prisoners (70 women) held in KRG facilities. There was no available information on those in Asayish and KRG intelligence service facilities.

Authorities at MOI and MOD detention facilities reported that conditions and treatment of detainees were generally poor. Many inmates lacked adequate food, exercise facilities, medical care, and family visitation. Limited infrastructure or aging physical plants in some facilities resulted in marginal sanitation, limited access to potable water and electricity, and poor quality food. Medical care in MOI and MOD detention facilities was inconsistent, and there were allegations of abuse and torture in some facilities.

The Ministry of Justice's (MOJ) detention facilities provided detainees with better treatment and living conditions. Medical care in the MOJ's ICS prisons in some locations exceeded the care generally available in the surrounding area.

The ICS internal affairs department monitored abuse or violations of prisoners' human rights. In past years allegations of abuse have resulted in the disciplining of ICS officers in some cases. The ICS stated there were no allegations that their staff abused detainees during the year.

ICS prisons maintained visitation programs that allowed for regular visits by family members and others. Facility administrators dealt with prisoner complaints. An internal audit program ensured that detention conditions were compatible with international standards, such as separate housing for men, women, juveniles, and pretrial detainees; access to potable water; access to medical care; appropriate living space; and available programming, such as recreation, religious observation, and vocational rehabilitation.

The conditions in MOI facilities were much poorer. For example, UNAMI received reports of a counterterrorism facility in Diyala that held 500 detainees in three rooms measuring 6 by 4 meters each; the detainees shared two bathrooms without running water. Ministry officials rarely granted prison access to outside monitoring groups, which made it difficult to assess the prison conditions in the facilities.

The end-of-year total juvenile population in holding facilities and detention centers outside the IKR was approximately 1,345. Most juvenile pretrial detainees and posttrial prisoners were held in facilities run by the Ministry of Labor and Social Affairs, as required by law. Small numbers of juveniles were also held at some MOJ prisons and police stations; for example, 146 juveniles were held at MOJ facilities at year's end. In the IKR the juvenile prisons held 235 pretrial detainees and posttrial prisoners.

Juveniles were sometimes held in the same cells as adults and rarely afforded access to education or vocational training. Access to medical care was limited. Often the detention facilities did not have an on-site pharmacy or infirmary.

In the IKR, domestic and international human rights NGOs and intergovernmental organizations generally had access to pretrial and posttrial facilities. Access by independent organizations to the facilities of the KRG internal security and intelligence services was limited to the International Committee of the Red Cross (ICRC) and the UN.

Until April 2010--when media reports of an extrajudicial detention facility were released--the national detention facilities occasionally permitted visits by MOHR representatives of the MOHR and COR members. After the press coverage, ministry officials and COR members reported encountering resistance at some detention facilities to the visits. KRG detention facilities permitted visits by the national Ministry of Human Rights (MOHR), and KRG human rights authorities.

Domestic and international human rights NGOs and intergovernmental organizations generally did not have access to national MOI detention and pretrial facilities. UNAMI suspended inspections of several MOI and MOD facilities in December 2010 after finding evidence that authorities beat or mistreated prisoners and detainees because they raised concerns to UNAMI staff or in order to compel inmates to reveal to prison authorities what they reported to UNAMI inspectors. UNAMI did not plan to resume prison inspections until it received credible assurances that prisoners and detainees would not be compelled to reveal the nature of their conversations with inspectors. Credible assurances were not received by year's end.

The ICRC had access in accordance with its standard modalities to MOJ prisons and detention facilities, together with access to places of detention under other ministries, although at times with difficulty. During the year the ICRC carried out 105 visits to 50 central government detention facilities. In the last quarter of the year, however, the ICRC was suddenly denied access to a MOJ prison after the government transferred several hundred alleged Ba'athists there.

The ICRC had a separate agreement with the KRG for access with some restrictions to its detention facilities. The ICRC conducted 36 visits to 25 places of detention under the authority of the KRG.



#### **d. Arbitrary Arrest or Detention**

The constitution provides for protection against arbitrary arrest and detention without a warrant, except in extreme exigent circumstances as provided for in a state of emergency. In practice there were many instances of arbitrary arrest and detention. Security forces reportedly arrested civilians without arrest warrants, and police detained individuals with judicial release orders and held them for ransom. For example, reports indicated that the Shia-dominated police force in Diyala province made arrests based on religious sect or political party; the judiciary dismissed cases based on religious sect, political party, and bribes; and corrections officers released defendants only after receiving payment for the defendants' release.

#### **Role of the Police and Security Apparatus**

The Iraqi Security Forces (ISF) consist of internal security forces in the Ministry of Interior (MOI) responsible for domestic law enforcement and maintenance of order and conventional military forces in the Ministry of Defense responsible for external defense but cooperating regularly in internal security missions with the MOI. Human rights violations committed by ISF personnel were rarely investigated and perpetrators were seldom punished.

The MOI disciplinary and criminal court system for internal security forces heard more than 11,100 cases with 3,800 convictions between January and September; the remaining cases resulted in acquittals or were ongoing.

Impunity for security forces continued. A significant number of abuses were reported during the year. For example, elements of the 46th and 47th Brigades used live fire against antigovernment protesters and police in Kirkuk and Hawija on February 25, killing six persons and injuring more than 10. Despite photographic evidence of the events, no action was taken against the army units. There were continued reports of torture and abuse throughout the country in many MOI police stations and MOD facilities; the incidents generally occurred during interrogation. The MOI Internal Affairs Division did not release the number of officers punished during the year, and there were no known court convictions for abuse.

Security force officials were rarely pursued for suspected crimes because ministers can legally block an arrest warrant. Article 136(b) of the criminal procedure code gives ministers the opportunity to review and prevent the execution of arrest

warrants issued by judges presiding over criminal investigations of employees in their ministry (see sections 1.e. and 4).

Although oversight by MOI and MOD internal affairs increased, problems persisted with the Iraqi Police regarding sectarian divisions, corruption, ties to tribes, and unwillingness to serve outside the areas in which they were recruited. The army and Federal Police recruited nationwide and deployed their soldiers and police to various areas, reducing the likelihood of corruption because of personal ties to tribes or militants.

The KDP and PUK parties maintained their own security apparatus, organized along military lines, dating from the struggle against the regime of Saddam Hussein and earlier. There were approximately 22 Peshmerga (Kurdish militia) brigades, all originally under the control of the two main Kurdish parties. Under the constitution, the KRG has the right to maintain Regional Guard Brigades, supported financially by the central government but under KRG control. Accordingly, the KRG established a Ministry of Peshmerga Affairs. By the end of the year, eight of these Peshmerga brigades moved from party control to the control of the ministry, but the central government had not provided financial support for any of the Peshmerga.

KRG security forces and intelligence services detained suspects in KRG-controlled areas. The poorly defined administrative boundaries between the IKR and the rest of the country led to confusion about the jurisdiction of security and courts. The KDP maintained its own internal security unit, the Asayish, and its own intelligence service, the Parastin. The PUK maintained its own internal security unit, also known as the Asayish, and its own intelligence service, the Zanyari. The PUK and KDP security organizations remained separate and effectively controlled by political leaders through political party channels.

### **Arrest Procedures and Treatment While in Detention**

The constitution prohibits “unlawful detention” and mandates that authorities submit preliminary documents to an investigative judge within 24 hours of arrest, a period that can be extended by one day. For offenses punishable by death, authorities can detain the defendant for as long as necessary to complete the judicial process.

The government periodically released detainees, usually after concluding that it had insufficient evidence for the courts to convict them. The law allows release on

bond, and in practice criminal (but not security) detainees were considered for release on bail. There were reports that KRG internal security units detained some suspects incommunicado without an arrest warrant and that they transported detainees to undisclosed detention facilities.

The law provides for judges to appoint paid counsel for the indigent, and they did so in practice. Attorneys appointed to represent detainees frequently complained that poor access to their clients after their appointment hampered adequate attorney-client consultation.

Arbitrary Arrest: Police and army personnel frequently arrested and detained individuals without judicial approval, although there were no reliable statistics available. Authorities often failed to notify family members of the arrest or location of detention, resulting in incommunicado detention.

Pretrial Detention: Pretrial detainees in the MOJ's ICS facilities amounted to 35 percent of the total population of those incarcerated. In Iraq, including in the IKR, only the ICS is authorized to hold persons after conviction. In theory, other ministries' facilities should only hold detainees. At the end of the year there were 9,197 ICS pretrial detainees. The MOI held 7,727, the MOD held approximately 250, and the Ministry of Labor and Social Affairs (MOLSA) held approximately 600. Although there were no independently verified statistics, the majority of individuals in MOI and MOD facilities were pretrial detainees. In the IKR there were approximately 900 pretrial detainees (46 women) held in KRG facilities. Facilities operated by the KRG hold both pretrial and postconviction detainees.

Lengthy detentions without judicial action were a systemic problem. The lack of judicial review resulted from a number of factors that included a large numbers of detainees, undocumented detentions, slow processing of criminal investigations, an insufficient number of judges, authorities' inability or reluctance to utilize bail or other conditions of release, lack of information sharing, and corruption. Overcrowding of pretrial detainees remained a problem in many detention facilities. There were allegations of detention beyond judicial release dates as well as unlawful releases.

In practice many detainees were held for months or years after arrest and detention, sometimes incommunicado, without access to defense counsel or without being formally charged or brought before a judge within the legally mandated time period.

Amnesty: During the year, the central government granted amnesty to at least 108 persons. The KRG did not grant amnesty to anyone during the year.

#### **e. Denial of Fair Public Trial**

The law provides for an independent judiciary in all regions, but certain articles restricted independence in practice. Although the judicial system was credited with efforts to maintain independence, the security situation in the country rendered the judiciary weak and dependent on other parts of the government. Authorities generally respected court orders, although some politically sensitive decisions such as court-issued detainee release orders were reportedly not consistently enforced.

Threats and killings by sectarian, tribal, extremist, and criminal elements impaired judicial independence in many places. Judges and their family members frequently faced death threats and attacks. During the year seven judges were killed and at least five wounded. For example, on September 26, gunmen using silenced weapons shot and wounded Judge Mounir Hadad, former deputy director of the Iraqi High Tribunal, while he was traveling to Baghdad International Airport.

Judges were generally vulnerable to intimidation and violence. Some judges presiding over criminal cases at the trial level or on appeal to the Court of Cassation reportedly were influenced by corruption or intimidation.

As referenced above, article 136(b) of the criminal procedure code made the judiciary subservient to the executive in the investigation of wrongdoing in the executive branch. The article gives ministers the opportunity to review and prevent the execution of arrest warrants issued by judges in criminal investigations against employees of their ministry. This provision provided immunity to selected government employees and enabled a component of the executive branch to terminate proceedings initiated by the judicial branch.

During the year protection from arrest was generally extended to all but lower-level ministry employees in nonsensitive cases. The threat of invoking the article or failure to provide information effectively stopped investigations. On June 13, the COR repealed article 136(b), but the prime minister challenged the repeal as unconstitutional because the legislation did not originate in the Council of Ministers, and ministers continued to block arrest warrants and stymie investigations. The case was under judicial review at year's end (see sections 1.d. and 4).

The Kurdish Judicial Council was legally independent from the MOJ, but the KRG executive continued to influence cases in politically sensitive areas, such as freedom of speech and press (see section 2.a.).

The Iraqi High Tribunal, formerly the Iraqi Special Tribunal, tried persons accused of committing war crimes, genocide, crimes against humanity, and specified offenses from July 1968 through May 2003. At the end of July, both the Investigative Chamber and trial chambers three and four of the tribunal were dissolved. Trial Chamber One and Trial Chamber Two concluded all pending cases. The cases tried by the high tribunal resulted in approximately 175 individual convictions and 133 acquittals (some defendants were involved in multiple cases with multiple counts). There were no pending appeals. The death sentences of Sultan Hashem Ahmed and Tariq Aziz were not carried out by the end of the year.

### **Trial Procedures**

The constitution provides for the right to a fair trial, and judges--investigative, trial, and appellate--generally sought to enforce that right, which extends to all citizens. An accused person is considered innocent until proven guilty and has the right to a privately retained or court-appointed counsel at public expense if needed. One of the significant challenges facing the criminal trial courts was defendants' insufficient access to defense attorneys. Many defendants met their lawyers for the first time during the initial hearing. Trials, except in some national security cases, were public. Judges assembled evidence and they, not juries, adjudicated guilt or innocence. Defendants and their attorneys had access to government-held evidence relevant to their cases before trial and have the right to confront witnesses against them and present witnesses and evidence. Criminal judgments of conviction and acquittal may be appealed to the Court of Cassation. The right of appeal also exists in civil cases.

### **Political Prisoners and Detainees**

Legislation does not define or recognize the concept of a political prisoner. The government did not consider any of its prisoners to be political prisoners and stated that all individuals in prison were convicted, charged under criminal law, and awaiting trial or detained while under investigation.

Some detainees asserted that the government imprisoned or sought to imprison persons for political activities or beliefs under cover of criminal charges. Authorities countered with criminal charges ranging from corruption to facilitating terrorism and murder. The prevalence of corruption, slow case processing, and inaccessibility to detainees, especially those held by counterterrorism, intelligence, and military authorities, made most claims difficult to assess.

On October 24, the army began arresting alleged former members of the Ba'ath Party said to be involved in a coup plot. More than 900 people were arrested in the following weeks. Formal charges were often made only after the arrests and many were held without access to family members or legal representation. Media reported that at least one detainee, Kadhim Munshed Rashed, died from torture, but the MOI claimed that he committed suicide. The government did not present evidence to support the existence of a plot at year's end. Many Sunnis contended that the arrests were intended to weaken the government's political opponents.

On December 18, an arrest warrant was issued for Vice President Tariq Al-Hashemi on terrorism charges. Local television stations broadcast alleged confessions of Hashemi's bodyguards who had been arrested and detained. Hashemi insisted that the charges were politically motivated and that the evidence had been fabricated. Human rights groups have complained that broadcasting the confessions violated the principle of a fair trial for Hashemi and his guards; some of the bodyguards have stated that they were tortured.

A two-year sectarian political campaign by some Shia political parties and militias targeting Sunni politicians from Diyala continued, but less intensely than in previous years. On September 28, the president of al-Iraqiyya in Diyala, Muhammad Taha al-Hadlosh (a Sunni), was released three months after his arrest. He was cleared of charges of terrorism. This was the second time in one year that al-Hadlosh was arrested and released with charges dismissed. In 2010 four Sunni political leaders in Diyala were charged with murder, terrorism, and terrorist financing. Three of the four leaders remained in prison awaiting trial during the year, while the fourth was convicted and received a life sentence.

There was no reliable information available concerning possible political prisoners and detainees in the IKR. However, following riots in Dohuk Province in early December, authorities arrested approximately 25 Kurdish Islamic Union (KIU) party members and journalists and detained them for up to a week without charges.

### **Civil Judicial Procedures and Remedies**

A legal framework exists to deal with civil issues in lawsuits seeking damages for or cessation of human rights violations. Administrative remedies also exist. However, the priorities of the executive branch and of an understaffed judiciary dependent on the executive focused on issues more directly related to security, and these procedures as well as administrative remedies for human rights violations were not effectively implemented.

A November 2010 law in the IKR provided for compensation to persons unlawfully arrested and/or detained. There were two instances of compensation paid by the end of the year.

### **Property Restitution**

There was a problem with serious delays and corruption in adjudicating claims for property restitution. The Property Claims Commission is an independent governmental commission whose purpose is to resolve claims for property unjustly seized by the former regime between 1968 and 2003. The commission process was intended primarily to benefit those whose land was confiscated for ethnic or political reasons as part of the former regime's "Arabization" program and other policies of sectarian displacement.

The claims commission has received more than 178,000 claims nationwide since its founding. Approximately 124,000 claims have reportedly been reviewed, of which approximately 25,921 were approved, 35,824 rejected, and 54,907 were accepted for consideration but ultimately found not valid. Of the total claims filed, more than 55,000 were from Kirkuk; of the claims approved, more than 5,990 were from Kirkuk.

Since 2003, more than 28,000 "wafadin"--Arabs previously settled in the Kirkuk region under Saddam Hussein's anti-Kurdish policies--returned to their previous homes in the center and south of the country and applied for compensation. Since the wafadin were compensated to leave occupied lands, their claims were reviewed and paid primarily by the Article 140 Commission. By the end of 2010, approval had been given to 20,212 wafadin, and 11,078 had received compensation.

### **f. Arbitrary Interference with Privacy, Family, Home, or Correspondence**

The constitution mandates that authorities not enter or search homes except with a judicial order. The constitution also prohibits arbitrary interference with privacy.

In practice, security forces often entered homes without search warrants and took other measures interfering with privacy, family, and correspondence. On July 28, authorities searched the house of a prominent online journalist without a warrant after he posted blog entries critical of the government. He had previously been detained at an antigovernment protest.

In the IKR there was pressure on citizens to join the PUK party in the province of Suleimaniya and the KDP party in the provinces of Erbil and Dohuk. Party membership often remained a prerequisite for employment.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

#### **Status of Freedom of Speech and Press**

The constitution broadly provides for the right of free expression, provided it does not violate public order and morality or express support for the banned Ba'ath Party or for altering the borders by violent means. In an atmosphere of rising uncertainty about the country's political future, and amid the Arab Spring, the government increasingly interpreted the law restrictively and acted in practice to limit these rights. In practice the main limitation on individual and media exercise of these rights was self-censorship due to the real fear of reprisals by the government, political parties, criminal gangs, insurgent and sectarian forces, or tribes.

On August 9, the COR passed legislation (the Journalist Rights Law) that offers some additional legal protection for journalists but qualifies many protections by the phrase "in accordance with existing law," which permits ambiguity about the actual scope of protection offered. The new law fails to address the continuation of restrictive practices, including the criminalization of libel and defamation under the 1969 penal code and the 1968 Publications Law's ability to impose up to seven years' imprisonment for publicly insulting the government. According to international and local NGOs, the new law also enhances the power of the progovernment Journalists Syndicate. Many journalists were concerned that the law's requirement to provide a copy of their employment contract to the syndicate might disclose sensitive personal information that could jeopardize their and their families' lives.



In the IKR the Journalist Rights Law did not apply, and journalists continued to be tried, convicted, and imprisoned under the 1969 penal code, despite the 2008 media freedom law that decriminalized publication-related offenses. The Kurdistan Journalists Syndicate documented 37 lawsuits against journalists during the year in the region. According to syndicate officials, the 2008 law is the sole basis for prosecution of journalists for publication offenses, but the penal code allows prosecution for offenses to public morals and other crimes despite the implementation new Journalism Protection Law. Public officials regularly resorted to punitive fines through legal actions against individual media outlets and editors, often for publishing articles on alleged corruption.

Freedom of Speech: Despite the constitutional protection for freedom of expression, the 1968 Publications Law provides, if authorized by the prime minister, for fines or the imposition of a term of imprisonment not to exceed seven years for any person who publicly insults the COR, the government, or public authorities. On September 22, the prime minister ordered the issuance of an arrest warrant for COR member Sheikh Sabah al-Saadi, a prominent critic of the government, for insulting the prime minister by publicly stating that he was corrupt. Under the law, however, COR members cannot be arrested.

Individuals could criticize the government publicly or privately, but not without concern of reprisal by the government or by criminal gangs allegedly associated with the government if the criticism was seen as challenging an important person's sense of honor.

Potential critics self-censored accordingly. On September 8, two months after he stopped hosting his popular radio talk show because of fears for his safety, Hadi al-Mahdi, a frequent critic of government corruption, bribery, and sectarianism, was shot and killed in his home in Baghdad. Via his Facebook page, al-Mahdi organized regular prodemocracy demonstrations and publicized death threats he said he had received. A Shia, al-Mahdi had defended the rights of Sunnis, according to the international NGO Committee to Protect Journalists.

Freedom of Press: Political parties strongly influenced most of the several hundred daily and weekly publications, as well as dozens of radio and television stations. The active media expressed a variety of views largely reflecting political party positions, which included self-censorship and the government's interpretation of lawful restrictions on violations of public order and morality.

Violence and Harassment: Eight journalists and media workers were killed during the year. Journalists were targets of government security forces, corrupt officials, terrorists, religious groups that were unwilling to accept media independence, and unknown actors who wished to affect the flow of news. For example, on February 17, Hilal al-Ahmadi, a journalist who wrote about corruption and lack of government services, was shot and killed in front of his home on the outskirts of Mosul.

The NGO Journalistic Freedoms Observatory recorded more than 160 attacks on journalists during the two-week period ending on March 9, when antigovernment demonstrations stimulated by the Arab Spring were at their peak. On February 23, security forces raided the observatory's office, confiscating and destroying computers and other media equipment.

Media workers often reported that politicians, government officials, security services, tribal elements, and business leaders pressured them to not publish or broadcast stories perceived as critical. They offered accounts of violence, intimidation, death threats, and harassment by government or partisan officials. For example, on February 25, four journalists, including Hadi al-Mahdi, were arrested, beaten, and taken to a building that houses the military intelligence unit of the army's 11th Division. While detained, the journalists were reportedly tortured and threatened with summary execution. The journalists saw 300 other protesters in the same facility, many with black hoods over their heads and bloodied shirts.

Throughout the IKR there were numerous credible reports of attempted murder, beatings, imprisonment, and property destruction carried out against media. The Kurdistan Journalists Syndicate documented more than 100 acts of harassment, including threats, lawsuits, and attacks, from January to October in the region. In many of these reports, the aggressors wore military or police uniforms. With one exception, these attacks were directed at the independent and opposition media, mainly Goran (Change) and the KIU, rather than at media controlled by the ruling parties.

Despite multiple killings of journalists during the year, there were no prosecutions or convictions for these or those that occurred in 2010, including the May 2010 abduction and killing of Sardasht Osman, who was known for his articles alleging nepotism and corruption among the leadership of the Kurdistan region, including President Massoud Barzani.

In another high profile case in the IKR, Asos Hardi, founder and editor of the independent newspaper *Awene*, was severely beaten in Suleimaniyah in August. The Suleimaniyah criminal court released two persons charged with the crime--who had links to the PUK--on grounds of insufficient evidence in December, a decision that Hardi's lawyers appealed. Hardi fully recovered and continued to publish *Awene* at year's end.

Censorship or Content Restrictions: Producing, importing, publishing, or possessing written material, drawings, photographs, or films that violate public integrity or decency is prohibited. The penalties for violating public integrity or decency include fines and imprisonment.

On February 25, shortly after it broadcast scenes from the protests in Baghdad's Tahrir Square, security forces raided the offices of satellite channel al-Diyar, arrested and beat the employees, and then forced the station off the air.

On March 3, a group of Asayish operatives reportedly kidnapped Speda TV journalists Sangar Hamid and Asad Muhamamad in front of the Speda TV office in Garmiyan. According to the journalists, they were beaten and insulted at the Garmiyan Directorate of Asayish and threatened with death if either of them was seen with a camera at a demonstration.

The government used its authority to suppress potentially unfavorable media coverage. For example, in August the authorities banned journalists in Kirkuk from filming at schools and from writing about schools after the release of a critical documentary that embarrassed the Ministry of Education.

All books were subject to censorship. Books published within the country required the Ministry of Culture's approval before publication. All book imports were subject to the ministry's censorship. According to the ministry, the purpose of the vetting was to suppress literature promoting sectarianism.

Libel Laws/National Security: The law prohibits reporters from publishing stories that defame public officials. Many in the media complained that these provisions prevented them from freely practicing their profession by creating strong fears of prosecution, although widespread self-censorship impeded journalistic performance as well.

Libel remains a criminal offense in the IKR, and judges may issue arrest warrants for journalists on this basis. When named in a lawsuit, journalists were typically

detained at police stations until they posted bail. Police often kept journalists in custody during investigations.

The government frequently used the threat of legal action against media workers as a tool to discourage media from investigating allegations of bad governance, often seeking disproportionate fines or damages. For example, on January 10, the independent newspaper *Hawlati* reported that Erbil's First Instance Court fined the independent magazine *Lvin* 35 million dinars (approximately \$30,000) after KDP politburo secretary Fazil Mirani filed a lawsuit against the magazine for publishing reports implying a connection between the KDP's intelligence service Parastin and the murder of journalist Sardasht Osman in May 2010. *Lvin* editor Ahmed Mira stated that the magazine was not notified of the court proceedings in Erbil and that the verdict was issued in its absence. Following another article critical of the KDP in *Lvin* in May, the KDP filed a lawsuit on May 18 demanding *Lvin*'s closure, a fine of one billion dinars (\$858,000), and banning Mira from leaving the country. In September, according to press reports, Mira was arrested, beaten, and released after three hours in custody without being charged. At year's end *Lvin* continued to be published.

### **Internet Freedom**

There were no overt government restrictions on access to the Internet or official acknowledgement that the government monitored e-mail or Internet chat rooms. However, there were reports that individuals and groups were not assured of their freedom to engage in the peaceful expression of views via the Internet, including e-mail. For example, a documentary filmmaker and author of a prominent blog organized the video coverage of peaceful protests over the Internet via a short, nonsubscription messaging service. He was beaten on April 22 and again on July 22 allegedly by individuals in civilian clothing linked to the security forces and by army officers as he attempted to videotape demonstrations in Tahrir Square for his blog. He went into hiding, and a few days after the second attack police searched his house. He later resumed blogging.

### **Academic Freedom and Cultural Events**

Social, religious, and political pressures restricted the exercise of freedom of choice in academic and cultural matters. In all regions, various groups reportedly sought to control the pursuit of formal education and granting of academic positions. During the year extremists and terrorists targeted cultural figures. In the central and southern parts of the country, there were a number of reports of threats

by extremists and sectarian militants against schools and universities, urging them to modify activities, favor certain students, or face violence. Academics self-censored and educational institutions at times modified their activities accordingly. For example, the government banned theater and music classes in Baghdad's Fine Arts Institute closed for several months in 2010, but activities resumed on January 4 with the arrival of a new minister of education.

## **b. Freedom of Peaceful Assembly and Association**

### **Freedom of Assembly**

The constitution provides for freedom of assembly and peaceful demonstration. The government's response to the wave of protests that swept the country during the first half of the year demonstrated a lack of respect for the free exercise of these rights.

In the first six months of the year, protesters demonstrated in several major cities, demanding an end to corruption and better government services. Many were peaceful, with the government providing an appropriate level of security. On other occasions, the government suppressed demonstrations, arrested organizers, used excessive force against protesters, and harassed protesters after the event.

Protests began in January and intensified in early February. On February 21, the lights in Baghdad's Tahrir Square were turned off during the early morning hours while approximately 50 protesters were staging a sit-in. At that time police withdrew, according to eyewitnesses quoted by Human Rights Watch, allowing gangs of armed men to beat and stab at least 20 protesters.

On February 25, large demonstrations countrywide occurred in response to calls for a day of national protest. On the eve of these demonstrations, Prime Minister Maliki urged citizens to stay home and asserted, without evidence, that protests were being supported by Ba'athists and terrorists. On February 25, authorities banned vehicular traffic in Baghdad, imposed a citywide curfew, and closed many streets providing access to protest sites for "renovation." Vehicles, including television transmission vans, were banned from Tahrir Square, the main protest site, limiting video coverage. Similar restrictions, ostensibly for protecting the demonstrators, were imposed in other cities. On some occasions, police used live fire when demonstrations became violent, such as in Hawija. In other instances, such as in Tikrit and Mosul where seven people were killed, the force used was

disproportionate. Twenty-four protesters were killed nationwide and more than 150 were injured. There were no reported investigations into these incidents.

In the weeks after the February 25 demonstrations, the government restricted the right of citizens to assemble peacefully and express themselves freely. For example, on April 13, Baghdad's mayor restricted demonstrations in the city to several soccer stadiums, and on May 27, authorities arrested four student organizers of protests near Tahrir Square and eventually charged them with carrying forged identity documents. The protesters were released on June 7.

There were similar occurrences in the IKR. On February 17 in Suleimaniya, demonstrations against corruption and lack of jobs and services turned violent when a group of protesters tried to storm the headquarters of the KDP and threw rocks at the building. Security guards responded by shooting into the crowd; two persons died and 47 were wounded. Goran took responsibility for the demonstrations but said it had nothing to do with the storming of the building and condemned the attack on the headquarters. In the following weeks, the demonstration expanded and reached a height of 7,000 protesters. A sit-in occupied Freedom Square in the city of Suleimaniya. Religious leaders and other opposition parties joined the protesters. Several subsequent clashes between security forces and protesters resulted in 10 deaths.

Shortly after the February 17 incidents, discussions between KRG officials and opposition leaders were reportedly underway to find mechanisms to compensate victims, including detainees, of the demonstrations in Suleimaniya and elsewhere. There were no results by year's end. A presidential decree issued in August called for "bringing to justice those who had a role in the shootings" in Suleimaniya, but at year's end no arrests had taken place.

### **Freedom of Association**

The constitution provides for the right to form and join associations and political parties and specifically mandates that this right be regulated by law. The government generally respected this right in practice, except for the legal prohibition on expressing support for the Ba'ath Party. Because of a requirement in the 2010 law on NGOs that directors of NGOs have to be checked for prohibited past affiliation or membership in the Ba'ath party by the Accountability and Justice Commission, the newly instituted registration process was significantly delayed. According to the government, the law was designed to facilitate NGO registration and operations while providing extra protections from onerous and arbitrary

government actions. The Council of Ministers Secretariat NGO Assistance Office accepted registrations for NGOs.

On March 6, on orders from the prime minister, the Baghdad Operations Command directed closure of the offices of the Iraqi National Party and the Iraqi Communist Party. Both parties, supporters of ongoing antigovernment demonstrations, were informed that they had been evicted because the Ministry of Defense needed their buildings.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt](http://www.state.gov/j/drl/irf/rpt).

### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The government generally respected the constitutional provisions for freedom of movement in all parts of the country as well as the right to travel abroad and return freely. There were some limitations due to security concerns, as well as limitations on travel into and residence within the IKR, although internally displaced families were generally allowed to reside there.

The government generally cooperated with the Office of the United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM), and other humanitarian organizations in providing protection and assistance to IDPs, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern, although effective systems to assist these individuals were not fully established by year's end.

In-country Movement: Security forces can restrict movement pursuant to a warrant, impose a curfew, cordon off and search an area, and take other necessary security and military measures in response to security threats and attacks. There are no KRG laws that restrict movement across the areas administered by the KRG, but movement was restricted due to security procedures. Citizens (of any ethnicity, including Kurds) crossing into the region from the south were obligated to stop at checkpoints and undergo personal and vehicle inspections. Officials prevented individuals from entering into the region if they were deemed a security threat. Entry for male Arabs was reportedly more difficult than for others. The officer in charge at the checkpoint was empowered to decline entry into the region.

To accommodate increasing numbers of summer and holiday visitors, the KRG security authorities have worked out agreements with other provinces whereby tourist agencies submitted names of visitors in advance for preclearance. Visitors must show where they are lodging and how long they intend to stay.

Foreign Travel: Exit permits were required for citizens leaving the country, but the requirement was not enforced. The MOI Passport Office previously maintained a policy of requiring women to obtain the approval of a close male relative before receiving a passport, but the COR amended this law on December 20, allowing women 18 and older to receive passports without consent from male relatives. In the KRG women over the age of 18 obtained passports without such approval.

Exile: The constitution permits forced exile only of naturalized citizens and only if a judicial decision establishes that the citizenship was granted on the basis of material falsifications. There were no reported cases of forced exile.

### **Internally Displaced Persons (IDPs)**

The government estimated that there were approximately 2.5 million IDPs and that about 40 percent of them were in Baghdad. Sectarian violence that began in 2006 displaced Shia, Sunni, and Christian families. According to the UNHCR, in December approximately 1.3 million people remained internally displaced due to sectarian violence that occurred from 2006 to 2008. Approximately 200,000 remained displaced due to violence that occurred between 2003 and 2005, and approximately one million remained displaced due to policies implemented by the former regime prior to 2003 (see section 2.c.).

The UNHCR reported 67,080 Iraqi refugees and 193,610 IDPs registered returns during the year; these refugees and displaced persons returned to their places of origin or integrated into new communities in the country. While the year's return figures were higher than the 26,410 refugee returns and 92,480 IDP returns recorded in 2010, the number of registered IDPs remained largely the same, likely due to the government reopening the IDP registration process. The UNHCR's *August Iraq Returnee Monitoring Report* noted that 64 percent of the estimated 37,000 registered and unregistered refugee returnee families monitored by the UNHCR between August 2010 and July 2011 permanently returned to the country because of improved security and political conditions in Baghdad. Almost all received the Ministry of Migration and Displacement's (MODM) four million dinar (approximately \$3,434) returnee grant. While security gains and access to



assistance attracted Iraqi refugees to return, high unemployment and an unstable political environment created significant challenges. Many displaced Iraqis reported that they remained unwilling or unable to return to their homes because they feared their religious affiliation would make them an unsafe minority in neighborhoods segregated along lines of religious identity.

Social and geographic integration of communities displaced prior to 2003 made it difficult to distinguish between those who remained displaced and those who chose to remain where they were. Most international organizations focused on the 1.3 million people displaced since 2006.

The majority of those displaced pre-2003 were moved under the prior regime's policy of Arabization. Many of them have returned to their areas of origin but were included in the displaced population because they were unable to regain their original property and residences, generally in central and southern Iraq. Both Arabs and Kurds displaced in this way have a right to compensation and a process exists, but the government has been slow to implement it.

The government engaged in efforts to promote the safe, voluntary return or resettlement of IDPs. The government had laws and policies in place to protect IDPs in accordance with the UN Guiding Principles on Internal Displacement. In September the government appointed Dr. Farhat Na'emat Ullah Hussain as the national coordinator for displacement issues to implement the MODM's proposed comprehensive strategy, a draft national policy on displacement that recognizes local integration as a legal option for IDPs. While local integration was incorporated into government efforts, the government also continued to encourage families to return to their original homes.

Although the government promised to provide essential services to support returnees in Baghdad and Diyala provinces upon their return home, these promises remained largely unfulfilled. The government, through the MODM, allowed IDPs access to domestic and international humanitarian organizations, collected information about IDPs, and provided some protection and assistance in the form of humanitarian supplies.

The ICRC provided food rations, water and sanitation projects, and health care to many IDPs unable to access the public food distribution system or public schools in the governorate to which they were displaced. In other instances, the IOM and World Food Program organized income generation projects and quick impact projects, providing adults with cash-earning public work and training opportunities

in order for them to have money for food and other basic needs. A growing number of international and local NGOs also assisted IDPs and returning refugees. Lack of registration limited IDPs' access to basic services and legal documentation to receive food rations from the public distribution system.

The government provided protection and assistance to IDPs, but approximately 467,000 lived in 382 ad hoc "clusters" or settlements with limited water, sanitation, and electricity.

The government evicted IDPs from government buildings on a case-by-case basis. According to the International Rescue Committee, 29 IDP settlements received eviction notices during the year, potentially affecting over 6,510 internally displaced families. The threat of eviction was more acute in Baghdad where an estimated 148,000 IDPs, refugee returnees, and squatters lived in 121 illegal settlements on land or in buildings belonging to the government. Provincial councils and NGOs sought, with limited success, to halt the evictions, compensate the families with several months' rent, or provide land grants in alternate locations.

Continued bombing and shelling by the Iranian and Turkish military forces that began in June led to the displacement of more than 1,600 Kurdish families, according to the MODM. The families, from villages along the border with Turkey, fled to more centrally located villages within Dohuk and Suleimaniya provinces. Because most families fled during the initial border bombings, the MODM noted few families fleeing following the Turkish military incursions in mid-October. The government provided a two million dinar (approximately \$1,710) grant to each family while the KRG provided some emergency assistance to families.

Security concerns displaced many Kurdish, as well as some Arab and Turkmen, families in Diyala Province. Local officials estimated that more than 1,300 families left al-Sa'adya, Jalawla, Qaratapa, and Jabara, with many moving to Khanaqin or outside the province. Some local officials blamed the continuing displacement in Diyala Province on the lack of implementation of article 140 of the constitution, which seeks to reverse Saddam Hussein's Arabization policy. Article 140 describes a process to repatriate families displaced by the Arabization policy and relocate or compensate those Arab families brought to the area under the policy.

## **Protection of Refugees**

Access to Asylum: The country's laws do not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees. The government generally cooperated with the UNHCR and other humanitarian organizations to provide protection and assistance to the approximately 40,000 refugees living in the country.

Refugee Abuse: Reports of attacks and arrests of refugees such as Palestinians, Ahwazis in the south, and Syrian Arabs in Baghdad and Mosul declined during the year, although they continued to be targeted periodically in attacks by sectarian groups, extremists, and criminals.

In September an estimated 3,300 residents of Camp Ashraf in Diyala Province applied to the UNHCR for individual status as asylum seekers. The government pressured the residents of Ashraf to relocate and depart from the country, and periodically withheld or delayed medical treatment for patients suffering from critical and chronic conditions. The government on several occasions placed loudspeakers on the perimeter of the camp to broadcast anti-MEK propaganda. The government also refused entry for some fuels, nonessential consumer items, construction materials, and industrial goods. Ashraf residents conducted protests during the year (see section 1.a.).

Some former members alleged that Ashraf leaders attempted to prevent disgruntled residents from leaving the camp by threats of reprisal. MEK leaders denied such allegations.

A December 25 memorandum of understanding between the government and the UN provided for the orderly and rapid closure of Camp Ashraf, with the UNHCR providing refugee status determinations with the goal of facilitating resettlement of the camp's population outside the country. At year's end the UN and the government were still negotiating procedures for closing the camp.

Employment: Economic challenges placed Palestinian refugees in the lowest socioeconomic rankings; their declining economic situation was in part attributable to a loss of employment opportunities as a result of discrimination.

Durable Solutions: Refugee groups of Turkish and Iranian Kurds in the IKR generally achieved a high level of integration. For the majority of Iranian Kurds whom the UNHCR registered as refugees in the north, local integration remained the best and most likely option.

## **Stateless Persons**

In the north an estimated 560 stateless Syrian Kurds were registered as asylum seekers. Additionally, the UNHCR estimated that there were 120,000 stateless, nonrefugee Faily Kurds and Bidouns (literally meaning “without”). Many of these nonrefugee stateless individuals had already commenced the process of reacquiring Iraqi nationality. The Ministry of Interior’s Nationality Department anticipated resolving all such cases over the course of the next two years. Since 2003 more than 25,000 persons have regained their nationality, some in accordance with articles 17 and 18 of the 2006 nationality law. However, approximately 54,500 Bidoun individuals living as nomads in the desert near the southern provinces of Basra, Dhi-Qar, and al-Qadisiyah remained stateless at year’s end. A 2006 law prevents Palestinians from obtaining citizenship and Jews who emigrated to other countries from reclaiming citizenship.

## **Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government**

The constitution provides for the right of citizens to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections based on universal suffrage.

### **Elections and Political Participation**

Recent Elections: In the March 2010 parliamentary elections, nearly 12 million persons voted, from a pool of more than 18.9 million registered voters. International observer missions and indigenous observers declared the elections free from widespread or systemic fraud.

The Independent High Electoral Commission announced preliminary election results based on the tabulation of 100 percent of the vote and resolution of approximately 200 complaints. Despite the controversy surrounding the electoral commission decision to ban approximately 500 candidates for alleged ties to the banned Ba’ath Party and violence before and on election day, the elections were considered free and fair.

Provincial elections in the IKR scheduled during the year were postponed pending passage in the Iraqi Kurdistan Parliament (IKP) of a package of laws related to provincial council elections, provincial powers, and the establishment of a Kurdish electoral commission. However, the IKP passed the Provincial Council Elections

Law in November and signed it into law in December. On December 28, the KRG set September 27, 2012, as the date for Provincial Council elections.

Political Parties: While political parties did not formally restrict membership to certain societal groups, they tended to be organized along either religious or ethnic lines. Shia Islamist parties, such as the Islamic Supreme Council of Iraq, al-Dawa al-Islamiyya Party, and Sadrist Trend, as well as Kurdish nationalist parties such as the KDP and PUK, were the predominant political forces. Other political players included the secular Iraqiyya, Sunni Iraqi Islamic Party, the Goran (Change) Party in the IKR, and ethnic minority parties, such as the Assyrian Democratic Movement, the Kurdish Islamic Union, and the Kurdish Islamic Group. Membership in some political parties conferred special privileges and advantages in employment and education. The KDP and PUK gave preference in KRG government employment to their respective members. In total, 160 regular parties, 36 independents, and 10 minority parties and candidates participated in the elections.

Participation of Women and Minorities: The constitution mandates that female members of parliament constitute 25 percent of the COR. There were 81 women elected to the COR, including candidates elected through the open list system. However, female parliamentarians were often marginalized. There was one female minister out of 29 in the cabinet (minister of state for women's affairs), and four cabinet members from religious and ethnic minority groups: the ministers of agriculture, environment, youth and sports, and provincial affairs. In the COR there were five women chairing standing committees: services and construction; woman, family, and childhood; members affairs and parliamentary development; health and environment; and deportees, immigrants, and expatriates.

Of the 325 seats in the parliament, the law reserves eight compensatory seats for minorities: five for Christian candidates from Baghdad, Ninewa, Kirkuk, Erbil, and Dohuk; one Yezidi representing Ninewa; one Sabean-Mandaean representing Baghdad; and, one Shabak representing Ninewa. The law also opened the process to out-of-country voting for refugees and citizens abroad.

#### **Section 4. Official Corruption and Government Transparency**

Although the law provides criminal penalties for official corruption, the government did not implement the law effectively and officials frequently engaged in corrupt practices with impunity.

Intimidation and political influence were factors in some allegations of corruption, and officials sometimes used the “de-Ba’athification” process to pursue political and personal agendas. The government did not enforce the law requiring certain government officials, such as ministers, governors, and parliamentarians, to file financial disclosure reports. The Commission of Integrity (COI) is the government body charged with preventing and investigating governmental corruption nationwide (except for in the KRG, which has an Office of Governance and Integrity in the KRG’s Council of Ministers). In an act of intimidation, the offices of the COI were bombed on December 22, killing 32 people.

The Joint Anticorruption Council, led by the COI, has responsibility for supervising compliance with the government’s Anticorruption Strategy for 2010-14, which also seeks participation from religious and community leaders, civil society representatives, and journalists. The work of the council was generally regarded as having little appreciable impact, due to the scale of official corruption.

There was a reluctance to aggressively prosecute cases in which political militias are involved or in cases where the suspects are supported by the major political parties. Both former commissioner Raheem Uqaili and the deputy commissioner of integrity have repeatedly complained of political interference in investigations, as have most of the inspectors general (IGs). On September 9, Uqaili abruptly retired, blaming a lack of support from the prime minister. In public statements, the former commissioner implied that he was being asked to prosecute individuals on a political basis.

Effective joint action by anticorruption institutions did not take place. Their interaction was uncoordinated because of a lack of agreement about their role, ineffective legislation, and insufficient political will. The absence of accountability continued, reinforced by several statutory provisions, unclear regulatory processes, and limited transparency. Many IGs claimed that their ministers resented and stifled their efforts at oversight and that some openly thwarted IG staff with threats of dismissal for the basic functions of oversight. Ministers ordered major corruption investigations dropped. As in previous years, ministries effectively stalled investigations by failing to comply with requests for information or officials to appear in court.

The prime minister’s approval is required before corruption cases can proceed against members of the Presidency or the Council of Ministers. Information on specific instances of the prime minister and ministers withholding approval during

the year was not available, although judicial authorities reported that the practice constituted a significant obstacle to the prosecution of corruption cases.

Under article 136(b) of the criminal procedure code, ministers halted approximately 200 investigations during the first three months of the year, including a corruption case against a senior Northern Oil Company official for taking bribes. No information was available about the number of times article 136(b) was invoked later in the year. The threat of invoking article 136(b) or failing to provide information was usually effective in stopping investigations until the repeal of article 136(b) went into effect in June (see sections 1.d. and 1.e.).

Political parties attempted to influence the COI on a number of prosecutions. Members of the legislature also reportedly attempted to pressure the COI on numerous occasions.

There were reports of security personnel using their positions for personal profit. According to press reports, Rahif al-Essawi, an assistant dean at Baghdad University, was arrested, beaten, and threatened with execution if he did not fraudulently certify that a police officer had graduated from his university.

There were reports that large amounts of money were fraudulently transferred abroad.

The law does not provide public access to government information for citizens or noncitizens, including foreign media.

Corruption and government transparency were major issues in the IKR. On April 26, the IKR passed legislation to establish a KRG Commission of Integrity to prosecute corruption. The commission was established on August 1 under the management of a temporary commissioner and several inspectors who lacked full authority because their names had not been submitted for parliamentary confirmation, as required by law.

On September 27, the head of the KRG's presidential anticorruption committee, Azad Malafandi, told an Internet news site that approximately 700 government-funded projects had been canceled or were being investigated as part of the KRG's reform campaign following the establishment of the Commission of Integrity. A spokesman for the commission said they had also received more than 130 cases submitted by the public and investigated half of them but had yet to disclose the results of those investigations.

The constitution provides COR members immunity from arrest unless caught in a criminal act or charged with a felony, in which case the COR may revoke immunity by a majority vote.

The media and NGOs continued to expose corruption, although their capacity to do so was limited. Anticorruption, law enforcement, and judicial officials, along with members of civil society and the media, continued to face threats and intimidation for pursuit of uncovering corrupt practices.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

The government had a mixed record of cooperating with NGOs, and although the government expressed a willingness to cooperate with the UN and its agencies on human rights, it limited cooperation in practice, citing security restrictions. During the year the government's attitude toward international human rights and humanitarian NGOs was less accommodating than in the previous year. International NGOs reported greater forced evictions, difficulty in obtaining visas and government passes, repeated and intrusive inspections, and arrest and torture of locally engaged staff members. The government continued to restrict all nongovernmental investigations of alleged human rights violations, a policy that it attributed to the requirements of the security situation. Direct attacks specifically aimed at NGOs, however, remained rare.

Many domestic human rights NGOs were affiliated with and influenced by the agendas of a political party or with a particular sect, although some independent NGOs were able to operate with little or no interference. Overall, NGOs faced numerous challenges, did not meet regularly with government officials, and did not systematically serve as bulwarks against failures in governance and human rights abuses.

There were reports that the police conducted unannounced and intimidating visits to some NGOs despite the 2010 law on NGOs, which aimed to remedy this situation (see section 2.b., Freedom of Association). Tactics used to suppress NGO criticism included office raids, confiscation of equipment, and arbitrary arrests. Military intelligence arrested a representative of an international NGO at Baghdad's Tahrir Square on October 21. Authorities released him four days later without his being charged.



The Kurdish areas had an active NGO community, although most local Kurdish NGOs were closely linked to and funded by the PUK and KDP political parties. The KRG and Kurdish political parties generally supported humanitarian NGO activities and programs.

UN and Other International Bodies: Although the government expressed a willingness to cooperate with the UN and its agencies on human rights, it limited cooperation in practice.

In 2008 the government signed a headquarters agreement with the ICRC, granting it legal status and permanent representation in the country. The COR had not ratified the agreement by year's end, but the ICRC benefited nonetheless from its provisions.

Government Human Rights Bodies: The Ministry of Human Rights is mandated to monitor human rights abuses and to advocate for and assist victims. It issued public reports on prisons and detention centers, minorities, and victims of terrorism. Limited resources, lack of political independence, and poor cooperation from other ministries limited the ministry's effectiveness. A lack of trained personnel and effective follow-up throughout the government limited the effectiveness of KRG human rights authorities.

A 2008 law established an Independent High Commission on Human Rights. In 2009 a Committee of Experts was formed to select the commissioners, and it began accepting nominations. After a month, its activities were suspended and did not restart until a new government was formed in December 2010. On March 29, a new committee was formed and the nomination period was reopened. At year's end the committee was reviewing the 3,068 nominations it received. The selection process, overseen by UNAMI, was considered transparent and fair.

The COR Committee on Human Rights advocated publicly for raising standards in government detention facilities and prisons, strengthening the oversight of the security ministries, and developing a set of laws that protect the rights of citizens. The KRG's legislature formed a special committee to deal with human rights and detainee issues but did not issue any public reports.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

The constitution provides that all citizens are equal before the law without regard to gender, sect, opinion, belief, nationality, religion, or origin. The law prohibits

discrimination on the basis of race, disability, or social status. The government was ineffective in enforcing these provisions in practice.

## Women

Rape and Domestic Violence: The penal code criminalizes rape but allows the case to be dropped if the offender marries the victim, permits a maximum sentence of life imprisonment if the victim dies, and does not address spousal rape. There was no reliable estimates of the incidence of rape or the effectiveness of government enforcement of the law. Due to social conventions and retribution against both the victim and perpetrator, victims of sexual crimes did not usually pursue legal remedies.

In the IKR there are no laws specifically addressing domestic violence. Under the penal code, a husband is legally entitled to punish his wife “within certain limits prescribed by law or custom.” Existing laws on sexual crimes were widely unenforced, and police often viewed domestic violence as a case for family mediation instead of as a crime. On June 21, the KRG adopted the Family Violence Law criminalizing domestic violence and spousal rape, but there were no reliable estimates of its impact by the end of the year.

The new Kurdish law contains other provisions aimed at the eradication of other forms of gender-based violence. The law criminalizes and provides for imprisonment and fines for forced marriage, exchange marriage, marriage of minors, marriage in exchange for ransom, forced divorce, cutting off kinship relationships and disowning members of family, forced prostitution, forcing family members to work or quit their jobs, suicide due to domestic violence, abortion arising from domestic violence, battering children and family members, and assaulting, insulting, or cursing family members. It also criminalizes showing perception of inferiority to, hurting, putting psychological pressure on, and violating the rights of family members. By law those found guilty of domestic violence generally face a fine of between one and five million dinars (\$858 to \$4,292) or between six months and three years in jail.

NGOs reported that domestic violence against women remained a serious problem. Local NGO and media reporting indicated that domestic violence often went unreported and unpunished with abuses customarily addressed within the family and tribal structure. Harassment of legal personnel working on domestic violence cases, as well as a lack of trained police and judicial personnel, further hampered efforts to bring perpetrators to justice.

The Ministry of Interior maintained two Family Protection Units in Baghdad, which focused more on family reconciliation than victim protection. Hotlines were routed directly to the male commander of the unit, and the units did not follow a regular referral system to provide victims with services such as legal aid or safe shelter. The units did refer women with physical injuries to hospitals as an investigation component.

In the IKR both public and private shelters for women existed, but space was limited and service delivery was poor, with private shelters providing a slightly higher level of service. In areas outside the IKR, NGOs ran shelters without official approval. Some NGOs provided assistance to victims through community mental health workers. Other NGOs provided legal assistance to victims. NGOs played a key role in providing services to victims of domestic violence who received no assistance from the central government. Authorities frequently attempted to mediate between women and their families--instead of utilizing legal remedies--so that the women could return to their homes. Other than marrying or returning to their families (which often resulted in the family or community victimizing the shelter resident again), there were few options for women who were housed at shelters.

Female Genital Mutilation (FGM): The IKR Family Violence Law, passed by the IKP on June 21, with entry into force on July 1, bans FGM in the IKR, but the central government did not have a similar law. The KRG has done little to enforce the new FGM law, and FGM occurred at a rate of up to 80 percent in some parts of the IKR. According to the German NGO Wadi (Development Now), the practice also occurs in other parts of the country, such as Basrah.

Other Harmful Traditional Practices: Honor killings remained a serious problem throughout all parts of the country. The penal code of 1969 permits honor considerations to mitigate sentences.

Statistics published by the KRG Ministry of Interior in 2010 stated that there were 102 incidents of women burned in and around Erbil Province alone. Sixty-five percent of these cases were still under investigation during the year. Women who committed self-immolation had been previously victimized, but police investigated only a small number of women's burn cases. The KRG reported that during the year 76 women were killed or committed suicide, while 330 were burned or self-immolated, but a number of NGOs, including the Organization for Women's Freedom in Iraq, stated that such estimates were low.

Sexual Harassment: The law prohibits sexual relations outside of marriage, including rape or sexual solicitation that may occur during sexual harassment. The penalties include fines and imprisonment. The criminal code provides relief from penalties if unmarried participants marry. No information was available regarding the effectiveness of government enforcement. Due to social conventions and retribution against both the victim and perpetrator of sexual harassment, victims of sexual harassment did not usually pursue legal remedies. Because of the unequal social status of women and their fear of telling close relatives, victims rarely filed police complaints against the offenders.

Reproductive Rights: The government generally respected the basic rights of couples and individuals to decide the number, timing, and spacing of children free from discrimination, coercion, and violence. There were no legal impediments to access to information on family planning, contraception, and maternal health services, including skilled attendance during childbirth, prenatal care, and essential obstetric and postpartum care. However, due to general insecurity in the country and attendant economic difficulties, many women received inadequate medical care due to a lack of essential drugs, lack of transport to referral institutions, and medical personnel lacking training in emergency obstetric care. Women were at increased risk of early marriage, early pregnancy, poor birth outcomes with high rates of anemia, and short birth intervals.

Discrimination: Although the constitution forbids discrimination on the basis of gender, in practice conservative societal standards impeded women's abilities to enjoy the same legal status and rights as men. Throughout the country, women reported increasing pressure to wear headscarves, usually in conservative and rural areas. There were reports of female students questioned at the gates of Baghdad University when they were not wearing a headscarf. Female government employees were often pressured to wear, or questioned about not wearing, headscarves. Conservative citizens publicly harassed or intimidated women for undertaking activities such as driving a car, walking with friends, and wearing trousers or jewelry, in an effort to force them to remain at home, wear headscarves, and adhere to a conservative interpretation of Islam.

Women experienced economic discrimination in access to, and in terms of, employment, occupation, credit, and pay equity for performing similar work or managing similar businesses as men. The security situation disproportionately affected women's ability to work outside the home. Weak labor laws and the lack of an equal opportunity employment law left women vulnerable to arbitrary

dismissal. Government efforts to combat economic discrimination against women were minimal and unsystematic. Despite the existence of a widow stipend program through the Ministry of Labor and Social Affairs, excessive and confusing bureaucratic procedures and significant processing delays impeded an estimated one to three million war widows from accessing social support.

The Ministry of State for Women's Affairs, with an approximately 20-person professional staff, functioned primarily as an advisory office without an independent budget or the ability to hire more employees.

## **Children**

Birth Registration: The constitution states that anyone born with at least one citizen parent is a citizen. Failure to register births resulted in the denial of public services such as education, food, and health care. To register a birth, authorities require a marriage certificate and identification from both parents or a death certificate if a parent is deceased. Single women and widows often have problems registering their children. The government was generally committed to children's rights and welfare, although it denied benefits to noncitizen children. Their families had to pay for services that were otherwise free, such as public schools and health services. Except for several hundred Palestinian families displaced during the 1948 or 1967 wars, noncitizens were not eligible for the national food rationing program.

Education: Primary education is compulsory for citizen children for six years and free for them at all levels. The net enrollment rate for children aged six to 11 was 91 percent for boys and 82 percent for girls. Ninety-six percent of the boys and 94 percent of the girls who entered the first grade eventually reached fifth grade. Female education remained a challenge, particularly in rural areas and areas facing high levels of insecurity.

Child Abuse: A June 21 IKR law (see section 6, Women) banned child marriage and the forcing of children to drop out of school, often to work or beg. The impact of the ban was unknown at year's end. The central government did not have similar laws in place to criminalize child abuse (see section 7.c.).

Harmful Traditional Practices: Despite being banned, FGM among children remained a common practice particularly in rural areas of the IKR and other areas of the country where Kurdish communities lived.

Child Marriage: Although no statistics were available, a tradition of marrying young girls (as young as 14 years old) reportedly continued, particularly in rural areas. The minimum marriage age is 14 with parental permission and 18 without.

Sexual Exploitation of Children: Sexual relations outside of marriage for any reason are prohibited. Because sex outside marriage is always illegal, the age of consensual sex is de facto the minimum marriage age. Pornography of any kind, including child pornography, is prohibited. Girls were sexually exploited through the use of temporary marriages, by which the family of the girl receives money in the form of a dowry in exchange for permission to marry the girl for a limited period of time. Child prostitution is a significant problem. Because the age of legal responsibility is nine in the central region and 11 in the IKR, children are liable to be treated as criminals instead of victims.

Displaced Children: Within the IDP population, there were children living on the streets (see section 2.d.).

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

### **Anti-Semitism**

Fewer than 10 Iraqi Jews remained in Baghdad, and none were known to live in other parts of the country.

The criminal code stipulates that any person who promotes Zionist principles, associates himself with Zionist organizations, assists such organizations by giving material or moral support, or works in any way towards the realization of Zionist objectives is subject to punishment by death. There were no examples of application of this law since the fall of the regime of Saddam Hussein.

There were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **Persons with Disabilities**

The constitution states that the government, through laws and regulations, should care for and rehabilitate persons with disabilities and special needs in order to reintegrate them into society. There are no laws, however, prohibiting discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or the provision of other state services. Access for persons with disabilities to buildings and in educational and work settings remained inconsistent.

The government has programs to help persons with disabilities. However, numerous media reports documented the challenges these programs faced, including large special needs populations and the lack of qualified, trained personnel. Amputees, persons with other major physical injuries, and persons with mental/psychological trauma were the focus of most media reports. The Ministry of Health provided medical care, benefits, and rehabilitation, when available, and persons with disabilities could qualify for benefits from other agencies, including the Prime Minister's Office. The Ministry of Labor and Social Affairs operated several institutions for children and young adults with disabilities, although the quality of care was unknown. The Ministry of Health's most recent estimate of the number of persons with physical and mental disabilities was two to three million, approximately 10 percent of the population.

### **National/Racial/Ethnic Minorities**

The country's population includes Arabs, Kurds, Turkmen, as well as religious minorities including Chaldeans, Assyrians, Armenians, Yezidis, Sabean-Mandaeans, Baha'i, Shabak, Kakai, and a small number of Jews. Many consider the Assyrians and Chaldeans to be a distinct ethnic group. These communities speak a different language, preserve Christian traditions, and do not define themselves as Arabs. The country also has citizens of African descent, "Black Iraqis," a population that community representatives estimated to number more than one million.

The constitution identifies Arabic and Kurdish as the two official languages of the state. It also provides the right of citizens to educate their children in their mother tongue, such as Turkmen, Syriac, or Armenian, in government educational institutions in accordance with educational guidelines or in any other language in private educational institutions.

During the year discrimination against ethnic minorities was a problem. There were numerous reports of Kurdish authorities discriminating against minorities,

including Turkmen, Arabs, Yezidis, and Assyrians, in the disputed territories under the de facto control of the KRG. According to these reports, authorities denied services to some villages, arrested minorities without due process, took them to undisclosed locations for detention, and pressured minority schools to teach in the Kurdish language. Ethnic and religious minorities in Tameem frequently charged that Kurdish security forces targeted Arabs and Turkmen.

Within the three provinces of the IKR, there was little evidence of sanctioned government discrimination against religious and ethnic minorities, although there have been complaints that KRG authorities have been slow to return land confiscated by the previous regime that had belonged to Christian churches and Christian farmers. Minority communities operated their own schools and were represented both in the parliament and executive branch of the KRG.

However, incidents of societal violence against minorities in the IKR did occur. On December 2, between 300 and 1,000 rioters attacked legally operating businesses owned by Christians and Yezidis in Dohuk Province. The rioters burned or destroyed 26 liquor stores, a massage parlor, four hotels, and a casino. The riot followed midday prayers at the Rasheed Mosque in Zakho where the imam had allegedly denounced the businesses as anti-Islamic and had incited followers to attack them. In addition to promising compensation for those who suffered damages to property and businesses, President Barzani ordered the formation of an investigation committee, which concluded that some followers of the KIU “emboldened the violence” against Christian businesses, that some leaders of the KDP “failed to control their members from attacking KIU organization centers,” and that Dohuk Province security and administrative officials were “negligent” in their control of the situation. As of year’s end, no one had been compensated for property lost or destroyed.

According to press reports, Palestinians continued to experience arrest, detention, harassment, and abuse by authorities. A 2006 citizenship law prevents Palestinians from obtaining citizenship and Jews who emigrated to other countries from reclaiming citizenship.

Black Iraqis reported widespread economic and social discrimination. Black Iraqi leaders estimate that more than 20 percent of the Black Iraqi population was unemployed, compared to an overall unemployment rate of 15 percent. Minority Rights Group International reported that many were laborers or worked as domestic workers.



## **Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity**

There was no law specifically prohibiting consensual same-sex sexual activity, although the penal code prohibits sodomy, irrespective of gender. There were no data on prosecutions for sodomy. Due to social conventions and retribution against both victim and perpetrator of nonconsensual same-sex sexual conduct and persecution against participants in consensual same-sex sexual conduct, this activity was generally unreported.

In light of the law, the authorities relied on public indecency charges or confessions of monetary exchange, (i.e., prostitution, which is illegal) to prosecute same-sex sexual activity. Lesbian, gay, bisexual, and transgender (LGBT) persons often faced abuse and violence from family and nongovernmental actors. UNAMI reported that at least six individuals were killed because of their perceived sexual orientation and that an NGO relocated a 17-year-old boy after his family attempted to kill him because they thought he was gay. The procedures used to arrest LGBT persons also were used to arrest heterosexual persons involved in sexual relations with persons other than their spouses.

Due to social conventions and potential persecution, including violent attacks, LGBT organizations did not operate openly, nor were gay pride marches or gay rights advocacy events held. Societal discrimination based on sexual orientation and gender identity in employment, occupation, and housing was common. Information was not available regarding discrimination in access to education or health care due to sexual orientation or gender identity. There were no government efforts to address this discrimination.

At year's end authorities had not announced any arrests or prosecutions of any persons for violence against LGBT individuals.

### **Other Societal Violence or Discrimination**

There were no reports of physical violence against persons with HIV/AIDS, but the topic was socially sensitive and not discussed publicly. Militias harassed and threatened persons with HIV/AIDS on the grounds that being infected was "evidence of sin." The government worked to decrease discrimination through public education campaigns and provided medical care to persons with HIV/AIDS.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The 2005 constitution states that citizens have the right to form and join unions and professional associations, as well as to demonstrate and strike peacefully in accordance with the law; however, the 1987 labor code and later decrees place severe limitations and conditions on freedom of association, the right to strike, and collective bargaining, particularly in the public sector. Under the labor code, the right to organize is extremely limited, and there is no provision for the right to strike.

Though the labor code provides for public sector unions, Resolution 150 of the 1987 code eliminates unions and the right of association from the public sector and state-owned enterprises and also bars all public sector strikes. Workers in essential services are expressly prohibited from striking as well. The law allows private sector employees to form workers' committees, with limited rights, in worksites employing more than 50 workers. The large majority of private sector businesses in the country employed fewer than 50 workers. Private sector unions have the right to seek government arbitration for labor disputes but not the right to strike.

The law does not protect the right to collective bargaining. Additionally, the law does not specifically prohibit antiunion discrimination by employers or others, nor does it provide reinstatement for workers fired for union activity.

The labor law states that Arab workers should be treated like citizens but does not provide for the rights of other migrant workers. Domestic servants and agricultural workers are excluded from certain provisions of the labor law.

By law the establishment of unions or federations outside the General Federation of Iraqi Workers (GFIW) is prohibited. However, in practice there were five major unions and federations in the country: GFIW, the Federation of Workers' Councils and Unions in Iraq, the General Federation of Trade Unions and Workers Council in Iraq, the Kurdistan United Workers Union, and the Iraq Federation of Oil Unions. Although unions other than the GFIW were not "official" unions, the government tolerated their existence, according to a union leader.

Decree 8750 of 2005, which cancelled unions' leadership boards and froze their assets, further restricted union activity by prohibiting unions from holding funds, collecting dues, and maintaining assets.

The 1987 labor code effectively ruled out the existence of labor unions able to carry out free and independent union activity and prevented independent organizing and collective bargaining in the public and private sectors.

Freedom of association and the right to collective bargaining were not respected in practice. The government did not effectively enforce the law and frequently interfered in union activities, especially in the public and oil sectors. Antiunion discrimination occurred in the private sector as well, and employers interfered in union functions and threatened or punished workers for union activity.

In April the government derecognized and attempted to take over the structures and assets of the GFIW in order to interfere with its elections. Created in 2005, the GFIW is comprised of 12 national unions and was previously the only trade union officially recognized by the government. According to a senior leader of a labor union, the government also created a committee to oversee and monitor labor union elections.

Strikers were harassed and threatened for striking during the year. Ministries and state-owned enterprises used fines and forced transfers to punish labor activists and discourage union activity. For example, when oil workers struck in Basrah, several union leaders were forced to relocate to the north as a tactic to prevent future striking activity. Elsewhere in the oil sector, workers faced outside fines for participating in peaceful demonstrations. Labor unions reported being charged under the antiterrorism law by the Ministry of Interior if they attempted to organize a strike. Furthermore, unions made serious allegations that the government attempted to assassinate union leaders during the year.

Firas 'Ali, a union activist, was detained by members of the armed forces while he was at the Baghdad office of the Federation of Workers' Councils and Unions in Iraq on April 13. He was released on April 27.

Because unions had no legal power to negotiate with employers, proactive protection of workers' rights through collective bargaining was not possible. The absence of collective bargaining and collective contracts at national and local levels significantly diminished unions' power to defend workers' rights pertaining to their access to social protection. Some unions were able to play a supportive role in labor disputes, and they had the right to demand government arbitration, a process the government only recently began to address in its commercial courts and judicial training. Government labor courts were empowered to rule on labor code violations and disagreements.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor, but the government did not effectively monitor or enforce the law. Migrant workers occasionally were subjected to forced labor.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

## **c. Prohibition of Child Labor and Minimum Age for Employment**

The constitution and law prohibit the worst forms of child labor. However, the government did not monitor or enforce these laws effectively, and child labor remained a problem. Despite laws against child labor, children often worked illegally on farms or in street commerce. In accordance with the labor law, MOLSA established an inspection service to ensure compliance with the law as it relates to prohibitions on child labor in the private and public sector.

The law limits working hours for persons younger than 18 and prohibits their employment in dangerous occupations. The minimum age for employment is 15. The law prohibits employment of anyone younger than 16 in work that is detrimental to health, safety, or morals. Article 34 of the constitution guarantees the right of free education and citizen children are required to attend school until age 11. This left children ages 12 to 15 vulnerable to child labor, as they were not required to be in school but were not permitted to work. Children employed in family enterprises were exempt from some protections with regard to employment conditions (see section 6).

A 2010 survey by the Kurdistan Safe Children Organization (KSC) put the number of children engaged in illegal labor activities in all three IKR provinces at 12,479 and developed a program to minimize this practice. In cooperation with local authorities in the IKR, KSC supplemented the income of families with children vulnerable to child labor. The KMOLSA assumed management of this program during the year.

Data on child labor was limited. Poor families routinely used child labor to augment their incomes. This work often took the form of seasonal labor in rural areas, or begging or peddling in urban settings. There were anecdotal reports of children performing hazardous work in family-owned automobile shops or on

construction sites. Unconfirmed reports alleged the sale of children for indentured servitude. Sunni and Shia militias, as well as al-Qaida in Iraq, recruited and used children for spying, working as couriers, scouting, and planting improvised explosive devices.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* [www.dol.gov/ilab/programs/ocft/tda.htm](http://www.dol.gov/ilab/programs/ocft/tda.htm).

#### **d. Acceptable Conditions of Work**

The national minimum wage for a skilled worker was less than 12,000 dinars (approximately \$10) per day and for an unskilled worker less than 5,250 dinars (\$4.50) per day. Wages were set by contract in the private sector and by the government in the public sector. The Central Organization of Statistics and Information Technology reported that the average salary in 2009--the latest year for which information was available--was approximately 2.4 million dinars (\$2,060) per year, an increase over the previous year's figure of 1.78 million dinars (\$1,528). These earnings remained two to three times poverty level, defined in the 2009 Central Organization of Statistics and Information Technology report as 923,000 dinars (\$792) per person per year.

The standard workday is eight hours with one or more rest periods. Up to four hours of overtime work per day is permitted, and premium pay for overtime is required. Regulations on working conditions existed but were almost entirely unenforced.

The legal and regulatory framework, combined with the country's high level of violence and insecurity, high unemployment, a large informal sector, and lack of decent work standards, resulted in unacceptable conditions for many workers. The MOLSA Labor Directorate had jurisdiction over the labor code, child labor, wages, occupational safety and health issues, and labor relations. The ministry's occupational safety and health component staff were located throughout the country. Labor union leaders urged more training in occupational health and safety due to the large number of on-the-job injuries, especially for manual laborers. There were no significant government efforts to address violations or improve wages and working conditions during the year.

There was little information available on the number of foreign workers in the country. Migrant workers have no legal protections. Some foreign workers in the country were subjected to abusive treatment and conditions associated with forced

labor, including confiscation of travel and identity documents, restrictions on movement and communication, physical abuse, sexual harassment and rape, withholding of wages, forced overtime, and hazardous working conditions. The Ministry of Interior, in coordination with MOLSA, reviewed applications for special worker status. According to MOLSA, most migrant applications were denied to protect domestic workers and industry.

A lack of oversight and monitoring of employment contracts left foreign and migrant workers vulnerable to exploitative working conditions. From December 2010 through October 2011, 35 Ukrainian and Bulgarian construction workers lived on an abandoned construction site in the International Zone. Their employer had promised to pay them \$2,500 per month, but then reneged on the contract and left the workers stranded, without back pay or proper documentation to return to their home countries. The IOM eventually aided the workers and provided humanitarian assistance until they were able to repatriate in October.

The law provides that workers have the right to remove themselves from a situation endangering health and safety without prejudice to their employment; however, this right was not afforded to civil servants or migrant workers, who made up the majority of the country's workforce.