



Protection Analysis Report

Right to identity and civil documentation



October 2021

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Front cover: *Unified Identity Cards* are being issued to IDPs living in urban areas in Erbil governorate through mobile missions of the Federal Ministry of Interior facilitated by UNHCR and SWEDO.

Credit: © UNHCR/Ahmed Ayad

1. REPORT SUMMARY

This report analyses the risk of identity and civil documentation, including *Birth Certificate*, being denied to conflict-affected individuals, with the aim to better inform the implementation of legal assistance programs and to support advocacy efforts at the policy level. Many institutional challenges drive this risk upward and represent key barriers for IDPs and returnees in Iraq to access their civil documents, e.g. the administrative processes are often complex and cumbersome due to multiple requirements; the roll-out of the new *Unified ID Card* is fraught with operational challenges and remains uneven across the country; Civil Affairs Directorates are only partially functional or even closed in many locations; distance, restrictions on freedom of movement, cost of transportation and administrative limitations on the use of Power of Attorney prevent affected individuals from submitting their applications in their areas of origin.

Moreover, different patterns of rights violations have emerged. Sometimes, the right of IDPs and returnees to obtain documentation is deliberately denied by security actors, especially for persons with perceived affiliation to extremist groups, who are usually subjected to multiple requirements related to security clearance and to family denunciation processes. In most cases, the authorities are unable to effectively provide documentation due to limited operational resources dedicated to the Civil Affairs Directorates and to administrative regulations not being adapted to the specific situation of IDPs and returnees.

Since the end of the conflict, legal protection actors have developed effective strategies to overcome some of the barriers and challenges faced by affected individuals to access civil documentation, such as the organization of mobile missions co-organized with the Ministry of Interior (MoI) and local Civil Affairs Directorates, the payment of legal and transportation fees or the use of Power of Attorney whenever it is authorized. However, some changes at the institutional and policy level are needed to address the scale of the issue, such as issuing directives clarifying that acquiring identity and civil documents does not require prior security clearance or tribal denunciation processes; resolving the operational issues stalling the roll-out of the *Unified ID Card*; authorizing displaced individuals to obtain documentation at their location of displacement; and easing procedures for female-headed household to pass their Iraqi citizenship onto their children.

Methodology

This report was prepared by analyzing multiple and complementary data sources, as follows:

- The **Multi-Cluster Needs Analysis** is conducted by REACH with the support of other humanitarian actors. It consists of interviews at the household-level (HH). Data was collected in June-July 2021 and was used to estimate the number of individuals missing civil documents based on the results from the sample of HHs interviewed.
- The **NPC Protection Monitoring System at Community Level** consists of interviews with Key Informants (KI) conducted by protection actors. Data was collected in July-August 2021 and provides information on the prevalence of the lack of civil documentation by location and on the barriers faced by IDPs and returnees to obtain their documents. Monitoring is done at the community-level.
- A **mapping of Civil Affairs Directorates** was undertaken by the Protection Cluster and legal actors to assess the operational status of Directorates at the local level. It provides information on their institutional capacities and the barriers faced by communities to effectively access those institutions. The operational status of the Directorates changes regularly based on contextual developments. The mapping is updated as of early October 2021.
- The **Activity Info** platform records the services reported by legal actors as part of the Humanitarian Response Plan. Data covers the period from January to September 2021. It provides information on the response capacities and achievements of legal actors across locations. Information is contingent on partners accurately and regularly self-reporting their activities.

Key Protection Figures

Needs (Source: MCNA IX 2021)

1M individuals lack at least 1 key document
500,000 individuals lack at least 2 key documents
250,000 individuals lack at least 3 key documents

Barriers to access legal documentation (Source: NPC Protection Monitoring System at Community Level, 2021)

35% of Key Informants cite the length, complexity and cost of the administrative process
33% of Key Informants report that Civil Affairs Directorates are not accessible due to distance and transportation

Response (Source: Activity Info, January to September 2021)

14 protection partners are providing legal assistance for documentation
53,000 individuals assisted with legal services for civil documentation

2. CONTEXT OVERVIEW

Several years after the end of the conflict with the Islamic State of Iraq & the Levant (ISIL), it is estimated that over 1,000,000 IDPs and returnees in Iraq remain without at least one key identity or civil document, including over 500,000 individuals who are missing two or more documents.¹ As a result of the recent conflict, many documents were lost, damaged or destroyed, or otherwise confiscated by armed and security actors across Iraq. Some affected individuals only possess documents which were issued in ISIL-controlled areas and are not legally recognized by the authorities either in Federal Iraq (FI) or in the Kurdistan Region of Iraq (KRI). Some others remain unable to renew expired documents due to a combination of physical, administrative and/or financial barriers.

2.1. Legal landscape

The right to legal identity is the right to be recognized by the State as a person before the law, which allows the person to access further rights, benefits and responsibilities in the country.² In practice, one's legal identity is established through the issuance by the State of identity documents, which provide official recognition of someone's nationality and identity. Consequently, identity documents (*Civil Status ID Card*, *Iraqi Nationality Certificate*, *Unified ID Card*) are different from, but a requirement for, civil documents (*Birth*, *Death* or *Marriage Certificates*). In Iraq, the right to a legal identity and to civil documentation is enshrined in various bodies of law, including the Constitution of the Government of Iraq of 2005, the Civil Status Law No. 65 of 1972, the Civil Status System Law No. 32 of 1974 and the Iraq Nationality Act No. 26 of 2006.

¹ The Protection Cluster considers the following identity and civil documents as the essential: *Civil Status ID Card* (individual identity document which is an official record of one's identity), *Iraqi Nationality Certificate* (individual identity document which is an official record of one's Iraqi nationality), *Unified ID Card* (individual identity document which replaces both the *Civil Status ID Card* and the *Iraqi Nationality Certificate*), *Birth Certificate* (individual identity document which is an official record of one's identity, date and place of birth and family lineage), and *Public Distribution System (PDS) Card* (Household-level civil document which allows access to monthly food rations).

² The human right to a legal identity and documentation, including birth registration, is enshrined in international law, including the Universal Declaration of Human Rights (Article 6), the International Covenant on Civil and Political Rights (Articles 16 and 24) and the Convention on the Rights of the Child (Article 7).

2.2. Institutional landscape

2.2.1. Multiple documents and complex administrative processes

There are multiple types of identity documents in Iraq. They have been enacted at different periods in recent history and are unequally available across the different governorates. Both the *Civil Status ID Card* and the *Iraqi Nationality Certificate* are being progressively replaced since 2016 by the *Unified ID Card*, a biometric document which serves as both nationality and identity certificate. However, the roll-out of the *Unified ID Card* has been piecemeal, fraught with administrative and logistical challenges and remains uneven across the country.

Various administrative barriers to (re)issue identity and civil documents remain a key obstacle for IDPs and returnees. To this end, data collected through the NPC Protection Monitoring System (PMS) indicate that 35% of surveyed Key Informants (KIs) cite the length, cost and complexity of administrative processes as the main barrier for individuals to effectively access documentation at Civil Affairs Directorates (CADs). One key obstacle is that the possession of one identity document is often a requirement for the (re)issuance of another identity or civil document. For instance, in order to obtain a *Civil Status ID Card*, an individual is required to submit his/her *Iraqi Nationality Certificate* and reversely, thus leaving the individuals who have lost either one or both of these documents unable to apply and obtain the (re)issuance of their identity documents.

In focus: *Unified ID Card*

Since November 2019, *Unified ID Cards* have been issued in Iraq. From February 2020, in order to obtain the *Unified ID Card*, the applicant needs to book an online appointment with the local CAD office through the free of charge website of the Directorate for National Card Affairs. Based on the procedure, the applicant needs to download the application form and fill it online, before submitting the form to the local CAD office along with the required supporting documents.³ The application fee is 5,000 IQDs per person. To register his/her biometric information, the applicant must then visit the local CAD office in person. The applicant's form and his/her biometric data are then sent by the local CAD to the General Directorate of Civil Status Nationality and Residency in Baghdad where the applicant's information is checked against the national authorities' security databases, and where the *Unified ID Card* is created.

Since July 2021, legal humanitarian actors operating in Ninewa governorate have been reporting regular malfunctioning of the online booking system, which has often resulted in applicants - and/or humanitarian legal actors on behalf of their clients - being unable to register the online applications. In September 2021, similar concerns were raised by partners in Anbar, Diyala, Salah al- Din and Kirkuk governorates.⁴ Access to reliable internet services is limited among the affected population. Those who do not have access to the internet often rely on the services of private offices to book their online appointment with the local CAD offices. Humanitarian legal actors report that some private agents charge up to 50,000 IQDs per person for this service, a cost that many are unable to afford. Furthermore, individuals who are unable to book the online appointment with the local CAD offices at times resort to *ad hoc* special procedures – so-called “VIP” services - to obtain the *Unified ID Card*. The “VIP” services allow the applicant to obtain the *Unified ID Card* without submitting the required additional documentation, but at the cost of 250,000 IQDs. Vulnerable IDPs and returnees often don't have the financial means to pay for such expensive services and therefore remain unable to obtain their civil documentation.

Humanitarian legal actors have engaged the local CAD offices in the different governorates to address some of the obstacles, but the offices have indicated that only the Ministry of Interior can address issues related to the dysfunction of the online booking system.

³ *Civil Status ID Card, Iraqi Nationality Certificate, Proof of residence, Public Distribution System (PDS) Card.*

⁴ At the time of writing, legal actors report that the online booking system in Anbar governorate is no longer necessary and appointments can be booked directly at the CADs.

2.2.2. Insufficient institutional capacities and barriers to access Civil Affairs Directorates

Identity and civil documents are issued at the district level by the CADs, which fall under the responsibility of the Ministry of Interior (MoI). However, due to the destruction of numerous CAD offices during the recent conflict, the limited logistical, human and financial resources available to the offices, and the disruption of services caused by the COVID-19 pandemic, the access to CADs is unequal across locations. Data collected through the PMS indicates that, at the national level 18% of KIs report that access to CADs for people at their locations is bad or very bad, with this proportion being the highest in the governorates of Anbar (46%), Sulaymaniyah (38%) and Ninewa (24%).⁵

According to KIs, the two main reasons for which IDPs and returnees cannot effectively access CADs are (1) the complexity, length and cost of the administrative processes (cited by 35% of the respondents); and (2) the distance and cost of transportation to reach the offices (cited by 33% of the respondents). The other main barriers include the inability for applicants to provide the required documentation (cited by 14% of the KIs); the lack of information about the administrative processes (cited by 9%) to obtain or renew civil documentation; and the destruction, closure or lack of operational capacities of some CADs (cited by 6%).

In focus: Operational status and restrictions affecting CADs during the COVID-19 pandemic

Across 64 districts assessed, only 37 districts (58%) have fully operational CADs, whereas in 17 districts (26%) CADs are only partially operational and in 8 districts (13%) CADs are not functional due to the facilities being closed or non-existent.⁶ The operational status of CADs is starkly different among governorates. For instance, in Anbar, only one district out of seven (14%) reportedly has a functional CAD, whereas in the other six districts CADs are either only partially operational (28%), closed (28%), or with an unknown status due to the lack of access of legal actors.⁷ Salah Al-Din governorate is also particularly affected with four out of seven districts reportedly not having a functional CAD at all (57%).⁸ In Diyala governorate, three districts out of five only have a partially functional CAD (60%).⁹

In addition, since September 2021 both CADs and Courts across Federal Iraq – but not in the Kurdistan Region of Iraq – have started enforcing a new regulation from the Ministry of Health (MoH) whereby only individuals who have been vaccinated against COVID-19 or have obtained a negative PCR test within a seven-days period are allowed to enter their facilities. The directive from the MoH is intended for all government institutions and is not specific to CADs and Courts. At the time of writing this report, there is conflicting information about how this regulation is actually being enforced across CADs and Courts. Notwithstanding, legal actors identified this new regulation as a key impediment for affected individuals to obtain civil documentation. Given the very low rate of vaccination among IDPs and returnees,¹⁰ this requirement *de facto* prevents most of them, as well as lawyers representing their clients, to access these two public institutions to register, process and follow-up on legal files.

Another major barrier for IDPs to access civil documentation is the requirement imposed by the authorities that applications for the *Civil Status ID Card*, the *Iraqi Nationality Certificate* and the *Unified ID Card* need to be done in one's areas of origin and in-person. This requirement is sometimes also applied to *Birth Certificates* despite Iraqi legislation (Article 2, Amendment 3-75, 1986) stating that Iraqis may apply for *Birth Certificates* from any location across the country. For instance, IDP families originating from locations in west Anbar and from Kirkuk governorates are asked to return to their districts of origin to apply for the issuance of *Birth Certificates* for their children. However, without identity documents and/or clearance from security authorities, IDPs are often unable to go back to their areas of origin due to various restrictions on their freedom of movement and the risk of arbitrary arrest at checkpoints. Protection monitoring data shows that 16% of KIs report that people at their locations can move freely to other districts and governorates only sometimes, and 5% report that individuals can rarely or never do so. The severity of restrictions on

⁵ NPC Protection Monitoring System at Community Level, Round 3 of data collection from July to August 2021. Dashboard available at: <https://data.globalprotectioncluster.org/en/situations/globalprotectioncluster/location/16040?secret=unhcrrestricted>.

⁶ In two districts, the status of CADs is unknown. In this context, classifying a CAD as only partially functional means that its operational capacities (opening days and hours, level of staffing etc.) are limited and/or that it processes only certain types of identity and civil documents, but not all.

⁷ The CADs in Fallujah and Qaim districts are reportedly closed; CADs in Ana and Ramadi districts are reportedly only partially functional. The operational status of CADs Heet and Rutba districts could not be ascertained.

⁸ In Salah al-Din, CADs are reportedly closed or non-existent in the districts of Samarra, Daur, Balad and Hirqat.

⁹ In Diyala, the CADs are reportedly only partially functional in the districts of Muqadadiya, Baquba and Khalis.

¹⁰ The Health Clusters reports that just slightly over 30,000 IDPs and returnees have been vaccinated against COVID-19.

freedom of movement is particularly high in some governorates, such as Anbar.¹¹ The need to show one's *Civil Status ID Card* to pass through checkpoints is cited as the second main barrier to freedom of movement for affected individuals. Furthermore, Courts and CAD offices usually do not permit lawyers to secure documents for their clients through the use of a Power of Attorney to proceed with cases *in absentia*.

2.2.3. Security regulations and access to civil documentation

Many IDPs and returnees are or have been subject to allegations by civilian authorities, armed and security actors as well as community members – often without formal criminal charges or evidence provided - that they and/or their family members are or have been affiliated with extremist groups. As a result, the individuals and families concerned by these allegations must undergo security clearance procedures. When security clearance is withheld or rejected, they are often denied access to identity and civil documentation, although these practices and regulations are often applied inconsistently within and between governorates. Humanitarian legal actors report that, depending on the cases and circumstances, some families with perceived affiliation see their security clearance being rejected whereas others are granted clearance, without any clear criteria.¹²

Due to the fragmentation of the State security apparatus, there is no centralized database for security procedures. Rather, multiple security actors have separate databases, which means that one person can be on one list but not on another. Furthermore, the security clearance issued by one security actor may not be recognized by another security actor, which increases the risk of arrest. While it is the State's prerogative to conduct security screening to identify individuals who may pose a risk to the public safety, denying one's absolute right to a legal identity and to civil documentation based on security concerns contravenes both international and Iraqi law.

In focus: Confiscation of civil documentation for IDPs in Hassansham camps, Erbil governorate.

As of September 2021, 3,135HHs / 14,901 individuals reside in the IDP camps in Hassansham U2, Hassansham U3 and Khazir M1 – hereinafter referred to as the East Mosul camps (EMCs). While the large majority of adult camp residents have valid identity documents, about a third of the children in the camp miss their *Iraqi Nationality Certificate*.¹³ In addition, protection actors report that several dozens of men who were arrested and detained by the authorities when they were under 18 have subsequently been released and are now staying in the Hassansham camps, but only possess their previous children's identity documents, which are now invalid. Overall, even after receiving their legal documentation, IDPs in the EMCs do not have physical access to their *Civil Status IDs Cards*, as these are confiscated by the security actor in the camps, namely Assayish, for security reasons. When the EMCs opened in 2016-17, Assayish admitted IDPs to the camps and confiscated their civil IDs to conduct security screenings, and thereafter kept the IDPs' identity documents since. The confiscation of *Civil Status ID Cards* is still ongoing for all camp residents despite the fact that IDPs who arrived since 2017 have been screened and cleared by the security actor and intelligence services multiple times. In order to temporarily leave the EMCs, for instance to visit relatives or to access health facilities, IDPs have to submit a request to Assayesh. The requests can be submitted four days a week in U2 and U3 camps, but only twice a week in Khazir M1 camp. Once the requests are approved, Assayish provides the camp residents with a stamped support letter, which indicates the days allowed for the visit and the names of the family members. The maximum period of time allowed for a visit outside of the camps is 20 days. Visits that exceed this limit may be subject to further investigation by Assayish. Exceptionally, if the camp residents need their original *Civil Status ID Cards* when leaving the camps, they need to provide a justification, eg. a physical file or an official letter from a Court or a governmental body which requires the IDPs to present their original *Civil Status ID Cards*.

¹¹ 31% of KIs in Anbar governorate reported that people at their locations can rarely or never move freely to other districts or governorates, while 15% reported that they can do so only sometimes.

¹² For instance, humanitarian legal actors also report that in the context of mobile missions co-organized with the Ministry of Interior in 2020, 426 IDPs re-submitted their application to obtain civil documentation, after their cases had been rejected in 2019 due to security reasons. Out of the 426 applications, 310 were accepted and 116 were rejected. However, there was no consistency as to why some applications were rejected again while other did not. Some applications included documents which proved that the applicants had undergone the family renunciation process known as *tabrea'a*, but the majority did not.

¹³ Hassansham U2 (4% of adults and 14% of children do not have a *Civil Status ID Card* or *Unified ID Card*; 5% of adults and 36% of children do not have a *Iraqi Nationality Certificate*); Hassansham U3 (11% of adults and 15% of children do not have a *Civil Status ID Card* or *Unified ID Card*; 9% of adults and 33% of children do not have a *Iraqi Nationality Certificate*); Khazir M1 (2% of adults and 14% of children do not have a *Civil Status ID Card* or *Unified ID Card*; 3% of adults and 33% of children do not have a *Iraqi Nationality Certificate*). MCNA IX, 2021.

2.3. Normative landscape

Social norms and practices, based on tribal customs, often takes precedence over the strict application of Iraqi law and thus can contribute to the denial of the right to identity and civil documentation.¹⁴ As noted above, individuals with perceived affiliation or alleged family ties to extremist groups are required to obtain security clearance as a prerequisite to obtain their civil documents. In many cases, families have been compelled by civilian authorities, armed and security actors and/or community and tribal leaders to renounce ties with family members who are perceived or accused of being affiliated with extremist groups, as a precondition to obtain such clearance. This also adversely impacts the right of people with perceived affiliation to freedom of movement and to choose one's place of residence within the country. Protection actors report that in some cases the concerned families have been prevented from returning to their areas of origin and place of habitual residence until they denounce their relatives. In other cases, they have been threatened of eviction from their location of displacement or their areas of origin unless they do so.

Two interrelated mechanisms are often utilized for this purpose, either in parallel or interchangeably. The first, *tabrea'a*, is the process whereby one disavows one's incriminated relative and pledges to sever all bounds with him.¹⁵ As a tribal mechanism, *tabrea'a* has no foundation in Iraqi law. The second, *ikhbar* (notification of offence), is the process whereby one reports his/her relative with alleged ties to extremist groups in front of an investigative judge. It usually entails a complaint being filed under Article 4 of the Anti-Terrorism Law of 2005. It is both an accusation and a legal complaint and, as such, it is not a pledge to disavow a relative. However, the process is seen as an implied disavowal of that family member and therefore has the same social implications as *tabrea'a*.¹⁶

In focus: Tabrea'a, Ikhbar and protection concerns

Persons with perceived affiliation to extremist groups sometimes approach legal actors for legal support regarding *tabrea'a* or *ikhbar*. In response, legal actors limit their support to providing minimum information about the process, its risks and consequences to help the concerned individuals to make an informed decision. However, legal actors do not offer counselling or representation in relation to *tabrea'a* or *ikhbar* due to multiple protection concerns. Among others, the process 1) contravenes a number of fundamental human rights principles, such as the principles of individual criminal responsibility and due process,¹⁷ and it also underpins violations of the right to freedom of movement and residency as individuals who refuse to undergo *tabrea'a* are often blocked by security actors to return to or remain in their areas of origin;¹⁸ 2) often causes high levels of psychological distress for the individuals who are obliged to disavow a family member - especially among female heads of households - and cases of attempted suicide have been reported;¹⁹ 3) can subsequently increases a number of protection risk (safety, discrimination) for the person who goes through *tabrea'a*, as the process can be perceived by some actors as a confirmation of affiliation to extremist group; 4) poses serious risks to the safety of the lawyers representing such cases, as they would risk to be themselves perceived by the authorities as being affiliated to extremist groups.

¹⁴ IOM, *Tribal justice mechanisms and durable solutions for families with a perceived affiliation to ISIS*, 2020.

¹⁵ The disavowal process only applies to male tribesmen, which means that only male tribesmen can be disavowed, but both men and women can disavow a male relative.

¹⁶ For further analysis on *tabrea'a* and *ikhbar*, please refer to the note produced by the Protection Cluster: *Recommendations on Renunciation Processes*, March 2021.

¹⁷ National Protection Cluster, *Recommendations on Renunciation Processes*, March 2021 and *Protection Concerns and Proposed Solutions for Iraqi Citizens with Perceived Affiliation*, October 2018.

¹⁸ National Protection Cluster, *Critical Protection Incident note*, June 2020.

¹⁹ Ibid. January 2021

2.4. Political landscape

The fragmentation of the political and institutional landscape between the governments in Federal Iraq and the Kurdistan Region of Iraq poses specific challenges for IDPs in the disputed territories. Control over parts of the governorates alongside the border has shifted repeatedly over the past 20 years, and many IDPs have been displaced between the concerned areas.²⁰ As a result, IDPs are often unable to return to the areas where their civil status files are registered with local CADs and encounter serious challenges to obtain or renew their civil documents.

In focus: Disputed territories between Duhok and Ninewa governorates

It is estimated that 400-500 HHs who are residing in Tel Keif district, Ninewa governorate, are facing challenges to obtain their civil documents due to shifts in the territorial control between Federal Iraq and KRI.²¹ These families used to reside in Sheikhan and Sumel districts, Duhok governorate, from the 1970s to the beginning of the years 2000 as part of the Arabization campaign. Because they resided in these districts for over 30 years, their registration sits with the CADs in these two districts. When the control of Sheikhan and Sumel districts shifted to the KRI in 2003, these families were pushed back to Tel Keif district, Ninewa governorate, which is controlled by the authorities of Federal Iraq. Due to the administrative boundaries, the families' registration remains under the CADs in Sheikhan and Sumel, where they cannot return due to fear of persecution by the authorities and tensions with other ethnic groups. Moreover, the transfer of their civil status records from Sheikhan and Sumel districts to Tel Keif district has been blocked by the Iraqi central government ever since. As a result, the concerned families are prevented from obtaining any identity document in Ninewa governorate, and without identity documentation, the HHs cannot access any other forms of civil documentation, with severe consequences for their enjoyment of rights. In July 2021, protection partners conducted a legal needs assessment with 32 KIIs from the affected IDP communities. Findings indicate that most of the affected IDPs living in Tel Keif and Mosul districts do not have *Civil Status ID Cards*. The IDPs mentioned that although they can travel to Sheikhan district, they fear being harassed by the community when doing so. In 2020, a delegation from Sheikhan started to visit Tel Keif district to facilitate the issuing of *Civil Status IDs* for those families, but the deployment only lasted two months and was eventually halted following instructions of the Ministry of Interior in Baghdad.

3. PROTECTION RISK ANALYSIS

3.1. Protection threat

3.1.1. Patterns of rights-violations

Based on the different issues illustrated above, two major patterns of rights-violations emerge.

The first relates to the deprivation of identity and civil documentation by civilian and/or security actors, deliberately targeting people with perceived affiliation to extremists. This is evidenced by the practice previously highlighted through which individuals with alleged or suspected family ties with extremist groups are requested by security actors to undergo either the *tabrea'a* and/or *ikhbar* processes before they can be granted security clearance. In turn, having a security clearance is often a prerequisite to obtain identity and civil documentation, not least because without clearance individuals are subject to restrictions on their freedom of movement and are therefore often unable to access CADs in person to submit their applications. Protection monitoring data indicates that the need to show one's identity document and the need to obtain security clearance are the second and third main barriers to freedom of movement among IDPs and returnees in Iraq.²² In other instances, IDPs in camps often see their documents being confiscated by security actors (see section 2.2.3).



²⁰ Internal Displacement Monitoring Centre, *A decade of displacement in the Middle East and North Africa*, 2019. IOM's displacement Tracking Matrix, *Disputed Areas Returns Movement Overview*, April 2018

²¹ No definitive population data is available either from the authorities or humanitarian actors. The figure of 400-500 HHs has been estimated by protection actors based on their contextual knowledge and a qualitative assessment conducted in July 2021.

²² 27% of KIIs cite the cost of transportation as a key barrier to freedom of movement, while 20% cite the need to show one's civil ID and 16% cite the requirement for security clearance. NPC Protection Monitoring System at Community Level, 2021.

The second pattern is the limited ability of public institutions and civil authorities to provide identity and civil documentation to the affected individuals. The set-up of the administrative system meant to issue identity and civil documentation is seemingly inadequate to the specific situation which IDPs are in, because (1) the applications to (re)issue key legal documents often need to be submitted to CAD offices in areas of origin, which often remain largely inaccessible to IDPs in and out of camps; (2) CADs and Courts do not always accept the lawyers to legally represent their clients in areas of origin through Power of Attorney, but often require in-person presence; (3) applicants are usually required to present a valid identity document in order to obtain another civil document, which represents a major challenge for the estimated 500,000 IDPs and returnees who are lacking at least two or more key documents;²³ (4) public institutions structurally lack resources and capacities, and are not present in all the locations where legal needs have been identified. For instance, the CADs in Fallujah district, Anbar governorate, and in Samarra district, Salah al-Din governorate, are reportedly closed despite large numbers of IDPs and returnees missing two or more key civil documents.²⁴ As a result, distance and cost of transportation is reported as the second main barrier for IDPs and returnees to access CADs.

3.1.2. Groups most affected by the threat

Estimated numbers of individuals missing identity and civil documents							
Group	Affected Population	Missing ≥ 1 document		Missing ≥ 2 documents		Missing ≥ 3 documents	
		#	%	#	%	#	%
IDPs in-camp	182,422	50,545	28	17,380	10	6,421	4
IDPs out-of-camp	1,009,230	244,607	24	122,778	12	55,114	5
Returnees	4,884,612	788,165	16	380,782	8	186,310	4
Overall	6,076,264	1,083,318	18	520,940	9	247,845	4

Sources: OCHA's Humanitarian profile of affected population as of September 2021 / Dataset from the MCNA IX 2021

In absolute numbers, returnees are by far the largest population group affected by a lack of identity and civil documentation. There are more returnees who are missing one document or more (estimated at 788,000 individuals) than there are IDPs both in and out-of-camps in the same situation (estimated at 295,000 individuals). However, relative to the size of each population groups, IDPs both in and out-of-camps are more impacted than returnees - 28% of IDPs in camps, 24% of IDPs out-of-camps, 16% returnees are missing one key document or more. In terms of severity of the issue, the proportion of individuals who are missing three key documents or more – and are therefore considered as acute Persons in Need (PIN) for the purpose of the Humanitarian Needs Overview (HNO) – is almost identical for all three population groups, at around 5%.

In addition, the Child Protection Sub-Cluster estimates that more than 450,000 children are missing at least one key identity or civil document,²⁵ due to a combination of administrative and legal barriers which specifically affects IDPs and returnee families, including female-headed households (see the section below on legal safety).

²³ Estimation based on the results of the MCNA IX 2021 conducted for the purpose of the HNO 2022.

²⁴ Based the MCNA IX, an estimated 63,735 individuals in Fallujah district, Anbar governorate, are missing two key documents or more and 17,954 individuals are in the same situation in Samarra district, Salah al-Din governorate.

²⁵ MCNA IX, 2021.

3.1.3. Locations most affected by the threat²⁶

Ninewa governorate hosts 268,000 individuals missing two or more key documents, with the district of Mosul alone having 168,000 individuals. Three other districts of Ninewa governorate are also included in the top-ten districts with the largest number of individuals lacking two documents or more: Sinjar (39,000 individuals), Tel Afar (23,000) and Tel Keif (17,000).

Geographical repartition of individuals who are missing two documents or more			
Governorate	# of IDPs in camps, IDPs out-of-camps & Returnees	# of individuals missing ≥ 2 documents	% of individuals missing ≥ 2 documents ²⁷
Ninewa	2,210,739	268,040	12.12%
Al-Anbar	1,549,756	76,655	4.95%
Erbil	258,535	43,251	16.73%
Salah Al-Din	782,400	36,742	4.70%
Kirkuk	429,456	35,221	8.20%
Duhok	253,014	29,529	11.67%
Diyala	287,729	22,253	7.73%
Sulaymaniyah	131,949	9,591	7.27%
Total	5,903,578	521,282	8.83%

Sources: OCHA's Humanitarian profile of affected population as of September 2021 / Dataset from the MCNA IX 2021

Anbar is the governorate with the second largest population of persons missing two or more key documents, estimated at 76,000 individuals. Almost all of them (63,000 individuals) are in the district of Fallujah. Erbil district, in Erbil governorate, is the district with the third largest number of persons who lack two documents or more (estimated at 41,000 individuals).

3.2. Threat effects on the population

The lack of identity and civil documents affects all aspects of a person's life and the impact is multidimensional.

3.2.1. Physical safety

The lack of identity documentation directly increases the risk of other serious protection incidents and rights violations for the concerned individuals, especially at checkpoints manned by armed and security actors. Based on protection monitoring data, the risk of arbitrary arrest and detention are ranked as the second and fourth main type of violations affecting civilians, and the need to show one's civil ID is ranked as the second main barrier to freedom of movement. The widespread lack of identity and civil document among IDPs both in and out-of-camps (see section 3.1.2) therefore represents a major barrier to their safe and sustainable return to their areas of origin.

²⁶ The figures included in this section are based on the results of the MCNA IX and only present the estimated number of individuals who are lacking two key documents or more. The figures exclude the estimated number of individuals who are lacking only one key document and are therefore considered as affected but not in need, as per the established severity thresholds.

²⁷ The percentage of individuals who are missing two documents or more have been calculated out of the overall number of affected individuals in the governorates.

[3.2.2. Legal safety](#)

Adults who have been lacking a valid identity document for an extended period of time in the context of their protracted displacement and who are unable to obtain or renew such documents are exposed to the risk of losing their legal identity, since they may become unable to prove their Iraqi nationality. This is particularly true because the *Iraqi Nationality Certificate* is the identity document which is most commonly lost, missing or invalid among the affected population. Based on the MCNA, 15% of the HHs interviewed reported having at least one member missing his/her *Iraqi Nationality Certificate*, compared to 5% for the *Civil Status ID Card* and 4% for the *PDS Card*. The proportion of HHs who reported at least one member missing his/her *Iraqi Nationality Certificate* is also higher among IDPs than returnees, 19% and 14% respectively. In addition, lacking security clearance and/or valid identity documents prevents the affected individual from pursuing legal remedies through judicial institutions for any rights-violations that s/he may be subjected to.

In focus: Legal risks for children missing identity and civil documentation

Children who are lacking any identity or nationality documentation are at risk of losing their legal identity. The Child Protection Sub-Cluster estimates that more than 450,000 children are missing at least one key identity or civil document,²⁸ namely a *Birth Certificate*, a *Civil Status ID Card*, an *Iraqi Nationality Certificate* or a *Unified ID Card*. Based on the MCNA, 6% of the HHs reported missing the *Birth Certificate* for at least one of their children. This proportion sharply increases to 12% among IDPs in camps. Although the actual requirements can vary across locations, the issuance of *Birth Certificate* often requires the parents to submit both of their own identity documents, as well as their *Marriage Certificate*. Families who lack any or all of these documents can therefore be blocked from obtaining a *Birth Certificate* for their child. In turn, a child without a *Birth Certificate* cannot secure any identity document, such as a *Civil Status ID Card*, an *Iraqi Nationality Certificate*, or a *Unified ID Card*. Female-headed households face particular challenges when the father of the child/ren is dead or disappeared, as in such cases obtaining a *Birth Certificate* usually requires the widow to submit a *Death Certificate* for the father. Yet, *Death Certificates* are themselves very difficult to obtain, especially in cases of enforced disappearances. In other cases, when the father is absent, he is nonetheless usually required to appear in Court as women are not equally able to pass on their nationality to their children under Iraqi law. This is also the case for children who were born – often as a result of rape or forced marriage – from a father who was foreign national who had joined ISIS and from a mother who is an Iraqi citizen. In addition, children who were born in ISIS-controlled areas were either issued *Birth Certificates* which are not recognized by the GoI and are therefore invalid, or were never issued *Birth Certificates* in the first place. Similarly, parents whose *Marriage Certificates* were issued by ISIS and are therefore not recognized by the Government are often blocked from obtaining *Birth Certificates* for their children since a valid *Marriage Certificate* is one of the many administrative requirements for a *Birth Certificate* to be issued. In some cases, the parents of children born in ISIS-controlled areas cannot be identified and traced, which often leaves the children without any kind of identity documentation.

[3.2.3. Material safety and access to essential services](#)

Lacking valid identity and civil documents prevents the affected individuals from accessing basic services and fully enjoying rights and entitlements.

Health facilities often require some form of identity documents to provide routine immunization and health care. The Health cluster reports that whereas identity documentation may not always be needed for outpatient treatment at Primary Health Care Centers (PHCC) it is usually required for admission at hospitals.

Similarly, children who do not have any identity documents are often prevented from being registered by schools under the responsibility of the Ministry of Education, both in areas of displacement and returns. While a few school administrations allow children in such a situation to access education facilities, they are usually prevented from participating in public exams due to their lack of valid documentation. Although the requirements vary between locations, education facilities often require the identity document of the child and of the parents themselves. If the father is dead or missing, a *Death Certificate* can even be required despite the many challenges for female-headed households to obtain such a document, especially if their husbands have disappeared.

²⁸ MCNA IX, 2021.

The submission of claims for compensation related to the damage, loss or destruction of housing, land and property to government Compensation Committees – an essential financial entitlement for IDPs and returnees whose homes have often been totally or partially destroyed during the conflict - also require the applicant to provide a valid identity document.

Lastly, benefiting from various social protection schemes such as the Public Distribution System (PDS)²⁹ – the *PDS Card* being a key civil document itself – also require having a valid identity document.

3.3. Capacities to address the threat

3.3.1. Capacities of the communities

The decision to either deny or provide the affected persons with the appropriate identity and civil documents is ultimately dependent on various civilian and security actors, either by law or *de facto*. Accordingly, IDPs and returnees have limited capacities and resources to mitigate this risk. Based on protection monitoring information, the factors which undermine the affected people's capacity to effectively claim and fulfill their right to legal documentation include: (1) the complexity, length or cost of the administrative processes (cited by 35% of KIs); (2) the requirement to present some legal documents to obtain other key documents (reported by 14% of KIs); and (3) the lack of sufficient information about the functioning of CAD offices and administrative procedures (cited by 9% of KIs). Ultimately, the affected individuals largely rely on legal services provided by humanitarian legal actors to access documentation.

3.2.3. Capacities of humanitarian actors

By providing legal information to communities about their rights and by offering counselling and representation to their clients throughout the application and registration process, legal actors effectively address some of the main challenges faced by IDPs and returnees. Legal actors have also developed specific interventions to try to address the inability to access CADs and Courts due to physical distance, cost of transportation and/or restrictions on freedom of movement. To this end, many partners provide financial support to their clients not only to cover legal fees, but also to cover the cost of transportation to access the relevant public institutions. In addition, for IDPs unable to return to their areas of origin to submit an application to the CAD under which they are registered or to follow-up on a Court case, legal actors have at times been able to utilize a Power of Attorney to represent their clients in their absence. However, as previously noted, the Power of Attorney is often not accepted by Courts and CADs across the country (see section 2.2.2)

In focus: Mobile missions to issue identity and civil documentation

IDPs in the remaining camps in Federal Iraq and in the Kurdistan Region of Iraq are most affected by the lack of identity and civil documentation. Based on the MCNA IX, it is estimated that 28% of IDPs in camps miss at least one key document, compared to 24% for IDPs out-of-camps and 16% of returnees (see section 3.1.2.). The restrictions on their freedom of movement are more severe and therefore their ability to access CADs is significantly lower. Protection monitoring data indicates that 28% of KIs in camps report that their level of access to CADs is bad or very bad, compared to 20% for KIs in return areas and 16% for KIs in displacement locations out of camps.

Mobile missions organized in coordination with the Ministry of Interior (MOI) as well as CADs therefore greatly facilitates access to civil documentation for IDPs, in particular in camps. To this end, UNHCR coordinates with the MOI at the central level and humanitarian legal actors prepare their clients' files and coordinate with CADs at the governorate level. Thus *ad hoc* mobile missions to IDP camps, informal sites and/or urban areas are being organized to collect the files and thereafter process the issuance of documentation. The requirement for the presence in-person of the applicants at the CADs in their area of origin is removed, thus overcoming the access barriers highlighted above. However, applicants are still required to meet in person the delegation of the mobile mission, which usually includes official from CADs in the IDPs' areas of origin and officials from the MOI in Baghdad. Ultimately, the documents are sent to UNHCR and then delivered through humanitarian legal actors operating in the concerned locations.

²⁹ The Public Distribution System is a social scheme under the management of the Ministry of Trade whereby eligible citizens receive a monthly food ration. This require the eligible families to have a PDS Card, which is issued to the head of household, and contain a list of all members of the household.

Mobile missions enable government officials to issue the *Civil Status ID Card*, the *Iraqi Nationality Certificate*, and whenever available, the *Unified ID Card*. However, the mobile missions can no longer issue the *Civil Status ID Card* and the *Iraqi Nationality Certificate* for IDPs hailing from areas where the CADs now only provide *Unified ID Cards*. In 2019 and 2020, mobile missions to both Erbil and Sulaymaniyah governorates included the delivery of *Unified ID Cards*, including a pilot mission to Erbil to process *Unified ID Cards* for IDPs hailing from Anbar governorate who were living in both camps and urban areas. However, some critical challenges were encountered, including delays caused by the COVID-19 pandemic and the fees associated with the *Unified ID Cards*.

In 2021, a total of 22 missions have been completed, including 5 to Dohuk governorate, 6 to Erbil governorate, 7 to Ninewa governorate and 4 to Anbar governorate. In total, 7,721 *Civil Status ID Cards* and 25,847 *Iraqi Nationality Certificates* have been issued through mobile missions in 2021.³⁰

4. HUMANITARIAN RESPONSE

4.2. Humanitarian Response Plan for 2021

Gap analysis - Legal assistance services for civil documentation ³¹															
Overall				IDPs in camps				IDPs out-of-camps				Returnees			
Target	Response	Gap		Target	Response	Gap		Target	Response	Gap		Target	Response	Gap	
		#	%			#	%			#	%			#	%
143000	53,131	89,869	63	8,697	11,942	+3,245	+37	30,211	20,715	9,496	31	104,092	20,474	87,505	80

Source: Achievements reported by legal actors through Activity Info from January to September 2021.

As of September 2021, legal actors have reached 53,131 individuals with legal assistance services for civil documentation. The Humanitarian Response Plan (HRP) target for IDPs in camps has been exceeded, whereas there is a minor gap (31% less than the original target) for IDPs in out-of-camp settings. In contrast, the gap for returnees is much higher at 80%. Given that returnees represent over two thirds of the target population in absolute number, the underachievement for this population group drives the overall underachievement of 63% to date.

A number of factors contributed to the current status of the response. First, the discrepancy between achievements in camps compared to return areas can partly be explained by the prioritization of issuance of civil documentation through the deployment of MoI's mobile missions in the context of camp closures by the Government of Iraq. Second, the provision of legal assistance services for returnees is particularly challenging due to the fact that this population group is often scattered across small and remote locations where legal interventions require more time and resources. Third, the COVID-19 pandemic has continued to adversely affect the operational capacities of legal actors to provide services since CADs in many districts across Iraq have continued to work at limited capacity and/or have imposed access restrictions to contain the spread of the virus (see section 2.2.2). Fourth, the operational challenges associated with the roll-out of the *Unified ID Card* have resulted in a backlog of cases and have created significant delays in the processing of individual files (see section 2.2.1). Fifth, legal assistance partners continue to report harassment and threats affecting their staff who represent individuals with perceived affiliation to extremists. This has negatively impacted the access of highly vulnerable individuals to legal services as some legal aid actors are reluctant to represent such individuals due to the associated risks.

District	Beneficiaries Reached
Sinjar	5,345
Al-Mosul	5,261
Erbil	5,260
Al-Hamdaniya	3,959
Zakho	3,007
Sumail	2,859
Makhmour	2,390
Tikrit	2,387
Al-Hawiga	2,282
Telafar	1,946
Al-Falluja	1,512
Al-Shirqat	1,298
Kirkuk	1,297
Tilkaef	1,174
Al-Hatra	1,091
Al-Baaj	1,051
Beygee	1,039
Balad	1,036
Tooz Khurmato	798
Khanaqin	667

List of the 20 districts with the largest number of individuals assisted through legal services

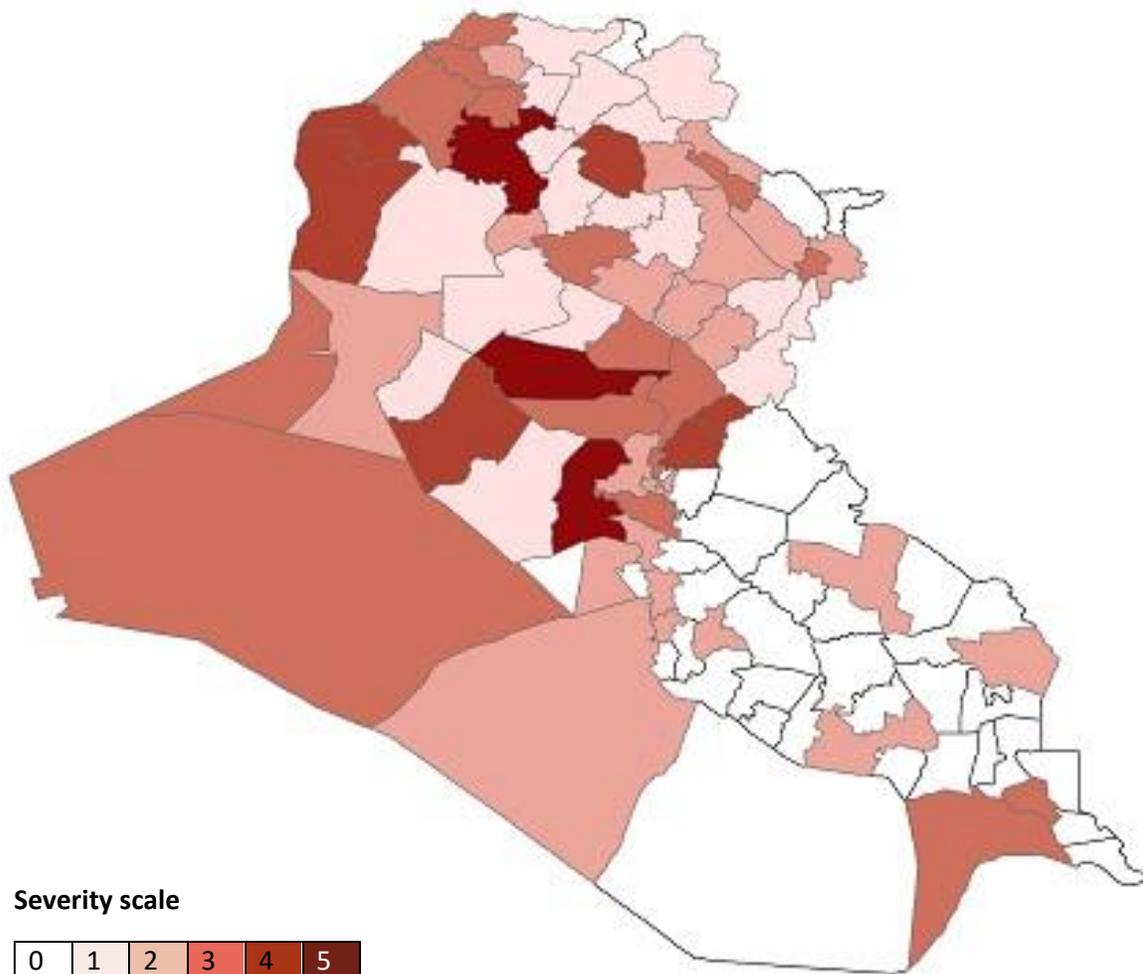
³⁰ Data available through UNHCR, based on the outcomes of the 22 mobile missions organized in 2021 up until October.

³¹ This table includes the combined targets and achievements for legal assistance services under both general protection and child protection.

4.2. Geographical prioritization

The analysis in the map below looks at the risk of IDPs and returnees being denied their identity and civil documentation by combining all three components of the risk equation (see section 3). The threat is understood as the prevalence of the risk among IDPs and returnees and reflects both the absolute number of individuals who are missing two or more key documents, and the proportion of this caseload relative to the overall number of affected persons in a given district. The vulnerabilities reflect the severity of the physical and operational barriers that IDPs and returnees face: (1) overall restrictions on their freedom of movement; (2) functional capacities of CADs; and (3) degree of access to CADs at their location. The capacities relate to both the presence of legal actors in that district and their capacity to provide legal services, including by reflecting the number of individuals who received legal services both in absolute numbers and relative to the overall number of persons who miss at least two documents.³² For a more detailed analysis of the different results by variable and ranking by severity across districts, please refer to *Annex 1*.

Severity of issues related to civil documentation by district³³



³² This analysis combines different and complementary data sources, including the MCNA IX, the NPC Protection Monitoring System at Community Level, the mapping of CADs and reporting on ActivityInfo. see Section 1.

³³ Districts is white have not been assessed through the MCNA IX and are therefore ranked at 0 on the severity scale.

5. RECOMMENDED ACTIONS

5.1. Operational recommendations

Humanitarian legal actors should:

- Use the findings of the geographical prioritization exercise (see section 4.2) to inform the development, or continuation, of legal assistance interventions, within the framework of the NPC Humanitarian Response Plans for 2021 and 2022.
- Continue to facilitate access to legal documentation for vulnerable individuals through existing successful interventions, e.g. payment of transportation fees to access CADs and Courts; use of Power of Attorney or other legal procedures, whenever feasible; expansion of mobile missions from the Ministry of Interior to the remaining IDP camps and out-of-camp locations - including informal sites - as relevant.
- Discuss if and how to engage with the issue of *tabrea'a* in order to re-assess both the possibilities and risks of supporting the individuals who are coerced into it, while acting in compliance with the principles of do no harm, conflict sensitivity and rights-based approach. The discussion should be inclusive of a broad range of humanitarian and peacebuilding actors and put an emphasis on the centrality of national actors.
- Integrate the provision of legal assistance for civil documentation with legal assistance for housing, land and property (HLP) rights, in light of the fact that having identity documents is a prerequisite to access specialized HLP processes. Legal assistance on HLP should prioritize the following issues: formalization of rental agreement to secure tenancy rights and thus reduce the risk of eviction; restitution of illegal sales of land or property; right to inheritance and property rights for female-headed household; access to compensation for property damaged or destroyed during the conflict.

5.2. Policy recommendations

The Humanitarian Coordinator and Humanitarian Country Team (HCT) members should:

- Advocate with the Government of Iraq and the Kurdistan Regional Government, in particular the Ministry of Interior and the Ministry of Defense, to immediately cease the practice whereby military and security actors systematically confiscate the identity of documents of civilians, in particular of IDPs in camps, as it exposes individuals to serious protection risks. All confiscated identity documents should immediately be returned to the concerned individuals and a formal complaint mechanism should be established to allow the affected individuals to report any confiscation of their identity documents, for follow-up investigations and remedies by the authorities.
- Advocate with the Government of Iraq, in particular the Ministry of Interior and the Ministry of Displacement and Migration, to allow IDPs to seek and obtain their identity and civil documents in their area of displacement and, more broadly, anywhere within the country, as per the terms of the Iraqi Constitution and the right of Iraqi citizens to choose their place of residence. At a minimum, the Ministry of Interior and the Ministry of Justice should issue nation-wide directives to CADs and Courts to systematically allow the use of Powers of Attorney by legal actors when IDPs cannot access these institutions in their areas of origin due to restrictions on their freedom of movement and/or risk for their safety.

- Advocate with the Government of Iraq, in particular the Ministry of Interior, to ensure that operational issues associated with the roll-out of the *Unified ID Card* are rapidly and effectively resolved, especially the delays caused by dysfunctions in the online booking system. CADs should continue to issue *Iraqi Nationality Certificate* and *Civil Status ID Card* until *Unified ID Cards* can be issued. The Ministry of Interior should also ensure that applications can effectively be submitted through the online booking system free of charge. To this end, the Ministry of Interior should investigate any irregular practices associated with the process, including the imposition of additional fees by private shops. A complaint mechanism should be established to allow the affected individuals to report any extortion or unlawful practices, for follow-up investigations and remedies by the police and other relevant authorities.
- Advocate with the Government of Iraq and the Kurdistan Regional Government, in particular the Ministry of Interior and the Ministry of Displacement and Migration, to find a political and administrative solution to allow IDPs in disputed territories to obtain their identity and civil documentation either through the transfer of their files from CADs in their previous areas of residence to CADs in their current areas of residence, or alternatively through the organization of mobile missions to the concerned disputed territories.
- Advocate with the Government of Iraq, in particular the Ministry of Interior, Ministry of Justice and Ministry of Defense to issue nation-wide orders to all governorate-level operations command, Courts and CADs to clarify that the issuance of identity and civil documentation does not require the applicant to obtain security clearance and/or undergo *ikhbar* or *tabrea'a* prior to obtaining identity and civil documentation.
- Advocate with the Government of Iraq, in particular the Ministry of Interior, to reform the legal and procedural framework to ensure that all barriers for parents to obtain a *Birth Certificate* for their children should be removed. This means that the requirement for a valid *Marriage Certificate* and the requirement for the physical presence of both parents should no longer be mandatory. This would allow either one or both of the parents to obtain a *Birth Certificate* as long as they can prove that they are the parents. In addition, women should be allowed to pass their Iraqi nationality onto their children equally to men. For female heads of household whose husbands is dead, disappeared or missing, the requirement to submit a *Death or Divorce Certificate* to obtain a *Birth Certificate* and other civil documents should be lifted.
- Advocate with the Ministry of Education to allow children who are missing some valid identity and civil documents to enroll in schools and participate in public exams.