



Human Trafficking in Iraq

Patterns and Practices in Forced Labor and Sexual Exploitation

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EXECUTIVE SUMMARY

Human trafficking in the form of forced prostitution and labor has long existed in Iraq, as has forced marriage and domestic servitude within the family, tribe and community. Since the 2003 invasion and subsequent civil war, Iraq has increasingly been a source of trafficking victims who are transported to neighboring countries, as well as a destination for foreign workers who are at risk of trafficking and come to Iraq from the Philippines, Nepal, Bangladesh and other countries where poverty is widespread. Furthermore, internal conflict and breakdown in law and order has resulted in a rise in kidnapping and trafficking from one location to another within Iraq.

The Iraqi Constitution prohibits forced labor, kidnapping, slavery, slave trade, trafficking in women or children, and the sex trade, and the Government of Iraq ratified the Convention on the Elimination of All Forms of Discrimination Against Women (“CEDAW”). However Iraqi government officials have overwhelmingly failed to act to prevent abuses and to punish offenders. Iraq has not passed anti-trafficking legislation, allowing traffickers to continue to operate with impunity. Research and preliminary investigations leading to the production of this report indicate that Iraqi women and girls are being subjected to the following types of trafficking: 1) exploitation of prostitution or other forms of sexual exploitation; 2) forced labor or services; 3) slavery or practices similar to slavery; and 4) servitude. There are also credible reports of trafficking-related practices such as forced participation in criminal activity. Because of the nature of trafficking, quantitative measurement is inexact even in developed nations with functioning judicial and law enforcement sectors. In Iraq, measuring the scope of trafficking is far more difficult. However, there is ample evidence of established patterns and practices of trafficking, leading to a strong likelihood that hundreds of women have been trafficked over the last five years in the Kurdistan region, and thousands elsewhere in Iraq and in neighboring regions.

In accordance with the Iraqi Constitution as well as international treaty obligations, Iraq must develop an effective national and regional counter-trafficking strategy. A comprehensive approach to combating trafficking must include prevention strategies, protection of trafficking victims, and prosecution of traffickers. This is a difficult time for Iraqis as they struggle with ongoing violence and war, as well as ongoing political restructuring in which many issues have yet to be determined. However it is also an opportune time to address trafficking and other serious human rights violations, as Iraq’s national and regional governments work to strengthen the rule of law. Addressing problems of trafficking and other forms of gender-motivated violence is integral to this process of reform.

INTRODUCTION

The global problem of human trafficking is a modern day manifestation of slavery and servitude. Trafficking is becoming one of the most lucrative transnational crimes after the illicit trade in drugs and arms, affecting a minimum estimated 800,000 to 900,000 victims globally each year.¹ Each year thousands of persons are trafficked across borders, while many more are trafficked within their own countries. Victims of trafficking are often vulnerable and are targeted due to their gender, poverty and lack of social and political power. Those living in conflict and post-conflict situations find themselves especially vulnerable to human trafficking due to the rise in crime and the breakdown in law and order resulting in impunity for perpetrators. The fact that women and girls are being trafficked in Iraq is a predictable outcome of conflict and instability, but little is being done to protect those who are currently living under conditions of forced labor or sexual exploitation, or to prevent additional women and children from becoming victims. This report documents the stories of Iraqi women and girls who have been trafficked both internally and to neighboring countries, highlighting their suffering as well as the various methods engaged in by the traffickers.

Trafficking comes in many different forms, affects individuals from around the world, and occurs in diverse sectors of the labor market, including within the institution of marriage. Chattel slavery, debt bondage and forced labor are among the most traditional and long-recognized forms of trafficking. As organized crime gangs have begun operating sophisticated transnational trafficking operations, and as the international community has become more sensitized to special risks and vulnerabilities of women and children, the definition of trafficking has expanded to include many forms of gender violence which were not initially recognized by mainstream policy makers as “slavery” or “trafficking.” The recent paradigmatic shift to include forced marriage, prostitution and domestic servitude within the definition of trafficking will hopefully bring greater attention to these deeply entrenched crimes against women and girls. Women and girls who are trafficked for purposes of prostitution and domestic servitude are believed to constitute a majority of trafficking victims in Iraq, as is the case globally.

Traffickers include family members, to members of organized crime, to government and law enforcement officials. A majority of victims of trafficking identified while researching this report were initially forced into labor or prostitution by family members and subsequently fell under the control of third party criminals. Other victims were simply kidnapped by criminals, a frequent occurrence in much of Iraq where law enforcement is either inoperable or only marginally effective. The tactics employed by traffickers include outright force and coercive means such as threats to harm victims or family members, intimidation, withholding of travel documents, or threats to report unlawful presence to immigration authorities. Many victims are lured with false promises of employment and are later trafficked when they are unable to escape. Throughout the world, women and girls comprise a significant number of trafficking victims,

¹ Estimates of the number of trafficking victims worldwide vary widely. UNICEF and IOM estimate approximately 2.5 million persons trafficked annually in 2003, and UNIFEM estimates 500,000 although this may include only women. www.unescobkk.org/culture/trafficking The US Department of State uses a more conservative estimate of 800,000 persons <http://www.state.gov/g/prm/rls/48890.htm>.

many of whom are forced to engage in forced labor, commercial sex work, prostitution, forced marriage and domestic servitude.

Iraq continues to struggle with establishing a centralized government amidst ongoing sectarian violence, and issues of establishing legitimacy and stability will continue to be a priority of national government ministries. However the violence and political uncertainty renders women and girls extremely vulnerable to sex trafficking, and requires an urgent response to prevent the catastrophic situation of trafficking in women that has resulted in other regions as a consequence of war. The interests of women and girls in avoiding the effects of war cannot be subverted to the larger national interest in re-establishing security and national reconciliation, as these issues are inextricably linked. There are important steps that can and must be taken to lay the groundwork for a more comprehensive multidimensional approach to combating trafficking in Iraq and its surrounding countries. During times of conflict women and girls are at greater risk of gender specific harms, including sex trafficking, and there is an urgent need to prevent more individuals from harm while protecting those who have already suffered. Moreover, Iraq should begin drafting anti-trafficking legislation, which will provide an important tool to effectively address this issue.

PURPOSE AND SCOPE OF THE REPORT

This report should be considered a preliminary investigation into the patterns and practices of trafficking of Iraqi women and girls. Due to resource constraints, this report primarily addresses internal and external trafficking based on information collected from sources and organizations within Iraq. A more substantial investigation into trafficking is needed, both internally within Iraq and externally in transit and destination countries. Heartland Alliance hopes to expand research and data collection both geographically and in terms of scale in the future.

The purpose of this report is threefold: 1) to bring attention to the continuing problem of human trafficking of Iraqi women and girls; 2) to identify forms of trafficking and the need for legal and social reform; and 3) to provide policy and programmatic recommendations to lawmakers, stakeholders and funders on intervention and prevention strategies that result in protection for victims and prosecution of traffickers.

In order to develop policies and programs to effectively combat trafficking, this report seeks to identify the various forms of trafficking taking place both internally and across Iraq's borders. The report discusses various cultural factors influencing the scope and nature of trafficking in Iraq, and examines Iraqi laws and customs to determine how they harm or support victims. Additionally, the report describes limitations and opportunities provided by current laws and law enforcement practices that can be used to identify and prosecute traffickers in the absence of a more comprehensive Iraqi anti-trafficking law. There are a number of women's organizations providing protective social and legal services to victims of gender-based violence, including victims of trafficking.² The report discusses the existing capacity of non-governmental

² Services for victims of gender-based persecution vary regionally within Iraq. Service availability and legal protections for women are far more developed within areas administered by the Kurdistan Regional Government (KRG), and therefore many of the cases of trafficking reported in this document come from Kurdish organizations and sources. However, many women's organizations provide essential services and protect women in Baghdad,

organizations to respond to the needs of victims, and the need to build the capacity of these organizations to address the unique needs of trafficking victims.

This report was developed within the framework set forth under the Trafficking Protocol to Prevent, Suppress and Punish Trafficking in Persons,³ especially Women and Children (“Trafficking Protocol”) and the United Nations Convention Against Transnational Organized Crime (“Transnational Crime Convention,”) both of which are discussed below. The report concludes with recommendations to achieve protection for victims, prosecution of offenders, and strategies to prevent further trafficking of Iraqi women and girls.

INFORMATION SOURCES

In September 2006, Heartland Alliance conducted a training seminar on human trafficking for its own staff and for non-governmental human rights and women’s organizations. Participants were trained to identify trafficking cases, including those of a more traditional nature such as forced marriage and exchanging or selling women or girls for debt relief or dispute resolution. Despite training on how trafficking is defined, and how to distinguish between trafficking and other crimes, much of the anecdotal information transmitted by staff and partnering organizations indicated that more extensive training is needed.⁴

The authors relied on primary sources from within Heartland Alliance’s existing programs, as well as partnerships with Iraqi human rights and women’s organizations.⁵ Heartland Alliance and Iraqi NGO staff interviewed trafficking victims, police and judicial authorities. Heartland Alliance and partnering Iraqi NGOs encountered victims of trafficking through initial investigations and through the course of working in ongoing health care and legal programs. Heartland Alliance’s attorneys also encountered cases of women trafficking victims detained in prisons in Kirkuk and Erbil. Some case histories were obtained by interviewing women’s organizations staff members who had encountered cases of trafficking, particularly of the more traditional nature, through the course of their work. Due to the sensitive nature of human trafficking, identifying information about individual victims has been withheld. Some material

Basra and other major urban areas. The relatively larger number of trafficking cases examined which originated within the KRG should not be interpreted to mean that trafficking is a greater problem in the KRG than in other areas of Iraq. Rather, the preponderance of Kurdish cases reflects sampling bias due to better security and greater availability of women’s organizations, enabling direct interviews.

³ The Trafficking Protocol supplements prior treaties, which were consolidated in the 1949 Convention for the Suppression of Traffic in Persons and of the Exploitation of Prostitution of Others (“1949 Convention”). The 1949 Convention was not widely ratified, and had various shortcomings including the lack of a definition on trafficking. It also failed to distinguish between voluntary and forced prostitution, and lacked law enforcement mechanisms to punish offenders.

⁴ Heartland Alliance international staff with experience in human trafficking reviewed all cases and case notes used in the preparation of this report.

⁵ Heartland Alliance currently implements program activities in eleven Iraqi Governorates, but has little operational presence in neighboring countries. Currently, health and human services activities are being implemented in the following governorates: Sulaimaniyah, Erbil, Dohuk, Ninewah, at-Tammim, Diyala, Basra, Maysan, Dhi Qar, Najaf, and Karbala. People’s Aid Organization was instrumental in providing information from Kirkuk, Mosul, Baghdad and assisted in compiling information from Iraqi Kurdistan. Asuda assisted in providing information on the life histories of women convicted of prostitution, including victims of trafficking. Iraqi NGOs and individuals provided information from Baghdad, Basra, Kirkuk, and Mosul.

presented in this report is secondary, compiled from published articles and reports on trafficking in the Iraqi or international media.

LIMITATIONS AND CONSTRAINTS

There are a number of constraints on identifying and protecting Iraqi women and girls who are victims of human trafficking. These constraints include both barriers to identification of victims on the part of law enforcement or human services professionals, and barriers to self-identification or disclosure on the part of victims. Very few Iraqi law enforcement personnel, NGOs or government officials recognize human trafficking as a phenomena or a crime. Without any conceptual framework for understanding human trafficking, law enforcement or human services professionals usually perceive individual cases as prostitution, kidnapping, labor exploitation, or even private family relations outside of the scope of law enforcement or government regulation. Most victims are isolated, fear retaliation, and have difficulty discussing culturally taboo subjects, particularly those involving criminal sexual activity. In addition to being trafficked, many Iraqi victims face the possibility of honor killings if their families discover that victims have been raped or forced into prostitution. In many cases, they have been trafficked by family members.

Barriers to Reporting: National and Sub-National Governments

Trafficking in persons, particularly that involving women and girls, is low on the priorities of the Iraqi government, which continues to confront the ongoing war-related and sectarian violence that threatens to undermine and destabilize the central government. In northern Iraq, the Kurdistan Regional Government (KRG) is also focused on security-related concerns, as well as constitutional questions of autonomy. The deteriorating security situation in most of the rest of Iraq further impedes the collection of reliable data on trafficking in Iraq. Civilian populations in parts of the country are routinely subjected to violence inflicted by criminal gangs, religious extremists, insurgent groups, and security and military forces.⁶ Kidnappings are frequent; many are presumed to be the result of ethnic cleansing or retribution, but others occur for purposes of collecting ransom or direct sale of individuals for purposes of prostitution or other forms of forced labor. Regardless, the motivations and purposes for most kidnapping cases are unclear, and the availability and reliability of official reporting is low.

Because human trafficking is not a specific crime under Iraqi law, government ministries and agencies have no mechanisms in place to monitor and document human trafficking cases. Data collection and statistical analysis in the Ministry of Interior and the Ministry of Justice is not highly developed, and information on trafficking-related cases such as prostitution or kidnapping is often inaccurate. Human trafficking is also widely misunderstood to be smuggling, placing additional constraints on gathering reliable data, as most border crossings do not collect statistical or qualitative information on persons leaving for neighboring countries. There are few enforcement mechanisms to monitor and regulate labor and employment contracts, resulting in impunity for traffickers and lack of information on labor trafficking.

⁶ U.N. Assistance Mission to Iraq (“UNAMI”) Nov./Dec. 2006 Report. It is estimated that approximately 90 civilians are killed daily in Baghdad due to sectarian violence and general criminal lawlessness.

Outside of the KRG, militias and criminal gangs have infiltrated some units of the Iraqi security forces as well as many divisions of law enforcement and government ministries. These problems are especially acute in Baghdad, Basra, Mosul, and in areas with high levels of sectarian or tribal conflict, such as Diyala and Maysan Governorates. The resulting culture of impunity and inability of law enforcement to protect Iraqis from violence has contributed to the reluctance of Iraqis to report criminal activity, including human trafficking.

Barriers to Reporting: Fear, Honor and Shame

One of the greatest barriers to reporting criminal activity among women and girls is the existence of deeply rooted cultural notions of honor and shame. Family honor is fiercely protected in Iraqi society, and it is localized in women's bodies and sexuality. Women who transgress rigid sexual norms are viewed as having dishonored their families. The family is still stigmatized in cases where women have been forced to engage in unacceptable behavior, and the resulting shame leads to silence by the family or in some cases, the killing of the woman. In cases where abuses are perpetrated by the family, such as in cases of forced marriage and prostitution, there is no will to report either because the behavior is not viewed as criminal, or the family does not want to implicate its members. Victims are reluctant to report abuses inflicted by their family members, because they fear further abuse, loss of their children, poverty and homelessness, and being implicated in criminal activity.

These cultural beliefs result in a pervasive pattern in which victims are often blamed for being responsible for crimes such as rape or attempted honor killings, and are therefore treated abusively by the general public, investigators, police and judges. Iraq's laws and criminal justice system are inherently discriminatory against women, discouraging women from reporting criminal activity. For example, domestic violence is not criminalized in Iraq, and women are the only individuals ever charged or convicted of committing adultery despite the fact that the law itself is gender neutral. Iraqi law enforcement has limited ability to enforce the criminal laws in more remote villages and rural areas where tribal laws and codes predominate, impeding the ability of women living far from urban centers to seek assistance from law enforcement.

Terminology

Throughout Iraq as in many places where the issue of trafficking is newly being addressed, there is a lack of understanding about what "trafficking" is, and how to distinguish it from other criminal activity such as voluntary prostitution or smuggling. At a recent conference, one speaker's use of the term "trafficking" was translated as "smuggling."⁷ The phrase in Kurdish and Arabic that most closely resembles the English equivalent is "trading in persons." When discussing trafficking with those unfamiliar with the concept, it is important to explain what trafficking is by providing examples of trafficking and distinguishing it from other criminal activity. Accompanying this lack of awareness is a denial that trafficking exists, particularly within specific localities. Iraqi Kurds for example are quick to point to trafficking of Kurdish women to Egypt during the Anfal campaign, but routinely deny the trafficking of foreign women into Iraq, or the internal trafficking of Kurdish women.

⁷ Ministry of Human Rights, Erbil, March 2007

TRAFFICKING DEFINED

Iraq

Trafficking in persons is prohibited under the Iraqi Constitution. However neither national nor KRG legislators have yet drafted a legal definition of trafficking or passed anti-trafficking laws.

International Definition

Before 2000, there was no internationally accepted definition of trafficking, although it was generally recognized as a serious violation of human rights. The lack of an internationally agreed upon definition impeded assistance to victims due to a lack of consensus on what constituted trafficking. Recently however, states have begun to link trafficking to key transnational concerns including migrant smuggling and organized crime. Trafficking in persons encompasses longstanding traditional practices as well the growing transnational crime akin to modern day slavery. It is difficult to develop a single definition that addresses the global and particular regional and local practices that can be characterized as trafficking. An international definition can more easily address the global nature of trafficking, while each State should develop counter-trafficking laws to address local and regional trends and patterns of trafficking.

The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (hereinafter “Trafficking Protocol”) was adopted by the United Nations General Assembly in 2003. The Trafficking Protocol supplements and must be read in conjunction with the United Nations Convention Against Transnational Organized Crime (hereinafter “Crime Convention”) which was the first convention against international crime. The Trafficking Protocol provides an international framework for combating transnational trafficking, and is the first international document to define trafficking, to recognize the global nature of the problem, and to take a global approach to protecting victims and punishing offenders.

The Trafficking Protocol defines trafficking as:

- The recruitment, transportation, transfer, harboring or receipt of person (*the method*);
- By means of the threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim (*the means*);
- For the purposes of exploitation, which includes (*the forms*): 1) exploitation of prostitution or other forms of sexual exploitation; 2) forced labor or services; 3) slavery or practices similar to slavery; 4) servitude; and 5) the removal of organs.⁸ (*emphasis added*)

⁸ See Trafficking Protocol Art. 3, subpara (a).

Consent under the Trafficking Protocol is irrelevant where the above conditions are met.⁹ Children, defined as persons under 18-years of age, are trafficked if they are recruited, transported and so forth, even if the means identified above do not exist.¹⁰

For states drafting national counter-trafficking laws or strategies to prevent trafficking, the international definition provides guidance on the elements of trafficking that should form a basis for designing prosecution, protection and prevention strategies. States should draft laws tailored to the culture and traditions of the particular country and region. However, this does not mean that States should employ arguments of cultural relativism to excuse and ignore traditional practices that should also be understood as trafficking. Although U.S. law cannot and should not be considered appropriate within the Iraqi context, the Victims of Trafficking and Violence Protection Act (VTVPA) of 2000 does provide additional insight into distinguishing between trafficking and other crimes. The VTVPA defines trafficking more broadly than the Trafficking Protocol, focusing on “forced labor” as the defining element of trafficking. It also more specifically defines other types of coercion including the abuse of the legal system and threats of harm to family members.¹¹

Distinguishing Trafficking From Other Crimes

Human trafficking is often confused with other crimes such as smuggling, labor exploitation or abuse, and prostitution. Although it is true that trafficking cases often involve other criminal activity, the presence of those factors alone does not necessarily mean that the person is trafficked. One essential test of trafficking is whether the victim is free to leave employment, or is being forced or coerced by the perpetrator to continue the activity. The coercive factors required to establish a trafficking case are frequently confused with issues of economic hardship and social exploitation such as sexual harassment.

People frequently confuse trafficking with illegal smuggling which is the facilitation, transportation, attempted transportation, or illegal entry of a person across an international border in violation of one or more countries’ laws, either clandestinely or through deception, such as by the use of fraudulent documents. Smuggling in persons is a crime involving the facilitation of illegal entry into a state; whereas trafficking is a crime against the person and a violation of human rights. Smuggling deals with the protection of borders, and the aim of smuggling is not to exploit a person but to facilitate illegal entry and residency. Individuals who are smuggled

⁹ See Trafficking Protocol Art. 3, subpara. (b).

¹⁰ See Trafficking Protocol Art. 3, subpara. (c).

¹¹ The VTVPA distinguishes between “forced labor” and “sex trafficking.” Pursuant to the VTVPA, “forced labor” is defined as knowingly providing or obtaining the labor of a person:

1. by threats of serious harm to, or physical restraint against, that person or another person;
2. by means of any scheme, plan or pattern, intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or restraint;
3. by means of the abuse or threatened abuse of law, or the legal process for purposes of subjecting the person to involuntary servitude, peonage, debt bondage or slavery.¹¹

The crime of “sex trafficking of children or by force, fraud or coercion,” is defined under the VTVPA as:

1. in or affecting interstate commerce, recruiting, enticing, harboring, transporting, providing or obtaining by any means a person; or benefiting, financially or by receiving anything of value, from participation in a venture which has engaged, in an act described in paragraph 1, knowing that force, fraud or coercion, will be used to cause the person to engage in a commercial sex act,¹¹ or that the person has not attained the age of 18 years. See 18 USCA § 1591.

into another country are not trafficked unless there is also some form of coercion to engage in forced labor or commercial sex in accordance with the above definition. Smuggling alone does not rise to the level of trafficking, however many individuals who are smuggled are later trafficked, often with the justification that they must pay off their debt (peonage/debt bondage). In a trafficking case, a victim might agree to be smuggled across an international border, yet once smuggled, the individual may then be trafficked.

Voluntary prostitution and other commercial sex work are also frequently confused with sex trafficking, particularly because forced prostitution is a common form of trafficking in Iraq and elsewhere. KRG officials and staff of women's organizations repeatedly described cases where women turned to prostitution due to economic hardship as examples of trafficking. Women are stigmatized and blamed for immoral behavior if they engage in prostitution, regardless of whether they were forced by others or compelled by economic necessity, although this distinction is central in identifying cases of human trafficking.

PATTERNS AND TRENDS

Address the problem of trafficking in Iraq requires an understanding of migration patterns, as well as the forms, methods and means of trafficking. Iraq is a source and destination country for trafficking. There were no reported cases indicating that Iraq is a transit country, although this could change in the future. The Iraq war has caused over 2 million refugees to flee, primarily to Syria and Jordan, a displacement identified as the largest displacement of people in the Middle East since the 1948 flight of Palestinians, or the temporary displacement of approximately 4 million Iraqis after the collapse of the 1991 uprisings. Recent estimates of internally displaced persons elsewhere in Iraq number as high as two million.¹² As many as a quarter million Iraqis have fled from central and southern Iraq to areas under the administration of the KRG¹³

The Means Used to Traffic Persons

Traffickers employ various means including the threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim. Once the victims are under the control of the traffickers, the latter also utilize these means to maintain power and control over the victim. Outright force includes abduction and kidnapping, rape and sexual assault, physically detaining the person, beatings, and torture inflicted on the person to force compliance. Women and girls forced into prostitution are often beaten and raped if they refuse to cooperate. Human Rights Watch interviewed victims of

¹² The UN Cluster on Refugees, IDPs and Durable Solutions, of which IOM is the deputy coordinator, estimates that the number of Iraqis displaced by violence since the bombing of the Al-Askari shrine in Samarra in late February 2006 has now increased to almost 800,000 individuals. This figure, combined with the 1.2 million individuals who were internally displaced before February 2006 brings the total number of internally displaced to almost 2 million." <http://www.reliefweb.int/rw/RWB.NSF/db900SID/RMOI-728MWY?OpenDocument>

¹³ The KRG Ministry of Extra-Regional Affairs estimates that approximately 140,000 IDPs have entered the KRG as of March, 2007, most of them of Arab ethnicity. However, up to 100,000 family relatives, many of them from Baghdad and Mosul's Kurdish and Christian communities, have moved in with family members over the last five years, and are neither recorded by KRG officials or counted in this total.

sexual violence and law enforcement and found that incidences of violence against women increased almost immediately following the start of the war.¹⁴

Threats and intimidation often include threats to inform the family of the girl's conduct which will be viewed as shameful, threats to report unlawful immigration status or document fraud to the authorities, and threats to harm or kill the victim or her family members. Withholding of travel documents is a commonly employed tactic to ensure that victims outside their country of origin cannot travel, and have no documents to prove their identity.

Deceptive practices are common among traffickers who gain the trust of victims and facilitate travel across international borders by luring them with promises of employment, marriage, adoption or other benefit and then trafficking persons once they reach their destination.

All of these means have been used to traffic persons internally as well as into and out of Iraq.

Internal Trafficking

Displacement and civil instability during the last three decades, combined with poverty during the sanctions regime forced many women into prostitution, and created a market in which some women were certainly coerced by threats or violence, many of them by family members. There are credible reports that Kurdish women were trafficked into commercial sex work by the Iraqi military during the Anfal campaign of the late 1980s, and women who were displaced following the 1991 uprising in southern Iraq have been arrested for prostitution in the KRG. Through interviews and a review of existing research and reports, it was determined that the following forms of trafficking currently occur in Iraq: exploitation of prostitution or other forms of sexual exploitation; forced labor or services; slavery or practices similar to slavery; and servitude.

Exploitation of prostitution

One of the leading forms of trafficking in Iraq is forced prostitution of individuals. Prostitution is illegal in Iraq, and a significant proportion of women who make up the female prison population include those convicted of engaging in prostitution. Coercion is not a defense under Iraqi law, and there have been reports that a number of women detained for prostitution offenses were coerced. One particularly common pattern involves male family members who force female relatives into prostitution and profit commercially. These men may avoid criminal liability because of the traditional reticence of law enforcement to become involved in family matters, no matter how egregious the violation. Women and girls also risk being trafficked for purposes of prostitution from central and southern Iraq to the KRG, and from Baghdad to Kirkuk or Basra.

An Iraqi women's organization collected case histories and administered a brief structured interview questionnaire to 36 women arrested for engaging in prostitution.¹⁵ Six of the 36 women or 17% were trafficked into prostitution; four reported being initially forced into

¹⁴ "Climate of Fear: Sexual Violence and Abduction of Girls in Baghdad," Human Rights Watch, Vol. 15, No. 8 (E), July 2003.

¹⁵ Interviews were conducted by Asuda and Khanzad in summer, 2006

prostitution by a parent (one respondent was from Baghdad and the rest from northern Iraq), and two reported that their husbands forced them to participate in prostitution.¹⁶ The families or husbands of 29% of the women had abandoned them or forced them from home, leading to initial recruitment into prostitution.¹⁷ One woman from Kirkuk reported being transported to Sulaimaniya by a trafficker. The women had been involved in prostitution for an average of 4 years, and 20% of them first engaged in prostitution as minors – in one case, at age 12. Few saw any alternative possibility for employment or possibility of leaving, although only 11% would continue in prostitution if other sources of income were available. Although the case histories do not provide sufficient information to definitively identify more than 17% of women in this sample as victims of trafficking, only 14% of the women described their initial involvement in prostitution as “voluntary”. Heartland Alliance believes that this particular sample underestimates the prevalence of trafficking, as sampling bias favored Sulaimaniyah residents with repeated arrests and who were classified as “known prostitutes.” Anecdotal information suggests that most trafficking victims are not “known prostitutes” resident in one location for long periods of time, but rather are transported from one region to another. Furthermore, most trafficking victims are also younger than the average age of 32 in this sample.

During the period 2000 to 2005, the Sulaimaniya police department recorded 1038 arrests of women, of which 228 had been for prostitution including 33 who had been “forced.”¹⁸ The actual number of trafficking cases may be higher, as the police are not trained to recognize trafficking or screen for coercion or force. Another women’s organization, which provides legal and medical services to detained women in a female detention facility in the north, stated that in 2005-2006, 160 women were arrested for prostitution related offenses.¹⁹ Of the 160 women, 28 cases involved women who were trafficked into prostitution. Coercion or force is not a defense to trafficking, and all of these women were convicted of engaging in illicit prostitution. The case histories and Sulaimaniyah police statistics illustrate that even in stable communities removed from the present conflict, approximately one woman in five involved in prostitution falls within a legal definition of victims of trafficking. Heartland Alliance has been unable to obtain similar statistics from urban areas outside of the KRG, despite requests to the Ministry of Interior for statistics on Baghdad, Kirkuk and Mosul.

In central and southern Iraq women are increasingly vulnerable to sexual violence including forced prostitution. The Ministry of Interior in Baghdad estimated that up to 5,000 women and girls have been subjected to sexual violence such as rape and forced prostitution. The informant noted that most kidnap victims were either transported out of the country or forced into prostitution in Baghdad, particularly in the al-Baia’ and al-Baytwayn locations, which are known

¹⁶ The women’s organization conducting the study created a survey that was not well designed or implemented and is therefore limited in its utility. However while the data is anecdotal, it is useful to show that there are women who are arrested and convicted for prostitution who are in fact victims of sex trafficking. The number of women trafficked in the sample is probably higher and respondents would have likely answered questions differently if the questions had been asked in a confidential manner, or had been phrased differently.

¹⁷ The case histories are insufficiently detailed to determine whether any of the women in this category were forced into prostitution secondary to having lost family support. However, anecdotal information from other trafficking cases indicates that women who are forced from home are at high risk of being trafficked.

¹⁸ These data were released by the Ministry of Interior in Sulaimaniya to Heartland Alliance national staff in April, 2006. The Ministry of Interior did not specify what criteria police used for determining force.

¹⁹ Khanzad Organization, Erbil, personal communication

for prostitution.²⁰ The Woman Freedom Organization, an Iraqi NGO in Baghdad, estimates that 2,000 women had been kidnapped between 2003 and March, 2006.²¹ The following case histories illustrate examples of exploitation of prostitution, or “sex trafficking”.

- In June 2006, five women from Kirkuk were recruited to work in a tomato paste factory in Diyana, located in northern Erbil governorate near the Iranian border. The women were between the ages of 17 and 25. All were of Arab ethnicity and originally from southern Iraq. A Kurdish woman from Kirkuk recruited them, promising salaries and a place to live. Upon arrival in Diyana, they were held in a house, beaten, and forced to engage in sex. Two months later, local police raided the house. The woman who owned the house was arrested; but the male co-conspirators escaped. The woman is currently in jail, and she has informed police that she worked for a network of sex traders in Kirkuk, and her business was not an isolated operation. She is being charged with operating a house of prostitution, a minor crime compared to kidnapping or assault. The victims of trafficking were not charged with any crime, as the police agreed that their participation was not voluntary. However, they were not offered any services, assessed for safety, or offered protection. They were simply released, and they left the KRG before any Heartland Alliance staff members were able to interview them.²²
- In October 2006, 20 women were briefly detained during a police raid on a house of prostitution in Dokan Tourist Village, in Sulaimaniyah Governorate. All of the women were Arab women, mostly from southern Iraq. They had not been allowed to leave the building in which they were housed. The proprietors of the establishment were arrested on prostitution charges, but the women were released without safety screening, before any determination could be made whether their participation in prostitution was voluntary. They fled the region immediately. The police conducting the raid believe that at least some of the women were coerced and were therefore likely to have been victims of trafficking.²³

Prostitution of minors

The prostitution of minors falls within the definition of trafficking under the Trafficking Protocol, regardless of whether coercive means set forth in the definition are employed.

- Two years ago a 13-year old girl was brought to a women’s shelter in northern Iraq when a man reported to the police that her father was selling her into prostitution to support his gambling addiction. The girl’s mother died when she was 9-years-old, and soon after her father began forcing her to have sex with men, including men to whom he owed money. One such man contacted the authorities because he disagreed with what the father was doing. In this case the authorities arrested the father, and

²⁰ Personal communication with Major Sherzad of the Iraqi National Police, June 2006, currently residing in Kirkuk. He was responsible for investigating kidnappings and organized crime from 2003 through early 2006.

²¹ IRIN 12 March, 2006 > http://iwpr.net/index.php?apc_state=henpicr&p=icr&s=m&o=-

²² Sources – interviews conducted by Salah Sadiq in Diyana, Iraqi Kurdistan; also reported in Hawlayati

²³ Interviews by Heartland Alliance staff Salah Sadiq, October 2006

took the girl to the shelter. But at some point she left the shelter and was believed to have returned to her home. The social worker at the shelter stated that the girl may have forgiven her father and returned to him upon his release.²⁴

- Safah, a 14-year old girl from Baghdad was placed in an orphanage by her grandmother after the death of her parents. While at the orphanage, Safah befriended a nurse, who promised to adopt her. The nurse circumvented normal adoption procedures by convincing Safah to feign illness. Safah was rushed to the hospital and was then kidnapped by the nurse and taken to a house in Karada, a middle-class district in Baghdad where she was beaten, tortured and verbally assaulted. Safah alerted a neighbor when she discovered she was to be sold to a man in Dubai for \$10,000. Safah, the nurse and others in the house were arrested during a raid, and for six months Safah was detained in the same jail as the nurse from the orphanage. Eventually Safah was returned to the orphanage, where she soon discovered that the nurse was also to be released from prison.²⁵

Slavery and practices similar to slavery

Marriage is defined as a “formalized relationship with legal and/or social standing between individual men and women, in which sexual relations are legitimized and as an arena for reproduction and child rearing which has state recognition.”²⁶ Families arrange most marriages in Iraq, and the woman’s input or consent is either encouraged or permitted to varying degrees. Women from wealthier and more educated families tend to have greater control over decisions regarding choice of a husband, and in some cases men and women meet on their own through school or work and marry with the approval of their families. However, women and girls may be forced to marry to cement familial ties or for debt relief, and women continue to be exchanged in marriage often to settle disputes. While such practices are more commonly found in rural areas and villages, this is not always the case. Forced marriage may be considered a form of human trafficking if all of the elements of the trafficking definition under the Trafficking Protocol are established. Certainly, this is the case for a proportion of forced marriages in Iraq.

Women’s organizations operating in northern Iraq encounter many cases where women and girls are threatened with honor killing for running away from forced marriages. If these women have informed their families that they choose another potential spouse, they are often assumed to have engaged in illicit sexual activity, increasing the likelihood that they will be killed.

²⁴ Interviews by Salah Sadiq and Sherizaan Minwalla with Asuda, as part of a Heartland Alliance funded project.

²⁵ “Stolen Away,” Bennett, Brian, TIME MAGAZINE, April 23, 2006.

²⁶ The following International Conventions make reference to the rights of women and girls regarding marriage: UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, Art. 1(C)(I), 2; Recommendations on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, Principle II, Art. 1; Covenant on Economic, Social and Cultural Rights, Art. 10, 12, 13; Convention on the Rights of the Child, Art. 12, 24, 28; International Convention on Civil and Political Rights, Art. 23 (3)(4); Universal Declaration of Human Rights, Art. 16(1)(2)(3); Convention on the Elimination of All Forms of Discrimination Against Women, Art. 16(1)(a-d)(2); Plan of Action for the Elimination of Harmful Traditional Practices Affecting the Health of Women and Children, (29-37). (Compiled by the Forum on Marriage and the Rights of Women and Girls, “Early Marriage: Whose Right to Choose?”, May 2000.

- Heartland Alliance’s lawyer in Diyana recently encountered a case in court involving a young woman who was betrothed at birth to her cousin. She refused to marry this individual and she went to court to request that the judge allow her to get out of the marriage contract. The judge agreed that this woman should not be forced to marry one of her relatives, however sometimes the power of the judiciary is limited in more remote areas. In this case, the Mullah from her village informed the judge that he supported the marriage contract and that it should be upheld. The family of the man threatened the woman with violence if she refused to comply with the agreement. Heartland Alliance’s attorney attempted to follow up with the case once it came to his attention, but it appears that the woman gave in to the pressure from both families, and that the court was unable or unwilling to prevent the marriage.²⁷

Servitude

Although not specifically defined under international law, forms of servitude include sexual and domestic servitude. Sexual servitude is where an individual is in a situation of ongoing or perpetual rape and sexual abuse. Forced marriage is also a form of sexual and domestic servitude, as women frequently find themselves subject to ongoing rape and sexual abuse, and are required to work long and difficult hours cooking and cleaning for an extended family.

- An Iraqi Kurdish woman in her 20s fled to a domestic violence shelter to get away from her abusive husband whom she had been forced to marry. She lived with her husband and his family where she suffered rape and sexual abuse and was severely beaten almost daily. The social workers at the shelter mediated between the woman and her husband, and insisted that he rent a separate dwelling for them to live if she were to return home. The husband rented a place and they lived for a couple of months, but then moved her back into his family’s home where the abuse resumed. This woman was made to cook and clean for the family who beat her and forced her to sleep on the kitchen floor without a mattress. She again fled to the shelter where arrangements were made to return her to her natal family, an arrangement she previously avoided due to their poverty and difficulty caring for her.

Trafficking related practices – coerced participation in criminal or terrorist activity

In Iraq’s uncertain and violent political environment, armed militia and insurgents have been implicated in kidnapping and trafficking as a means of raising revenue or coercing participation in acts of violence. Victims of trafficking may be forced to perform actions against their will in support of criminal or terrorist activities.

- In April 2006 a woman was interviewed for a story on trafficking in Iraq. Amna, an 18-year old woman, stated that she was abducted from an orphanage by an armed gang and was forced to engage in prostitution in brothels in Samarra, Al-Qaim—on the border of Syria and in Mosul. She was then drugged, fitted with a suicide belt, and sent to bomb a cleric’s office in Khadamiyah. She turned herself into the police and was sentenced to serve a seven-year jail term at the Khadamiyah Women’s Prison north of Baghdad. The director of the prison stated that the judge felt that in giving her such a long sentence, he was doing her a favor by protecting her against the traffickers.²⁸

²⁷ Personal communication, Heartland Alliance legal office, Diyana, Erbil Governorate, KRG - January 2007

²⁸ “Stolen Away,” Bennett, Brian, TIME MAGAZINE, April 23, 2006.

- In 2005, the Shaykh Zana group in Erbil coerced seventeen young women, most of whom were minors, into prostitution by surreptitiously videotaping them in compromising situations with men who were part of his group. The men then confronted the young women and threatened to disclose the videotapes to their families if they refused to cooperate. In Kurdistan, such a disclosure would likely result in an honor killing or at minimum, severe family violence. The group then forced the women to either participate in prostitution in order to raise funds for the group, or to provide information on individuals targeted by the group. Additionally, at least two men were videotaped engaging in homosexual acts, and similarly coerced. Kurdish security forces captured Shaykh Zana and the videotapes. Shaykh Zana and six other members of the group were executed. The young women remain incarcerated in a special security jail, and are inaccessible to attorneys or local NGOs.²⁹
- Heartland Alliance is currently working with the KRG Minister of Human Rights to have charges dropped against an Iranian refugee woman in Diyana, who was forced by her husband and his family to transport opium across the border under threat of death.³⁰
- Security officials in Kirkuk arrested members a kidnapping ring that had abducted individuals from Baghdad and held them in a house in Kirkuk while demanding ransom payments. The leader of this group is alleged to have forced a woman to ride with him in the front of his pickup truck to reduce suspicions at checkpoints, and permit him to pass unimpeded between Baghdad and Kirkuk. Kidnap victims were bound and concealed under vegetables in the back of the truck. The case is still under investigation, but authorities suspect that the woman captured as part of this ring had been coerced under pain of death to participate.³¹

Women being held in pre-trial detention, including victims of trafficking arrested for prostitution or coerced participation in crimes, may face further abuse while awaiting trial. Pre-trial detention exceeding six months is common in Iraq, and many detention facilities outside of the KRG employ only male guards and staff, increasing the potential for abuse. Approximately 200 women were being held in Khadamiyyah Jail in Baghdad in 2006.³² Heartland Alliance and Asuda have monitored women's jails and pre-trial detention facilities in Kirkuk and the KRG, but to Heartland Alliance's knowledge, no organizations are conducting routine monitoring of women's jails elsewhere in Iraq.³³

Labor Trafficking

As economic and security conditions deteriorate in much of Iraq, many Iraqi men have migrated to safer areas in order to seek employment. Most of these individuals are moving for multiple

²⁹ PAO conducted an interview with one of the prosecutors in the Shaykh Zana case. Additionally, a professor of sociology at Salahaddin University conducted interviews with members of Shaykh Zana's group and obtained corroborating information. Heartland Alliance met with Hakim Tariq, General Director of Interior for Erbil Governorate, who would neither confirm nor deny this information.

³⁰ This woman is currently being represented by Heartland Alliance attorney Razaw Ahmed.

³¹ Personal communication to Scott Portman and Salah Sadiq, Heartland Alliance office. Informant wishes to remain anonymous. December, 2006

³² IRIN 12 Mar 2006 Woman Freedom Organisation http://iwpr.net/index.php?apc_state=henpicr&p=icr&s=m&o=-

³³ Monitoring of women's jails in the KRG uncovered one case in which male guards sexually assaulted a woman being transported to court. The woman refused to file a formal complaint, but the matter is being investigated by the Ministry of Human Rights, which is advocating to assure that women prisoners are always accompanied by at least one female guard.

reasons, fleeing armed conflict or threats against themselves or their families, and relocating in an effort to find employment. Wages in the Kurdistan are approximately 150% to 200% of wages elsewhere in the country, and the more stable cities in the KRG are experiencing a construction boom.³⁴ Day laborers from elsewhere in Iraq are migrating into the area. The passport and residency office in Sulaiymaniya registered 6,000 Iraqi nationals from outside the KRG who had migrated for labor in April 2006.³⁵ Due to time and resource constraints, Heartland Alliance did not conduct a thorough assessment of labor law or conditions for construction workers or agricultural laborers. However, it is likely that some migrant laborers from within Iraq have been subjected to coercion, threats or force in association with labor contracts.

Iraq as a Country of Origin

Iraqi women and girls are being trafficked to neighboring countries at an increasingly high rate following the 2003 U.S. led invasion. The U.S. State Department estimated that an unknown number of Iraqi women and girls who were victims of sex trafficking were sent to Yemen, Syria, Jordan and Persian Gulf countries.³⁶ The continuous flow of asylum seekers and economic migrants during the 1990's created conditions where those fleeing the country could easily be exploited. It is likely that a significant number of Iraqi women and girls are either trafficked into Turkey, or are smuggled and later trafficked.³⁷ The Organization for Women's Freedom in Iraq (OWFI), based in Baghdad, estimated that as many as 2,000 to 3,500 women and girls have gone missing since 2003, and that approximately 25% of these women were unknowingly trafficked abroad.³⁸ In one case five European countries successfully thwarted a criminal network that was trafficking Iraqi nationals to Turkey, Greece, Italy, France and the United Kingdom for sexual exploitation within the EU.³⁹

Neighboring countries to which Iraqi women and girls are trafficked have no laws criminalizing trafficking,⁴⁰ or if they do, they are rarely enforced.⁴¹ Thus, traffickers often operate with impunity while victims risk being apprehended for crimes of prostitution, terrorism, drug trafficking, document fraud and unlawful presence in neighboring countries. Consequently, victims fear contacting law enforcement because they fear not only retaliation, but possible criminal charges and deportation.

³⁴ Day labor rates in Suleymaniya are approximately 15,000 ID per day for semi-skilled construction workers; in southern Iraq and Baghdad, day labor rates are between 8,000-10,000 ID per day. Interviews with Shwan Fuad, interviews in Sulaimaniyah Market, and personal communication with Haitham Mahmoud - December 2006

³⁵ Amanj Khalil - *Arab Labourers Flock to Kurdistan* - Institute for War and Peace Reporting, (ICR No. 172, 13-Apr-06)

³⁶ 2005 U.S. State Department Iraq Country Report released March 6, 2006.

³⁷ One asylum seeker interviewed by a Heartland Alliance staff member left Baghdad with his sister and transited Iraqi Kurdistan and Turkey in 1999. In Turkey, the smugglers tricked him into concealing himself a hidden compartment, and sent him to Greece, but kidnapped his sister. She has not been seen or heard from again, and the family assumes that she is either dead or forced into prostitution.

³⁸ "Stolen Away," Bennett, Brian, TIME MAGAZINE, April 23, 2006.

³⁹ U.S. State Department Country Report 2005, released March 8, 2006.

⁴⁰ Only Dubai and Turkey have passed anti-trafficking legislation. Syria, Jordan, Yemen, Saudi Arabia have yet to pass laws specifically designed to criminalize trafficking.

⁴¹ To date Turkey has not convicted anyone of trafficking, and of the thousands of trafficking cases annually occurring in Dubai, there have only been 22 convictions.

Exploitation of prostitution

Heartland Alliance and collaborating NGOs identified multiple cases in which women were being trafficked into prostitution and other commercial sexual activity from Iraq into neighboring countries.

- One Syrian national and two Iraqi nationals were arrested in October 2006 in the Domiss (Almaz) Quarter of Kirkuk for purchasing 13 Arab girls and young women for transportation to Syria. Most of the victims were from Baghdad or southern Iraq, and had been transported to Kirkuk. They were allegedly prostitutes, and some were minors, but they were not screened and there is no information on their names, ages, origin, or extent to which their participation in prostitution in Kirkuk was voluntary or forced. The girls were purchased for \$3,000 each. The young women told the police that they were unaware that they were going to be transported to Syria until after the police captured the Iraqi men and informed them that they had been sold to a Syrian. The men were charged with facilitating prostitution, and transported by Kurdish authorities to Sulaimaniya. The women were released and fled the area before they could be interviewed.⁴²
- Unknown assailants kidnapped a female college student as she went home from al-Mustansiriyyah University in fall 2005. The victim was aged 22 and originally from Karbala. Her kidnapers raped her and then sold her to a trader who took her identity document and transported her to Basra, preparing to send her to the United Arab Emirates. While in Basra, the student was forced to participate in prostitution as the trafficker waited for a false passport in order to transport her out of the country. However, police arrested the victim. Fearing that her family would kill her to cleanse the family's honor, she provided a false name and story, insisting that she was a Christian from Baghdad. A woman from al-Firdous Association visited the jail and gradually the young woman explained her actual situation. Al-Firdous is currently negotiating with the family to assure them that the woman's participation was forced, and to arrange her safe family reunification. The woman remains in jail eight months later, but has not been charged with prostitution. It is likely that she will be released if al-Firdous can arrange a safety agreement with the family.⁴³
- A young man from al-Karkh in Baghdad fled Iraq in 2005 with his sister, after receiving death threats from insurgents who targeted him because of his sectarian affiliation (Shia') and his ethnicity (Kurdish). He contracted with a Turkish smuggler to transport himself and his sister to Greece for a fee of \$10,000. The smugglers transported him from the Turkish border to Antalya, a seaport in Western Turkey, at which time they separated him from his sister by a ruse. He was transported to Greece and only realized after arrival that his sister had not been concealed on the same vessel. Antalya is known as a tourist area with an active market for young

⁴² Our program coordinator discovered this case accidentally when he purchased a car in Kirkuk and ran into a relative who works at the KDP security office in Kirkuk. PUK officials at the Asaysh office in Sulaimaniyah confirmed that the Syrian and the two Iraqis were being held in jail in Sulaimaniyah.

⁴³ Personal communication, al-Firdous Association, Basra, December 2006

women from Ukraine and Moldova. Her family fears that she has been kidnapped and possibly forced into prostitution. She has not been heard from in over a year. Although this case cannot be independently confirmed as human trafficking, the involvement of organized crime in smuggling humans to Europe, including through Greece, the Balkans and Italy, suggests that some individuals transition from willing participants in smuggling operations into unwilling victims of trafficking.⁴⁴

- Three unrelated teenage girls were abducted in Sulaimaniya in 2004. The girls died in a vehicle accident near the Iranian border. The driver of the vehicle, who was also killed in the crash, was not related to the girls and although trafficking cannot be proven in this case, it appears likely that the girls were being transported to Iran against their will.⁴⁵

Prostitution of minors

- Miriam, a 16-year-old girl from Baghdad lost her mother in 2003 due to the war. Her father agreed to send her to work as a domestic worker in Dubai for \$6,000. Once in Dubai, Miriam was locked in a house with twenty other women, beaten, and forced into prostitution. She eventually escaped, but feared returning home and sought shelter at OWFI's shelter.⁴⁶
- Bint Hussein from Basra was 14-years old when she became a victim of sex trafficking in Dubai. An Emirati man approached Bint Hussein and proposed marriage. She had four sisters and was from a poor family. This man was wealthy and promised Hussein a better life in the Emirates. He bought her gifts and gold, and promised that his mother would accompany them to the Emirates where they would marry. Once Hussein arrived in the Emirates, she was taken to an apartment, her passport and gold were confiscated, and she never saw the man she was supposed to marry again. Instead, she was forced to clean twelve hours a day for two months, and then she was beaten, detained and forced into prostitution.⁴⁷
- Two sisters, Asmah aged 14-years-old and Shadah, aged 15-years-old, were kidnapped by a criminal gang and taken to Dubai. The sisters managed to escape and contacted the Dubai police. Before being returned to Iraq, however, the girls were sent to prison for carrying false passports.⁴⁸

Iraq as a Country of Destination

Foreign workers are brought to work in northern Iraq primarily from the Philippines, Nepal and Ethiopia to work as domestic servants, in the service industry and as laborers. Additionally, the

⁴⁴ Interview, Chicago Illinois, November 2006

⁴⁵ Hawlayati Newspaper; personal communication, Salah Sadiq

⁴⁶ "Stolen Away," Bennett, Brian, TIME MAGAZINE, April 23, 2006.

⁴⁷ Al-Firdous Association - Basra.

⁴⁸ "Stolen Away," Bennett, Brian, TIME MAGAZINE, April 23, 2006.

KRG is experiencing labor migration from contiguous areas Iran and Syria, particularly for the construction industry.

Possible sexual and domestic servitude

There have been reports and unsubstantiated indications that some foreign workers are being trafficked into Iraq. Several companies offer domestic workers for an up front fee of \$3,000. These domestic workers come primarily from Ethiopia and are paid from \$120 to \$150 per month, and are typically contracted to wealthy families in the relatively more stable and affluent cities in the KRG. A contract is signed between the recruiting company and the household/employer. The worker is not a party to that or any other contract, and although there are provisions in the contract guaranteeing certain rights to the worker, it is not enforceable by the worker in part because she is not a party to the contract, but also because there are weak mechanisms to enforce such contracts. Furthermore, the recruiting company routinely withholds travel documents. Prospective employers view photographs of the women and can have women brought out to be seen in person if they wish. That male employers consider the appearance of these women indicates that they are retaining them for sexual services in addition to domestic work. One man was rumored to have “returned” one of his domestic workers and asked for a “darker” one in exchange. The employer has two months in which to return a worker, but he is not entitled to a refund and instead can only exchange her for a different worker. Heartland Alliance met with some of the Ethiopian women being transported from Amman, confirmed that all were entering Iraq willingly and determined that some of them were minors.⁴⁹ Transportation of minors for labor and withholding of travel documents may in itself meet the criteria for making a determination of labor trafficking, particularly if the minors are unable to leave employment.

Labor contracting – legitimate and forced

As economic conditions continue to improve in Iraqi Kurdistan, labor contractors have started to bring in low-skilled migratory labor mostly from South Asian countries. Although many foreign labors work under legitimate contracts and cannot be characterized as victims of human trafficking, very few institutional protections exist and workers have nowhere to turn should voluntary employment transition into coerced labor trafficking. Source countries do not maintain a diplomatic presence in the KRG and foreign workers are unable to access consular assistance should they find themselves subject to exploitation. Sri Lankan and Indian workers, both male and female, take jobs that are either rejected by Iraqi nationals or require English language skills at a time when Iraqi nationals with fluency in English are able to command higher salaries. Iraqi or international labor contractors obtain KRG permission to bring foreign workers to Iraq on contract. The KRG is eager to facilitate the importation of foreign workers in its efforts to encourage foreign investment and economic development. While these governmental goals are understandable, no structure exists within the KRG to police abuses of the system and assure minimum worker protections. During a visit with a law enforcement official, abuses and trafficking of foreign workers was defended as evidence of a “free market economy.” However, another official from the Ministry of Labor and Social Affairs recently

⁴⁹ Interviews by Scott Portman and Salah Sadiq with arriving Ethiopian domestic servants, Sulaimaniya, December 2006

indicated that there was recognition that foreign workers were being abused, and that steps were being taken to address the problem.

What begins as a legitimate labor contract can turn into a case of trafficking if the workers are prevented from leaving employment. Once the workers passports are withheld, employment is no longer at will and becomes servitude or slavery. When the employers abuse and mistreat workers, and make them work long hours or in unconscionable conditions, it is a breach of contract and workers should be permitted to withdraw from the work at will. However they are prevented from doing so because their travel documents are withheld. Even if a worker signs a two-year contract, employment must always be “at-will” and when it is not, it is no longer voluntary and may involve labor trafficking. A recent example follows:

- A group of Nepalese men brought to northern Iraq alleged that they were forced to work long hours cleaning a department store, and that they were treated abusively and had their passports confiscated. The men called a number they found in an English newspaper soliciting laborers, and signed two-year labor contracts. They were all fired after protesting labor conditions and demanded their passports. They remained homeless for a couple of months until the United Nations Assistance Mission to Iraq (UNAMI) intervened on their behalf to facilitate their return to Nepal.⁵⁰

The large U.S. military presence in Iraq has created a lucrative environment for labor contractors, who recruit third country foreign nationals to provide support services to U.S. forces in the region. Thousands of nationals from more than a dozen countries serve as cooks, drivers, logisticians, warehouse workers and other service personnel. Most obtained employment through labor contractors based in the Persian Gulf, under subcontracts from major U.S. support companies. The Chicago Tribune, among other newspapers, has compiled credible reports of labor trafficking have been identified among this large labor force.

- “The top U.S. commander in Iraq has ordered sweeping changes for privatized military support operations after confirming violations of human-trafficking laws and other abuses by contractors involving possibly thousands of foreign workers on American bases... Gen. George Casey ordered that contractors be required by May 1 [2006] to return passports that have been illegally confiscated from laborers on U.S. bases after determining that such practices violated U.S. laws against trafficking for forced or coerced labor. Human brokers and subcontractors from South Asia to the Middle East have worked together to import thousands of laborers into Iraq from impoverished countries... Two memos obtained by the Tribune indicate that Casey's office concluded that the practice of confiscating passports from such workers was both widespread on American bases and in violation of the U.S. trafficking laws.”⁵¹

Heartland Alliance staff interviewed seven Kellogg Brown and Root (KBR) third-country national staff in Baghdad, five of whom described being recruited for jobs by labor recruiters in their countries of origin. They had been assured that they would work in Abu Dhabi rather than Iraq, but once they arrived in the Persian Gulf, they were deprived of their passports and subsequently

⁵⁰ Interview with UNAMI, Erbil, February 2007

⁵¹ Chicago Tribune: <http://www.chicagotribune.com/news/nationworld/chi-060423pipeline-story.0,3545071.story>

tricked into reassignment in the International Zone in Baghdad. They had no choice but to accept the positions driving buses and preparing food, because they had invested their savings in fees and transportation costs in order to obtain assignment by labor contractors and could not afford to return home. Although they had initially deprived of their passports upon arrival in Abu Dhabi, they received custody of their passports several months later following new regulations promulgated by U.S. administrators. Although they had initially been trafficked, these workers verified that they are now free to leave employment.⁵²

Tens of thousands of Iranian nationals and hundreds of Syrian nationals have immigrated into the KRG for labor, as salaries in some Kurdish cities are higher than salaries across the border in Syria or Iran. The majority of these workers are young men who speak Kurdish or Arabic and have family networks that minimize their exposure to labor trafficking. However, some Iranian or Syrian nationals may find themselves in exploitative labor situations meeting the criteria for trafficking. However, Heartland Alliance has not yet conducted studies of migrant labor from Iran elsewhere in Iraq.

REGIONAL EFFORTS TO COMBAT TRAFFICKING

Human trafficking is a major problem throughout the region surrounding Iraq. Although several countries, including Iraq, have participated in conferences and signed international conventions pledging to fight this crime, efforts at preventing human trafficking on the part of other governments in the region have been modest at best.

Saudi Arabia is a major destination country for Asian workers.⁵³ The country lacks a comprehensive law to specifically criminalize trafficking and has failed to enforce existing laws prohibiting the retention of employees' passports. Despite collaboration with UNICEF and foreign governments, trafficking victims continue to be arrested and deported rather than assisted and protected. Egypt is primarily a transit country for human trafficking. Although the government has promised to draft an anti-trafficking law, no such law has materialized. The Egyptian government has implemented training for border officials on how to identify and prevent trafficking, but no prosecutions were reported in 2005.

Turkey has started to address the problem of trafficking by passing anti-trafficking legislation that provides stiff penalties for traffickers.⁵⁴ However, despite several arrests for trafficking, there has not been one conviction for trafficking in Turkey. Furthermore, Turkey provides few legal and social protections to trafficking victims who are deported if they are discovered to be in Turkey without permission. Additionally, some Iraqis have allegedly been trafficked in Turkey.

Syria is a destination country that receives many foreign women for domestic servitude and sexual exploitation. Since the start of the U.S. occupation of Iraq in 2003, Iraqi women have

⁵² Interviews by Scott Portman in Baghdad – one Sri Lankan and four Filipino workers for KBR, August 2006. Each interview was conducted separately; of seven third country nationals interviewed, these five alleged having been tricked into assignment to the International Zone.

⁵³ Except where otherwise noted, all statistics and information come from <http://www.gvnet.com/humantrafficking/>, which in turn cites the U.S. State Dept Trafficking in Persons Report, June, 2006.

⁵⁴ See Turkey's Criminal Law Article 201/b.

increasingly been trafficked into Syria for sexual exploitation.⁵⁵ Though there has been some acknowledgement of the problem, including a workshop hosted by the International Organization for Migration (IOM) and Syria's Ministry of Interior, the country still has no anti-trafficking law or official policy. Although the government has formed a committee to address the issue, this committee has never met. The large numbers of Iraqi refugees in Syria, low wages and corruption in law enforcement agencies have created a situation in which sex trafficking has been reported in nightclubs and hotels in major Syrian cities.

Jordan is both a transit and destination country for Asian men and women trafficked for labor exploitation. Jordan has collaborated with source countries to ensure that foreign workers gain employment in Jordan through legitimate processes, but has failed to prosecute any trafficking cases. The government has provided some financial support to NGOs and shelters that protect trafficking victims. They produced a booklet designed to inform foreign workers of their rights, but it was poorly distributed. Of eight employment agencies that were closed down for violating workers' rights in 2005, five of them were reopened in less than six months. The Amman Center for Human Rights responded to a Heartland Alliance request for information on trafficking in Jordan by traveling to the nearest large hotel and interviewing a woman they suspected of being a prostitute. Within a matter of hours, they had obtained a short case history of an Iraqi trafficking victim:

- Amina fled her neighborhood in Baghdad for Syria, where she was sexually assaulted and forced into working in a nightclub as a prostitute. She was beaten and prohibited from leaving the work. Having been separated from her family and forced into prostitution, she felt unable to return to her family once they also arrived as refugees in Syria. She was able to escape her captors and fled to Jordan, but is continuing to earn a living through prostitution as she feels she has no alternative and needs to make sufficient money to avoid deportation back to Iraq.⁵⁶

In 2005 there were 100 complaints of sex trafficking and 22 convictions in Dubai. The extent of the problem in Dubai is unknown, but Dubai is considered a destination for trafficking victims from Basra and southern Iraq.⁵⁷ The UAE established a division specifically charged with investigating human trafficking cases as well as training law enforcement officials including police, judges, prosecutors and government officials.⁵⁸ The UAE is also trying to screen entrants for trafficking through more restrictive immigration policies. However this approach will have limited impact unless it is combined with other comprehensive law enforcement and human services efforts. Dubai's legal system has demonstrated its willingness to impose severe penalties for other crimes such as adultery, but lawmakers have been reticent to take the necessary steps to seriously combat sex trafficking.

While some progress is being made in the region, serious obstacles to the prosecution of traffickers and the protection of victims remain. In a broad sense, the lack of public awareness is the most fundamental problem preventing action. Furthermore, even where laws and programs

⁵⁵ <http://www.alertnet.org/thenews/newsdesk/IRIN/38db2e39d044b5618c8e973059c18ca9.htm>

⁵⁶ Interview, Amman Center for Human Rights, March 4, 2007

⁵⁷ al-Firdous Association

⁵⁸ U.S. State Department Report on UAE 2005.

have been implemented, what happens in practice is still questionable, and victims of trafficking have very few advocates or defenders throughout the Middle East region.

HUMAN TRAFFICKING AND IRAQ'S LEGAL SYSTEM

Although trafficking and slavery are illegal under the Iraqi Constitution, there are no criminal laws specifically prohibiting trafficking and related crimes. Consequently, Iraq's criminal justice system is not equipped to deal with the seriousness of the offense of trafficking. Even with the passage of appropriate laws, no single uniform system of justice is currently operational in Iraq. Political parties have established Islamic courts in urban neighborhoods that operate independently and sometimes in direct defiance of the governmental judicial system. In much of rural Iraq, government authorities lack legitimacy and traditional means of settling disputes operate in parallel to the formal judicial system.

Tradition/tribal dispute resolution

In much of rural Iraq, mediation and decision-making by tribal and religious leaders supplants formal adjudication of civil and criminal matters. Informal dispute resolution is commonly used even in cases of sexual assault or exploitation, and servitude. Women or girls may be pressured into marrying the abuser in cases of sexual assault or exploitation, and have little recourse or protection if family members force them into prostitution or other forms of coerced labor. Women living in these areas are frequently subjected to traditional practices such as bride selling, forced marriage, lack of access to divorce and polygamy. Moreover, honor killings are more prevalent and offenders are often outside the jurisdiction or radar of law enforcement.

Role of Sharia Law in the Iraqi Legal System

In matters involving personal status, such as marriage, divorce, inheritance, and custody of children, Iraqi courts apply both Sharia' law and Iraqi Personal Status Laws. Iraq's Personal Status codes, which were enacted in 1959, were viewed as some of the most progressive Codes on personal status matters in the Middle East. However, the laws were often not implemented in practice and the Ba'ath Party frequently restricted the full implementation of rights granted to women under the law. Iraq's legal system is undergoing significant changes and it is yet to be determined the extent to which Sharia' law will govern personal and criminal matters, or the degree to which Iraqi law will permit regional differences in personal status law and criminal law.⁵⁹ Public opinion in the KRG and among urban educated elites in major cities elsewhere in Iraq is strongly opposed to an expansion of Sharia' law in personal status, inheritance and criminal law. Both personal status laws and criminal laws related to gender impact trafficking victim protection or prosecution and sentencing of perpetrators.

In other parts of Iraq, and among other political constituencies, pressure is building for a more rigid and comprehensive application of Sharia' law. Islamic courts run by the Sadr Tendency (Tayyar al-Sadr), the Supreme Council for the Islamic Revolution in Iraq (SCIRI) and various

⁵⁹ Women's rights activists have fought hard to maintain the gains already made in improving Iraq's civil and personal status laws. In December 2003, the Iraqi Governing Council (IGC) passed Resolution 137, granting considerable power to religious clerics to eliminate the Personal Status Laws and replace them with a rigid interpretation of Sharia law. Resolution 137 was later withdrawn following widespread protests by women's organizations both within and outside Iraq.

Sunni movements have adjudicated family matters, and in some cases, held “trials” in criminal matters, particularly those concerning public morality.⁶⁰ These Islamic “courts” are increasingly frequent in some of the poorest urban neighborhoods in Baghdad and Basra, where the central government has little perceived legitimacy.

Iraqi Laws Related to Trafficking

The Iraqi Criminal Code remains in place and is applied in much of the country. Although the Iraqi Criminal Code does not include any specific anti-trafficking law defining and criminalizing all forms of trafficking, there are several existing laws that can be applied today to arrest and prosecute traffickers. However, these current laws are inadequate to deter trafficking, protect victims, and encourage appropriate investigation, because they are not designed to address the specific elements of trafficking. A major problem is that certain laws, particularly those governing prostitution or other offenses against public morality, may also be used to punish victims. While offenders generally avoid prosecution, the victims of trafficking in Iraq are frequently the targets of criminal investigations and prosecutions. Coercion and duress are not defenses to prostitution and, although there have been cases where police use their discretion to release women in cases where the use of coercion was clear, these cases are not routinely screened to determine whether the crime committed was forced or voluntary.

Forced Marriage

The legal age of marriage in Iraq is 18, unless a judge allows marriage at age 15, and forced marriage is not permitted under Iraqi law.⁶¹ However, girls are often forced to marry individuals not of their choosing, and have little recourse when faced with forced marriage. If a marriage was found to be forced, the marriage is considered void if the marriage was not consummated.⁶² However due to family pressure, and the challenges to seeking court protection, many victims of forced marriage are unlikely to seek legal redress.⁶³

Rape and Sexual Assault

Rape is a private offense in Iraq and criminal charges cannot be brought by the state without the agreement of the victim. In addition, there are maximum penalties that may be imposed, but no minimum penalties, and the sentences vary depending on the age of the victim. Aggravating factors include cases involving the use of force, incest, a relationship of guardian or trust, transmission of a disease, or the loss of the victim’s virginity.⁶⁴ As in other sections of Iraqi law, the crime of rape or kidnapping may be “corrected,” reducing or eliminating any punishment of the offender, if he marries the victim.⁶⁵ If a girl has been raped, particularly if she is a virgin, she and her family will be especially susceptible to pressure from the rapist and

⁶⁰ <http://www.latimes.com/news/nationworld/world/la-fg-militia3apr03,1,7431187.story>

⁶¹ Iraqi Personal Status Code 188, Article 7(1). A judge can permit a person who has attained 15 years of age to marry at his or her request if the person’s guardian approves of the marriage, or the guardian’s opposition to the marriage is not reasonable. See Iraqi Personal Status Code 188, Article 8.

⁶² Iraqi Personal Status Code 188, Article 9(1).

⁶³ ABA Report on the Status of Women, *supra* note 6.

⁶⁴ IPC 111 of 1969, Art. 393(2).

⁶⁵ IPC 111 of 1969, Art. 398. Article 398 can apply even after the sentence has been imposed, however if he divorces her within a three year period, the sentence will resume. The victim is essentially sentenced to a minimum three year sentence of living with her rapist.

his family to agree to a marriage to save the girl and her family from dishonor, because she will not be able to marry someone else.

Kidnapping

Abduction of a woman is considered a felony punishable by up to 15 years in prison, with a possible aggravated sentence of life in prison or the death penalty if the perpetrator attempted to rape or raped the victim.⁶⁶ The death penalty was reinstated for Article 423 of the IPC in 2004. The perpetrator can avoid punishment, however, by marrying the victim and thereby “correcting the crime.”⁶⁷ Under Iraqi law, families can “reconcile” or forgive the crime, often through the payment of “blood money,” which has the legal effect of terminating the investigation, prosecution or sentence, or may mitigate the resulting sentence.

Prostitution

Prostitution is a criminal offense under the IPC. In 1988, the Anti-Prostitution Law provided for a minimum sentence of three months and a maximum sentence of two years for women convicted of prostitution. For those convicted of pimping and prostitution, Revolutionary Command Council Order Number 234 imposed capital punishment for those convicted. The Coalition Provisional Authority replaced all capital punishment sentences with life imprisonment in 2003, however the Interim Iraqi Government re-instituted the death penalty in certain cases, of which pimping and prostitution were not specifically mentioned.⁶⁸

Summary of Trafficking-Related Crimes and Penalties

Pursuant to the IPC Number 111 of 1969, the following are penalties that may be imposed in cases involving rape, sexual assault, or kidnapping, all of which are crimes that may be associated with human trafficking:

1. Article 380 – incitement to commit adultery
2. Article 385, carnal knowledge of a minor: maximum penalty 10 years;
3. Article 393, rape: maximum penalty 15 years;
4. Article 394, sexual intercourse with a minor between 15 and 18 years: maximum penalty 10 years;
5. Article 396(1), sexual assault of an adult: maximum penalty 7 years;
6. Article 396(2), sexual assault of a minor: maximum penalty 10 years.
7. Article 397, sexual assault of a minor, without the use of force – maximum penalty 7 years
8. Article 399, incitement to fornication or prostitution of a minor – maximum penalty 10 years
9. Article 421 – kidnapping - maximum penalty 10 years
10. Article 422 – kidnapping of a minor – maximum penalty 10 years if force is not used; 15 if force is used
11. Article 423 – kidnapping of a woman – maximum penalty 15 years, or life imprisonment or death if the woman is sexually assaulted
12. Article 424 – kidnapping resulting in death –penalty is life imprisonment or death
13. Section 3, 4 bagha’ - promoting prostitution or maintaining a business of prostitution
14. 1, 8 Jawazat – unlawful marriage
15. 10 Ahwal Shakhsiya – Personal status law violations

⁶⁶ Iraqi Penal Code Number 111 of 1969, Art. 423.

⁶⁷ Iraqi Penal Code Number 111 of 1969, Art. 427.

⁶⁸ American Bar Association, “The Status of Women in Iraq: An Assessment of Iraq’s *De Jure* and *De Facto* Compliance With International Legal Standards,” June 2005.

GOVERNMENT AWARENESS AND RESPONSE

The Iraqi government, including both the central government and the KRG, has failed to address the problem of trafficking. Aside from the Constitutional provision banning trafficking in persons and slavery, there have been no legislative efforts or training of law enforcement to combat trafficking. Security concerns are a priority throughout the country, but in the north where there is relative stability, few government officials express concern about the victims of human trafficking or act to eliminate the practice. Government attitudes and priorities regarding trafficking reflect those throughout Iraqi society, as individuals frequently confuse trafficking with prostitution or smuggling and fail to recognize recurring problems such as forced marriage as constituting practices that are akin to slavery and servitude.

Law Enforcement

Iraq's Ministry of Interior, which is charged with monitoring, preventing and prosecuting criminal activity, does not include trafficking cases when compiling crime statistics. Thus, there is no documentation by the government that trafficking exists, which contradicts the experiences of women's organizations throughout Iraq. However, the MOI in the KRG has reported following up on a limited number of trafficking cases involving foreign workers.⁶⁹

Heartland Alliance has been unable to obtain statistical information from the Ministry of Interior in Baghdad, or from any governorate-level Directorate of Interior outside of the KRG. Information on the numbers of persons in pre-trial detention or serving post-conviction custodial sentences for crimes that may be related to trafficking is available from Dohuk and Erbil Governorates in the KRG.

Table: Pre-trial detention and post-trial conviction statistics, trafficking-related crimes Duhok and Erbil Governorates

Iraqi Criminal Code Violation (1)	Men Charged	Women Charged	Minors Charged	Men Convicted	Women Convicted	Minors Convicted	Total
§ 188 forced marriage	0	0	0	0	0	0	0
§ 380 incitement commit adultery	0	0	0	0	0	0	0
§ 385 carnal knowledge of minor	0	0	0	0	0	0	0
§ 393 rape; unlawful intercourse	17	2	0	30	0	10	59
§ 394 unlawful intercourse- minor	0	0	0	8	0	0	8
§ 396 sexual assault	5	1	0	16	0	2	24
§ 397 sexual assault – minor	0	0	0	4	0	3	7
§ 399 prostitution of a minor	1	0	0	0	0	0	1
§ 421 kidnapping	0	2	0	2	0	1	5
§ 422 kidnapping of a minor	1	0	0	1	0	0	2
§ 423 kidnapping of a woman	0	0	0	0	0	0	0
§ 424 kidnapping result in death	0	0	0	2	0	0	2
§ 3 bagha' pimping	4	0	4	4	1	1	14
§ 4 bagha' op. prostitution establ.	0	0	2	0	9	0	11
§ 1, 8 jawazat unlawful marriage	1	0	0	24	0	1	26
§ 10 ahwal shakhsyah	0	0	0	1	0	0	1
Total	29	5	6	92	10	18	160

(1) Iraqi Personal Status Code 188 9(1). Sections 380-424 are from the Iraqi Criminal Code.

⁶⁹ 2006 U.S. State Department Country Report on Iraq, released March 6, 2007.

These statistics indicate that the overall number of persons serving sentences for crimes that may be trafficking-related is relatively low, given that the aggregate population of Duhok and Erbil Governorates exceeds two million persons. There were no persons either charged or convicted of forced marriage, or incitement to commit adultery, although both crimes are frequently committed when family members are forced into prostitution. Even more surprising, there were persons charged or convicted of kidnapping a woman under §423 of the criminal code, although some kidnapping cases involving trafficking may fall under §421. The statistics show only 10 women jailed pending trial or convicted of prostitution or prostitution-related crimes, which is somewhat at variance from the actual experiences of NGO attorneys conducting jail visits, and reports from other sources of up to 220 arrests for prostitution in Sulaimaniyah Governorate alone in a period of five years. Law enforcement in the KRG immediately released more than twice that many Arab women from outside the region, usually within hours of taking action against houses of prostitution. In some cases, law enforcement believed that the women had been coerced and therefore were neither charged with a crime nor held in custody. However, the law enforcement officials made no effort to assess the women's safety or need for protection.

Overall, these relatively low incarceration rates may result from several factors. Data may be incomplete. As mentioned above, violations of these criminal statutes are frequently resolved outside of the judicial system, particularly in traditional rural areas. Families may kill perpetrators and also occasionally kill victims, in order to cleanse family honor. In cases of sexual assault, girls and young women may occasionally be forced to marry perpetrators. However, many cases likely go unreported and uninvestigated. Police may avoid investigating many of these crimes due to cultural aversion, and victims are rarely provided the protection, support and access to female police or attorneys that would encourage full disclosure and cooperation in investigations. Lack of victim protection and support is a contributing factor to a low level of investigation and prosecution. Training is essential to ensure that law enforcement and judicial officials understand the dynamics of trafficking in order to ensure that perpetrators—and not victims—are prosecuted.

Judicial System

Interviews conducted in Sulaimaniya with judges from the Investigation Court, Juvenile Court and Criminal Court demonstrated a lack of awareness about human trafficking.⁷⁰ All individuals interviewed confused human trafficking of women and girls into commercial sex with voluntary prostitution. All stated they had not seen any cases of trafficking in persons. There is a clear gap between what women's organizations are seeing and how law enforcement treats these cases. Instead of providing legal protections to victims of human trafficking, the judicial system in Iraq is penalizing women who are forced to engage in prostitution.

Once educated about the fundamentals of human trafficking, judges pointed to the fact that trafficking in persons is not recognized as a crime and that they have a limited framework in which to address the problem within the legal system. Judges stated that if trafficking cases are brought to their attention, they could apply other sections of the criminal code such as laws

⁷⁰ Interviews conducted by Heartland Alliance attorney Razaw Ahmed Sharif to assess level of knowledge of trafficking and to determine whether judges had seen cases of trafficking in the course of their work.

against rape or kidnapping to prosecute offenders, but that the problem would be better addressed if there was a specific law against trafficking. Under current law, traffickers are likely to be charged with committing lesser offenses.

Health and Social Services

The Ministry of Labor and Social Affairs (MOLSA) is the Iraqi government agency responsible for labor relations and social support for vulnerable persons, particularly women and children. In the KRG, senior MOLSA officials have some awareness of forms of human trafficking, including labor trafficking and exploitation of prostitution. Some Arab women who were trafficked into the KRG for purposes of prostitution received limited financial assistance and temporary employment through MOLSA in 2004.⁷¹ MOLSA provides licenses to companies to bring foreign workers into Iraq, yet does little to enforce contractual provisions intended to protect these workers. In part, this reality reflects MOLSA's lack of power and uncertain mandate, and in part the legal context in which labor contractors operate. The conditions under which foreign workers are brought into Iraq heavily favor employers and render the workers extremely vulnerable to many forms of sexual and physical abuse, long working hours, low or no pay, and inability to return home at will. In cases where there is abuse, there are no protections for these workers who may not have possession of their legal documents, do not speak the language, do not know how to reach the police, and who may or may not be paid salaries. MOLSA, in addition to issuing licenses to companies to import foreign workers, needs to take steps to issue rules and regulations on the rights of foreign workers. The Ministry of Health does not provide any training to its staff in assessing or interviewing victims of crime in general or victims of trafficking in particular who present in healthcare facilities with injuries or sexually transmitted diseases. Healthcare professionals are not immune to Iraqi cultural prejudices regarding shame and honor. One physician in Kirkuk refused to provide emergency care for an injured girl who had been kidnapped and sexually assaulted, because he felt that she was immoral.⁷² MOH personnel are required to report injuries due to crimes to the police.

ROLE OF IRAQI HUMAN RIGHTS AND WOMEN'S ORGANIZATIONS IN COMBATING TRAFFICKING

Within Iraq there are a number of NGOs working with women who are victims of gender-based violence including trafficking, yet most of these organizations are located in the KRG as the security situation in the center and south make it very difficult to provide protective services to victims of trafficking, domestic violence or other gender based violence. In Baghdad, the Organization for Women's Freedom in Iraq (OWFI) operates several shelters for victims of gender based violence including victims of trafficking. Shelters are few and have limited capacity. Several shelters in the KRG are currently operating to help victims of domestic violence and threatened honor killing, including Asuda Organization for Combating Violence Against Women in Sulaimaniya, and the Nawa Center also in Sulaimaniya, which was first established by the German NGO WADI in 1999. WADI also opened Khanzad Center in Erbil.

⁷¹ Interview with MOLSA, Salah Sadiq, 2005.

⁷² Interview, ASUDA, December, 2005

The Nawa Center is now run by the Ministry of Social Affairs. Solidarity, a Spanish NGO, recently opened a shelter for abused women in Kalar.

The concept of human trafficking is a relatively new one in Iraq and trafficking victims face the same pervasive stigma attached to women and girls who violate cultural restrictions on behavior and sexuality. Iraqi women's organizations frequently encounter trafficking cases. However, staff lack training on how to identify trafficking and often confuse trafficking with voluntary prostitution. As such, trafficking victims may encounter stigma and condemnation even from the few organizations that exist to assist them.

POLICY & PROGRAM RECOMMENDATIONS

Trafficking in persons is a global phenomenon with the need for a global response. The establishment of an international framework to address human trafficking was an important step towards recognizing the global and criminal nature of the problem, facilitating greater cooperation between regional states, and developing a global response to combat trafficking in persons, particularly across borders. While the international tools emphasize cross-border trafficking as a trans-national criminal matter, it is important to remember that internal trafficking is pervasive and must be addressed by Iraq on a local, regional, and national level.

Iraq's national and regional governmental responses to the problems of trafficking must be based on existing legal structures, social institutions, unique cultural and religious factors, and multilateral cooperation between source, transit, and destination countries. The failure of Iraqi lawmakers to pass anti-trafficking legislation leads to a culture of impunity in which the lives and well-being of women and girls are not valued. Rather, a comprehensive counter-trafficking approach is needed in Iraq to prevent human trafficking, protect victims, and prosecute individuals engaged in human trafficking. Iraq needs to work with neighboring countries to address cross-border trafficking both inside and outside of Iraq. Based on its preliminary research, Heartland Alliance recommends that the following actions be taken, recognizing that further documentation on the patterns and practices of trafficking in Iraq is needed.

Research and Policy Recommendations

1. Conduct further research to document the prevalence, patterns and practices of human trafficking within, into, and out of Iraq;
2. Participate in, or facilitate, regional conferences to foster regional cooperation and to raise awareness about human trafficking;
3. Require that MOI monitor and track trafficking cases as part of its crime statistics.

Prevention

1. Raise awareness among Iraqi civilians, government officials, medical personnel, law enforcement, the judiciary, and NGOs about human trafficking through the distribution of written materials, presentations, seminars, conferences, and media outlets;
2. Focus on strategies to reduce demand for trafficking;
3. Address factors that make individuals vulnerable to trafficking;

4. Train border guards and law enforcement to identify trafficking victims and to respond appropriately;
5. Strengthen the rule of law and the implementation of laws that can be used to punish offenders;
6. Deter human trafficking by passing anti-trafficking legislation and imposing harsh penalties on those convicted of trafficking.

Protection

1. Provide victim assistance and social protections including shelter and other basic needs such as medical care, education, psychological counseling, and financial assistance;
2. Promote cooperation among various agencies to ensure seamless web of services for victims;
3. Identify standard measures for identifying victims;
4. Provide protection for victim-witnesses in criminal trials;
5. Assess viability of reintegrating victims and addressing special needs during the re-integration process, including mediation with families of victims;
6. Train law enforcement, particularly police and border guards, to identify trafficking victims and traffickers and work with law enforcement to develop protocols for responding appropriately and to utilize existing law enforcement tools to protect victims and arrest traffickers.

Prosecution

1. Work with Iraqi legislators to draft anti-trafficking law and develop strategies to advocate for its passage by the Iraqi Parliament;
2. Develop mechanisms to share and gather information between NGOs, police, and other law enforcement agencies for the prosecution of offenders and traffickers;
3. Strengthen the ability of police and the judiciary to combat trafficking while providing protection to victim-witnesses;
4. Promote increased coordination between NGOs and law enforcement agencies.

INTERNATIONAL INSTRUMENTS

The following is a list of international legal instruments relevant to the issue of trafficking, and the current signatory status of Iraq:

- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography – Iraq has not signed.
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime – Iraq has not signed.
- Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor – Iraq has signed
- Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery - Iraq has signed and ratified
- Convention to Suppress the Slave Trade and Slavery – Iraq has signed, but not ratified
- General Comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin – Information not available
- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others – Information not available (only 14 countries have signed)
- United Nations Convention Against Transnational Organized Crime – Iraq has not signed
- Convention on the Rights of the Child – Iraq has signed

Appendix (2)

RELEVANT SECTIONS OF THE IRAQI CRIMINAL CODE

The following are excerpts of relevant sections of the Iraqi Criminal Code, available at [http://law.case.edu/saddamtrial/documents/Iraqi Penal Code 1969.pdf](http://law.case.edu/saddamtrial/documents/Iraqi%20Penal%20Code%201969.pdf)

(i) As amended by Paragraph 8 of Law No 207 (1970).

SECTION FOUR

Offences involving the family

Paragraph 376 - Any person who obtains a marriage certificate knowing it to be invalid for any reason in secular or canonical law and any person who issues such certificate knowing the marriage to be invalid is punishable by a term of imprisonment not exceeding 7 years or by detention. The penalty will be a term of imprisonment not exceeding 10 years if the spouse, in respect of whom the reason for the invalidity has arisen, conceals that fact from his partner or consummates the marriage on the basis of the invalid certificate.

Paragraph 377 - (1) An adulteress and the man with whom she commits adultery are punishable by detention. The offender is assumed to be aware of the marriage unless he can prove that he was not capable of being aware of it.

(2) The same penalty applies if the husband commits adultery in the conjugal home.

Paragraph 378 - (1) No action for adultery may be brought against either spouse nor may any measures be taken in respect of that action except on the basis of an accusation by the other partner. Such accusation will not be accepted in the following circumstances:

- (a) If it is made after 3 months from the day when the complainant first became aware of the offence.
- (b) If the complainant is content to resume married life despite having "become aware of the offence.
- (c) If it is established that the offence was committed with the consent of the complainant.

(2) By spouse in this Paragraph is meant any person who meets that description at the time of the commission of the offence or who causes to do so following the offence. The right of the husband to bring an action for adultery committed by his wife continues for 4 months after he has divorced her.

Paragraph 379 - (1) An action for adultery becomes void and the civil right of action lapses with the death of the complainant or if he drops the charges against the offending party or with the agreement of the complainant to resume normal relations with the offending party before a final judgment of the case is made. The dropping of the charges by the husband against the offending spouse is considered also to apply to the charges against the man with whom she has committed adultery.

(2) A spouse may therefore prevent the implementation of the sentence imposed on the other spouse. If the complainant dies, any of the children of the accused spouse or guardian of such child may prevent the implementation of the sentence.

Paragraph 380 - Any husband who incites his wife to commit adultery and she does so on the basis of such incitement is punishable by detention.

SECTION FIVE

Offences involving adoption, the care of minors, endangering the young or old and the desertion of the family

Paragraph 381 - Any person who removes a new born child from whomever has legal authority over such child or conceals it or substitutes it for another or falsely attributes it to another mother is punishable by detention.

Paragraph 383 - (1) Any person who by himself or through another endangers a child under 15 years of age or person who is unable to defend himself by reason of his state of health or mental or psychological condition is punishable by a period of detention not exceeding 3 years or by a fine not exceeding 300 dinars.

(2) The penalty will be detention if the offence involves the desertion of a child or old person in an isolated place or if it is committed by a parent of the victim or by a person who is responsible for the upbringing or care of such child or old person. If the offence results in the victim's disability or death without the offender intending such result, the offender is, according to the circumstances, punishable by the penalty prescribed for the offence of assault leading to disability or death. The same penalty applies if the child or old person is endangered by being wilfully deprived of the food or care that his condition requires notwithstanding the offender's obligation by law, agreement or custom to provide such food or care.

Paragraph 385 - Any person who has carnal knowledge of a girl to whom he is not married with her consent when she has not yet reached the age of 18 is punishable by a term of imprisonment not exceeding 10 years or by detention.

It is considered an aggravating circumstance if the victim is forced or if she loses her virginity or contracts venereal disease as a result of the offence or if the offender is responsible for the victim's upbringing or supervision or has some measure of authority over her. Any action or measure in respect of such action may only be brought on the basis of a complaint by the victim or her ancestor, descendant, brother or sister.

SECTION EIGHT Begging

Paragraph 392 - Any person who compels another under the age of 18 to become a beggar is punishable by a period of detention not exceeding 3 months plus a fine not exceeding 50 dinars or by one of those penalties. The penalty will be a period of detention not exceeding 6 months plus a fine not exceeding 100 dinars

[Sections 393-394 are missing from the document]

Paragraph 395 - Any person who seduces a woman over the age of 18 with a promise of marriage, has sexual intercourse with her and subsequently refuses to marry her is punishable by detention.

Paragraph 396 - (1) Any person who sexually assaults a man or woman or attempts to do so without his or her consent and with the use of force, menaces, deception or other means is punishable by a term of imprisonment not exceeding 7 years or by detention.

(2) The penalty will be a term of imprisonment not exceeding 10 years if the person against whom the offence is committed is under 18 years of age or the offender is a person described in Sub-Paragraph 2 of Paragraph 393.

Paragraph 397 - Any person who sexually assaults a boy or girl under the age of 18 without the use of force, menaces or deception is punishable by detention. The penalty will be a term of imprisonment not exceeding 7 years or detention if the offender is a person described in Sub-Paragraph 2 of Paragraph 393.

Paragraph 398 - If the offender mentioned in this Section then lawfully marries the victim, any action becomes void and any investigation or other procedure is discontinued and, if a sentence has already been passed in respect of such action, then the sentence will be quashed. Legal proceedings will resume or the sentence will be reinstated, according to the circumstances if such marriage ends in divorce brought about by the husband without legal justification or in a divorce ordered by the court for wrongs committed by the husband or for his bad behaviour within 3 years following the cessation of the proceedings. The public prosecutor, the accused, the victim or any person who has an interest in the proceedings may, according to the circumstances, make application for the proceedings, investigation, procedures or execution of the sentence to be stopped or for their resumption or for the reinstatement of the sentence.

RCC Decision No 488 was published in Al-Waqai' Al-Iraqiya No 2650 on 24/4/78 in this regard. Text as follows:

(1) The following persons are punishable by death:

- (a) Any person who has sexual intercourse with a female relative to the third generation who is over 15 years of age without her consent and the offence leads to her death or to pregnancy or loss of virginity.
- (b) Any person who has sexual intercourse with a female relative to the third generation who is under 15 years of age without her consent.
- (c) Any person who has sexual intercourse with a female relative to the third generation under the age of 15 with her consent and the offence leads to her death, to pregnancy or loss of virginity.

(2) Any male and female who have sexual intercourse or commit an act of buggery with each other with her consent and they are over 18 years of age and related to the third generation are punishable by life imprisonment.

(3) This decree becomes effective from the date of its publication in the official newspaper.

Ahmad Hasan al-Bakr. Chairman of the RCC.

SECTION TWO

Incitement to Prostitution and Fornication

Paragraph 399 - Any person who incites a boy or girl under the age of 18 to indulge in fornication or resort to prostitution as a profession or assists him or her to do so is punishable by detention. The penalty will be a term of imprisonment not exceeding 10 years or by detention if the offender is a person described in Sub-Paragraph 2 of Paragraph 393 and intends to profit by his action or receives money for such action.

PART THREE

Offences against the person

CHAPTER TWO

Offences affecting the freedom of an individual and the deprivation of such freedom

SECTION ONE

Unlawful seizure, kidnapping and detention

Paragraph 421 - Any person who seizes, detains or deprives a person of his liberty in any way without an order from a competent authority in circumstances other than those described in the laws and regulations to that effect is punishable by detention.

The penalty will be a term of imprisonment not exceeding 10 years in the following circumstances:

- (1) If the offence is committed by a person who is wearing the uniform of a government employee without being entitled to do so or a distinctive official insignia belonging to such employee or assumes a false public identity or issues a false order for the arrest, imprisonment or detention of a person while claiming it to be issued by a competent authority.
- (2) If the offence is accompanied by the threat of death or physical or mental torment.
- (3) If the offence is committed by two or more persons or by a person openly carrying a weapon.
- (4) If the period of seizure, detention or deprivation of freedom exceeds 15 days.
- (5) If the motive for the offence is financial gain or the sexual assault of the victim or the taking of vengeance on the victim or on another.
- (6) If the offence is committed against a public official or agent in the execution of his duty or employment or as a consequence of it.

Paragraph 422 - Any person who himself or through another kidnaps a person under the age of 18 without the use of force or deception is punishable by a term of imprisonment not exceeding 15 years if the victim is female or by a term of imprisonment not exceeding 10 years if the victim is male.

If the kidnapping is carried out with the use of force or deception or there exists any aggravating circumstance described in Paragraph 421, the penalty will be imprisonment if the victim is female or a term of imprisonment not exceeding 15 years if the victim is male.

Paragraph 423 - Any person who himself or through another kidnaps a woman over the age of 18 with the use of force or deception is punishable by a term of imprisonment not exceeding 15 years.

(i) Amended in accordance with Decision No 330 issued on 19/4/81 and published in Al-Waqai' Al-'Iraqiya No 2824 on 6/4/81. If the kidnapping is accompanied by any sexual intercourse with the victim or an attempt to have intercourse with her, the penalty will be death or life imprisonment. (i19)

Paragraph 424 - If the use of force described in Paragraph 422 and 423 or the torment described in Paragraph 421 results in the death of the victim, the penalty will be death or life imprisonment.

Paragraph 425 - Any person who provides a location for unlawful detention or imprisonment while being aware of that fact is punishable by a term of imprisonment not exceeding 7 years or by detention.

Paragraph 426 - (1) If the kidnapper does not cause harm to the victim and leaves him within 48 hours of the offence in a secure place which assists him in returning to his family, the penalty will be a period of detention not exceeding 1 year.

(2) The offender is exempt from the penalty for an offence stipulated in the preceding Paragraphs of this Chapter if he voluntarily turns himself over to the authorities, informs them of the place where the victim

is held before they find him, leads them to such place and identifies any other offenders and if that results in the rescue of the victim and the arrest of such offenders.

Paragraph 427- If the offender mentioned in this Section then lawfully marries the victim, any action becomes void and any investigation or other procedure is discontinued and, if a sentence has already been passed in respect of such action, the sentence will be quashed.

Legal proceedings will resume or the sentence will be reinstated according to the circumstances if the marriage ends in a divorce brought about by the husband without legal justification or in a divorce ordered by the court for wrongs committed by the husband or for his bad behaviour within 3 years following the cessation of the proceedings.

The public prosecutor, the accused, the victim or any person who has an interest in the proceedings may, according to the circumstances, make application for the proceedings, investigation, procedures or execution of the sentence to be stopped or for their resumption or for the reinstatement of the sentence.