



# Protection Cluster

## **Protection Analysis Report**

*Right to identity and civil documentation*

*RWG – 30 November 2021*

## Key findings of the NPC Legal Analysis report

- **Objective:** The report analyses **the risk of identity and civil documentation being denied to conflict-affected and displaced individuals**, with the aim to inform the development of legal assistance programs and to support advocacy efforts at the policy level.
- Following the conflict, **legal and documentation needs remains the NPC main priority to identify vulnerable individuals for protection interventions. Over 1 million IDPs and returnees are missing at least one core\* identity or civil document, including over 500,000 individuals who are missing two or more documents.** The report focuses on different elements/requirements/triggers hampering access to legal documentation and analyses the protection risks/threats associated with the lack thereof. Assessment of community and partners capacity to respond to the threat/need is included as well.
- The report proposes operational and policy recommendations to be considered by relevant stakeholders to address the short- and long-term impacts of lack of legal documentation.
- **Methodology:** Multiple data sources (Multi-Cluster Needs Analysis (MCNA), NPC Protection Monitoring System (PMS), mapping of Civil Affairs Directorates (CADs) and ActivityInfo).

\*Civil Status ID Card, Iraqi Nationality Certificate, Unified ID Card, Birth Certificate Public Distribution System Card

## Landscapes

- ✓ **Legal Landscape:** right to legal identity = 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. Legal identity established through the issuance of **identity documents** - *Civil Status ID Card, Iraqi Nationality Certificate, Unified ID Card*. **Civil documents** - *Birth, Death or Marriage Certificates*. **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.**
- ✓ **Institutional landscape:** **Multiple documents and complex administrative processes:** different types of documents, possession of one identity document often a requirement for the (re)issuance of another identity or civil document.
- **Insufficient institutional capacities and barriers to access Civil Affairs Directorates:** destruction of numerous CAD offices, limited resources (logistical, human and financial) available, disruption of services caused by the COVID-19 pandemic, **IDPs required to go their areas of origin in person to issue documentation.**
- **Security regulations and access to civil documentation:** allegations and perceived affiliation with armed/extremist groups by authorities, security clearance that could lead to denial of access, inconsistency of procedures and criteria between different governorates with no centralized security database.
- ✓ **Normative landscape:** **Social norms, tribal customs impacting individuals** with perceived affiliation or alleged family ties to extremist groups and their freedom of movement.
- ✓ **Political landscape:** **Fragmentation of the political and institutional landscape between Federal Iraq and KRI,** particularly on IDPs residing in disputed areas.

## Patterns of Rights-Violations – Protection Threat (1)

- **Deprivation of identity and civil documentation targeting people with perceived affiliation** (security clearance prerequisite);
- **Limited ability of public institutions and civil authorities to provide identity and civil documentation** (institutional shortcomings: area of origin requirements, in person presence; valid ID requirement to obtain another document; lack of resources and capacity in public institutions structures).
- Groups and locations 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
<b>Overall</b>	<b>6,076,264</b>	<b>1,083,318</b>	18	<b>520,940</b>	9	<b>247,845</b>	4

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

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 <sup>27</sup>
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%
<b>Total</b>	<b>5,903,578</b>	<b>521,282</b>	<b>8.83%</b>

## Patterns of Rights-Violations – Protection Threat (2)

- **Lack of identity and civil docs on individual:**
  - ✓ **Physical Safety:** Increase risk of other serious protection incidents and rights violations (e.g. arbitrary detention);
  - ✓ **Legal Safety:** Increase risk of adults losing their legal identity, since they may become unable to prove their Iraqi nationality.
  - ✓ **Material safety and access to essential services:** prevent people from accessing essential services and enjoy their rights and entitlements in many aspects of their lives (health facilities, schools, submissions of HLP compensation)
- **Capacities to address the threat:**
  - ✓ Capacities of the communities: IDPs and returnees have limited capacities and resources to mitigate the risk.
  - ✓ Capacities of humanitarian actors: legal assistance and counselling, representation of clients throughout the application and registration process, etc. partially address some challenges, but doesn't solve them all.

# Humanitarian Response Plan 2021

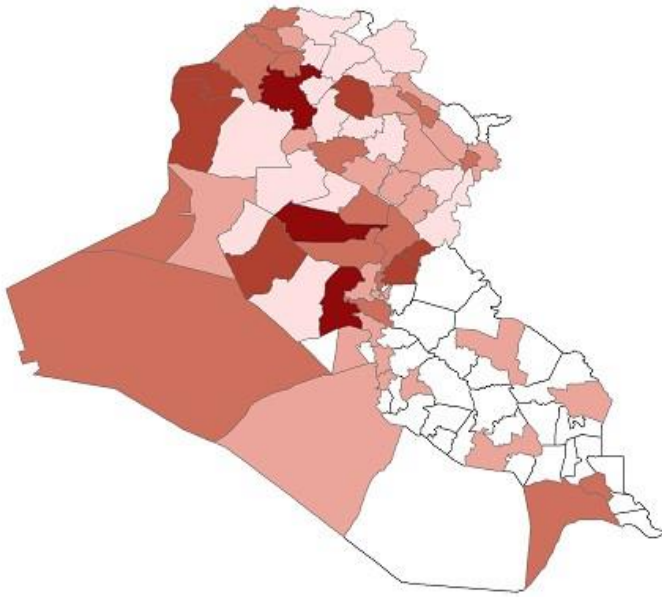
## HRP 2021 response by protection partners:

### Gap analysis - Legal assistance services for civil documentation

Overall		IDPs in camps				IDPs out-of-camps				Returnees				
Response	Gap		Target	Response	Gap		Target	Response	Gap		Target	Response	Gap	
	#	%			#	%			#	%			#	
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	

*Source: Achievements reported by legal actors through Activity Info from January to September 2021, including both general protection and child protection.*

## Geographical prioritization (Based on the analytical scoring matrix):



Map illustrating the severity of the risk of civil documentation being denied, by district  
(Note: the darker the red the higher the severity)

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

Severity	Threat				Vulnerabilities				Capacities								
	# individuals missing ≥ 2 civil documents (source: MCNA)		% individuals missing ≥ 2 civil documents (source: MCNA)		% of HHs experiencing daytime movement restrictions (source:MCNA)		Operational status of CAD (Source: Mapping of CADs by legal partners)		% of KIs reporting that access to CADs is bad / very bad (sources:PMS)		# of legal assistance partners (Source: ActivityInfo)		# of individuals who received legal assistance services (Source: ActivityInfo)		% of individuals who received legal assistance services (Source: ActivityInfo)		
	Thresholds	Score	Threshold	Score	Threshold	Score	Threshold	Score	Threshold	Score	Threshold	Score	Threshold	Score	Threshold	Score	
High	0 ≤ 10,000	8	0 ≤ 5	4	0 ≤ 20	1	Fully open	0	0 ≤ 20	1	6 ≤ 7	1	4,001 ≤ 5,500	2	100 ≤	1	
	10,001 ≤ 30,000	16	6 ≤ 10	8	21 ≤ 40	2		21 ≤ 40	2	4 ≤ 5	2	3,001 ≤ 4,000	4	75 ≤ 100	2		
	30,001 ≤ 60,000	24	11 ≤ 15	12	41 ≤ 60	3		Partially open	5	41 ≤ 60	3	2 ≤ 3	3	2,001 ≤ 3,000	6	50 ≤ 74	3
Medium	60,001 ≤ 140,000	32	16 ≤ 20	16	61 ≤ 80	4	Closed or non-existent	10	61 ≤ 80	4	1 ≤ 2	4	1,001 ≤ 2,000	8	25 ≤ 49	4	
	>140,000	40	21 ≤ 25	20	81 ≤ 100	5		81 ≤ 100	5	0	5	0 ≤ 1,000	10	0 ≤ 24	5		
	Indicator's weight		Indicator's weight		Indicator's weight		Indicator's weight		Indicator's weight		Indicator's weight		Indicator's weight		Indicator's weight		Total
	40		20		5		10		5		5		10		5		100

## Operational Recommendations

- **Findings of the geographical prioritization to inform the development of legal assistance interventions, within the framework of the Humanitarian Response Plan for 2022.**
- **Facilitate access to legal documentation through existing successful interventions, eg., 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 MoI to the remaining IDP camps and to out-of-displacement locations - including informal sites - and returnee locations as relevant.**
- **Integrate the provision of legal assistance for civil documentation with legal assistance for housing, land and property (HLP) rights.**

## Policy Recommendations:

- Advocacy to cease the practice of confiscation of document by military/security actors;
- Advocacy to allow IDPs to seek and obtain their identity and civil documents in areas of displacement. Enactment of directive to allow the use of Powers of Attorney by legal actors;
- Advocacy to ensure smooth roll out Unified ID card; CADs to continue to issue Iraqi Nationality Certificate and Civil Status ID card until Unified ID Cards can be issued;
- Advocacy to find a political and administrative solution to allow IDPs in disputed territories to obtain their identity and civil documentation;
- Advocacy to de-link security clearance and/or undergo ikhbar or tabrea'a to obtainment of identity and civil documentation;
- Advocacy to reform the legal and procedural framework to ensure barriers for parents to obtain birth certificates for their children are removed;
- Advocacy to allow children who are missing some valid identity and civil documentation to enroll in schools and participate in public exams.