

**Neville Hewage, B.Sc., M.Sc., M.Sc., Ph.D.**

Adjunct Professor and Research Fellow  
International Centre for Interdisciplinary Research in Law  
Laurentian University  
Sudbury, Ontario, Canada  
Tel: +1 613 612 7615 | e-mail: nx\_hewage@laurentian.ca

**Mailing address**

2581 River Mist Road, Ottawa, ON K2J 6G1, Canada.

BY EMAIL

**June 29, 2020**

**To:**

**Ministry of Education, Ontario**  
**Deputy Minister's office**

Nancy Naylor	Deputy Minister of Education	<a href="mailto:nancy.naylor@ontario.ca">nancy.naylor@ontario.ca</a>
Gene Nepomuceno	Senior Policy Advisor	<a href="mailto:gene.Nepomuceno@ontario.ca">gene.Nepomuceno@ontario.ca</a>
Mary Lee	Senior Policy Adviser	<a href="mailto:Mary.Lee@ontario.ca">Mary.Lee@ontario.ca</a>
Paola Paulino	Senior Policy Advisor	<a href="mailto:Paola.Paulino@ontario.ca">Paola.Paulino@ontario.ca</a>

**Strategic Policy & Planning Division**

Sebastian Franks	Director Lead Strategic Initiatives (Acting)	<a href="mailto:sebastian.franks@ontario.ca">sebastian.franks@ontario.ca</a>
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**CC:**

**Ministry of Education, Ontario**  
**Education Minister's Office**

Hon. Stephen Lecce	Minister of Education	<a href="mailto:minister.edu@ontario.ca">minister.edu@ontario.ca</a>
Christopher Rastrick	Director of Policy	<a href="mailto:Christopher.Rastrick@ontario.ca">Christopher.Rastrick@ontario.ca</a>
Jodi Zimbel	Senior Policy Advisor	<a href="mailto:jodi.zimbel@ontario.ca">jodi.zimbel@ontario.ca</a>

**CC:**

**Ontario Premier's Office**

Hon. Doug Ford	Premier of Ontario	<a href="mailto:doug.fordco@pc.ola.org">doug.fordco@pc.ola.org</a>
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**CC:**

**Toronto District School Board**

John Malloy	Director of Education, TDSB	<a href="mailto:John.Malloy@tdsb.on.ca">John.Malloy@tdsb.on.ca</a>
Dr. Kathy Witherow	Associate Director, Leadership, Learning and School Improvement	<a href="mailto:Kathy.Witherow@tdsb.on.ca">Kathy.Witherow@tdsb.on.ca</a>

Dear Sir, Madam,

**Re: Genocide: Historical and Contemporary Implications (CHG381) a Compulsory Learning Proposed by TDSB**

Please find enclosed my submission against proposed Genocide Education as Compulsory Learning (Genocide: Historical and Contemporary Implications, CHG381) proposed by the Toronto District School Board (TDSB).

**Overlapping Curriculum**

The proposed course has a significant overlap on Canadian and World Studies Grade 9 and 10 Ontario Curriculum. Further, implementation of controversial compulsory course at Grade 11, adversely affect students who wish proceed Science, Technology, Engineering and Mathematics (STEM) stream at the university level.

**Adverse effects on STEM stream**

Students may have faced significant challenges in securing STEM University credits. Their valuable classroom time is expected to take away for a proposed compulsory course in grade 11. As a result, the number of students entering STEM university courses is expected to drop. Students may have to stay an additional year at the high school to obtain STEM credits to secure university admission.

**Factually incorrect subject matter and politically motivated**

A new compulsory course is a clear reflection of politically motivated movement, and our students and schools should not be converted to a political battlefield. It should also note here that suggested subject content about Genocide is factually incorrect.

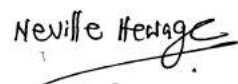
**Request a Meeting (ZOOM or on other platform)**

My team and I request a meeting with your office to discuss the implications of the compulsory course CHG381 to the Ontario curriculum.

**Proposed Resolution**

I request to reject the TDSB proposal to include compulsory course CHG381 into the Ontario curriculum, entirely since it is adversely affecting the Ontario education system.

Yours sincerely,



Neville Hewage, Ph.D.  
Adjunct Professor  
Research Fellow – Public Policy and Governance  
International Centre for Interdisciplinary Research in law  
Laurentian University.

**Enclosed: Submission and Exhibits 1,2,3,4,5,6**

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**Submission against  
Genocide: Historical and Contemporary Implications (CHG381)  
a Compulsory Course Proposed by TDSB to accredit  
Ontario Curriculum**

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**Submitted by**

**Neville Hewage, B.Sc., M.Sc., M.Sc., Ph.D.**

Adjunct Professor and Research Fellow  
International Centre for Interdisciplinary Research in Law  
Laurentian University  
Sudbury, Ontario,  
Canada  
Tel: +1 613 612 7615  
email: nx\_hewage@laurentian.ca

**Mailing address**  
2581 River Mist Road,  
Ottawa, ON K2J 6G1,  
Canada.

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Exhibit No. 7	Submission to Standing committee on Regulations and Private Bills, Legislative Assembly of Ontario against Bill 104, <i>Tamil Genocide Education Act</i> , 2019. ( <b>Special Note:</b> <u>Not attached with this report, Will submit to review upon request</u> )	

## SUBMISSION

### 01. Introduction

Regarding Motion passed on or about June 11, 2020, at the Toronto District School Board (TDSB), incorporating Genocide Education as Compulsory Learning, the Chair of the Board writes the Minister of Education recommending as follows.

That the Genocide: Historical and Contemporary Implications (CHG381), Grade 11, Locally Developed Course, be accredited as part of the Ontario Curriculum as a "university" or "mixed" course. **(Exhibit 01).**

02. Also, it states Genocide education as a compulsory curriculum to accomplish

(i) develop a policy framework which will enable students to graduate with a better understanding of human rights, peace, war, critical thinking, historical thinking, racism, etc.;

(ii) ensure students know their human rights and responsibilities, how to protect those rights, the consequences of indifference and how to take effective action when they or other members of the community experience, hate, racism, and other forms of discrimination and violence, now and in the future;

### 03. ISSUES

#### ISSUE 01

Is it required to develop another policy framework and Course for TDSB to teach human rights, peace, war, critical thinking, historical thinking, racism, etc.?

(Should the Course CHG381 require introducing province-wide as compulsory learning?)

#### ISSUE 02

Are the Srebrenica massacre, the Genocide of Yazidis and the Rohingya Genocide and those under investigation including the Genocide Indigenous Peoples in Canada and the Tamil Genocide, (as proposed by TDSB), qualified under the *Convention on the Prevention and Punishment of the Crime of Genocide* (Convention) as Genocide

#### 04. ANALYSIS

##### ISSUE 1:

Is it required to develop another policy framework and Course for TDSB to teach human rights, peace, war, critical thinking, historical thinking, racism, etc.?  
(Should the Course CHG381 require introducing province-wide as compulsory learning?)

05. The TDSB is in a position that they do require a new policy to develop teaching on human rights, peace, war, critical thinking, historical thinking and racism. (Please refer to **Exhibit 01** – TDSB Motion Genocide Education as Compulsory Learning) The TDSB has already developed policies to teach and educate children about human rights, peace, war, critical thinking, and historical thinking of racism. Therefore, the proposed new policy framework for the teaching of human rights, peace, war, critical thinking, and historical thinking about racism does not validate the Board's position.

06. The TDSB policies are in the School Board system as follows.

- P031 Human Rights - To establish the Board's commitment to the prevention of discrimination and harassment
- P034 Workplace Harassment Prevention - This policy is designed to promote a healthy, respectful and supportive working and learning environment. It highlights conduct that may lead to workplace harassment as well as outlines the system's shared responsibility in fostering a harassment-free workplace. The goal is to prevent workplace harassment from taking place and, where necessary, to investigate and respond to incidents/complaints of such behaviour in a fair, timely and effective manner.
- P037 – Equity - to ensure that Fairness, Equity, Diversity, Acceptance, Inclusion, and the elimination of all forms of discrimination are essential principles of our school system and are integrated into all TDSB policies, procedures, programs, operations, and practices.

07. Those policies P031, P034, P037 have been developed with extensive consultations with all stakeholders. In my view, the TDSB has not required another policy to address human rights, peace, war, critical thinking, and historical thinking of racism. The Board should consider strengthening its existing policies that have already been implemented. As proposed by TDSB, the policy intend to develop is the overlapping of the current policies.

08. The purpose of the new policy does not exist since it is a duplication of current policies.

## **05. GENOCIDE BILLS**

Bill 104, *Tamil Genocide Education Week Act*, 2019; Bill 94, *Genocide Awareness, Education, Condemnation and Prevention Month Act*, 2019 and Bill 97, *Genocide Awareness, Commemoration, Prevention and Education Month Act*, 2019, Bill 177, *Sikh Genocide Awareness Week Act*, 2020 are already presented to Legislative Assembly Ontario.

06. These *Acts* are now in various stages of processing. Particularly, Bill 104, *Tamil Genocide Education Week Act*, 2019 and inclusion of Tamil Genocide into Bill 94 and Bill 97 and *Sikh Genocide Awareness Week Act*, 2020, are facing enormous opposition from many community groups across Canada.

07. It is expected more (alleged) genocide education Bills surface in the Legislative Assembly of Ontario.

08. Genocide: Historical and Contemporary Implications (CHG381) compulsory course is a politically motivated proposal introduced by the TDSB.

09. Further, the suggestion of developing a policy framework and Genocide Education as a Compulsory learning course proposed by TDSB does not pass the smell test.

10. Introduction of a compulsory Genocide learning into the Ontario curriculum will convert the Ontario School system to a political battleground.



## OVERLAPPING OF CURRICULUM

11. Further, compulsory Genocide learning (CHG381) should not have to introduce as a new course. The subject matter proposed on CHG381 has significance overlap on Ontario Curriculum Grade 9 and 10 Canadian and World Studies; Geography, History and Civics (politics). The specific expectations B3.5, D2.4, E3.3, and E3.4 are already identified. (Please refer to **Exhibit 02 – Ontario Curriculum** - Canadian and World Studies; Geography, History and Civics (politics)).

12. Further, implementations of mandatory course at Grade 11, Genocide teaching adversely affect students who wish to proceed Science, Technology, Engineering and Mathematics (STEM) stream at the university level.

13. Students may have faced significant challenges in securing STEM University credits. Their valuable time expected to be taken away from a compulsory course (CHG381). As a result, fewer students may enter STEM university courses. Students may also have to stay an additional year at the high school to obtain STEM credits required to secure university admission. Introduction of a new compulsory course, CHG381 will add an academic burden on students.

14. In my view, a new mandatory course is a back-door approach of Bill 104, since Bill 104 has no prospectus of becoming law in Ontario.

## 15. ISSUE 2

Are the Srebrenica massacre, the Genocide of Yazidis and the Rohingya Genocide and those under investigation, including the Genocide Indigenous Peoples in Canada and the Tamil Genocide, (as proposed by TDSB) qualified under the *Convention on the Prevention and Punishment of the Crime of Genocide* (Convention) as Genocide?

16. There is an enormous amount of unproductive speculation about Genocide. And indeed, given the prevalence in the world of today, there is no shortage of racial and religious

discrimination, of apartheid-like policies, and persecution of ethnic minorities, indigenous peoples, migrant workers and refugees. Those incidents may look-like within the paragraphs of Article II of the Convention.

17. Only the International Criminal Court (I.C.C.) and the International Court of Justice (I.C.C.) are the competent judicial authority in determining Genocide.

18. However, it does not prohibit U.N. agencies and other organizations from framing incidents as Genocide. There is a significant difference between framing Genocide and confirming Genocide under the Geneva Convention. It has been proven that often framing of Genocide by organizations merely based on unproductive speculation. The TDSB should not involve framing Genocide since it is primarily based on unproductive speculation and will seriously affect the integrity of the Ontario education system.

19. I am surprised that TDSB as leader of education, proposing factually incorrect Genocides to the Ontario Curriculum. It can be concluded that compulsory course CHG381 was prepared without proper consultation and expert opinion. It is reasonable to conclude that CHG381 proposed only for political reasons.

20. We cannot teach our children factually incorrect information. The CHG381 compulsory course must be rejected and should not be included in the Ontario curriculum.

## **21. FACTUALLY INCORRECT**

### **Srebrenica massacre**

On March 20, 1993, the Republic of Bosnia and Herzegovina instituted proceedings against the Federal Republic of Yugoslavia (*Serbia and Montenegro*) in respect of a dispute concerning alleged violations of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the General Assembly of the United Nations on December 09, 1948, as well as various matters which Bosnia and Herzegovina claimed were connected therewith.

22. By an Order dated April 08, 1993, the International Court of Justice (I.C.J.), after hearing the parties, indicated certain provisional measures with a view to the protection of rights under the Genocide Convention. It is not a determination of the Genocide.

23. The Srebrenica massacre does not qualify as Genocide under the Geneva Convention. (Please refer to **Exhibit 03** – Order - *Bosnia and Herzegovina V. Serbia and Montenegro*, *International Court of Justice*)

24. The International Court of Justice (by thirteen votes to two) found that Serbia has not committed Genocide, through its organs or persons whose acts engage its responsibility under customary international law, in violation of its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide.<sup>1</sup>

25. Interestingly, TDSB is about to change world history, inventing a meaning of Genocide. According to the TDSB **Srebrenica massacre** is Genocide. But it is not, regarding international law.

26. However, the TDSB has included a Srebrenica massacre as a Genocide, into the CHG381 compulsory learning course, that is factually incorrect.

27. Therefore, the TDSB proposal must be rejected without any further consideration.

## 28. Genocide of Yazidis

In Iraq, the Yazidi ethnic minority was experienced destruction by the Islamic State of Iraq and Syria (ISIS). Many organizations, including academia, experts and U.N. agencies, blamed ISIS for genocidal acts against Yazidi ethnic minority.

29. However, On August 13, 2014, the United Nations declared the Yazidi crisis a highest-level "Level 3 Emergency", saying that the declaration "will facilitate mobilization of additional resources in goods, funds and assets to ensure a more effective response to the humanitarian

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<sup>1</sup> *Bosnia and Herzegovina V. Serbia and Montenegro*, para 471 (2). (Exhibit 03)

needs of populations affected by forced displacements" <sup>2</sup> On March 19, 2015, a United Nations panel concluded that ISIL "may have committed" Genocide against the Yazidis with an investigation head, Suki Nagra, stating that the attacks on the Yazidis "were not just spontaneous or happened out of the blue, they were orchestrated" <sup>3</sup>

30. While some countries may choose to overlook the idea of the Genocide, the U.N. writes that the atrocities need to be understood, and the international community needs to bring the killings to an end. Recently, the Security Council team has enforced the idea of a new accountability team that will collect evidence of the international crimes committed by the Islamic State. However, the international community has not been in full support of this idea, because it can sometimes oversee the crimes that other armed groups are involved.

31. However, United Nations High Commissioner for Refugees (UNHCR) was prepared comprehensive guide, Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum-Seekers. **(Exhibit 04)**. It indicates the Yazidi crisis is mainly a human rights and refugee crisis, instead of considering it as a Genocide.

32. In conclusion, the Yazidi Genocide is not determined according to the Convention on the Prevention and Punishment of the Crime of Genocide. There are no I.C.C. or I.C.J. orders available regarding Yazidi Genocide.

33. However, TDSB included Yazidi Genocide into the course CHG381 without a proper investigation of the issue. The proposal to include the Yazidi crisis into Ontario CHG381 as Genocide is factually incorrect.

34. Therefore, a course CHG381 proposed by TDSB should be rejected.

### **35. Rohingya Genocide**

The TDSB completely misinterpreted the Geneva Convention and decision of the I.C.J.

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<sup>2</sup> [http://www.uniraq.org/index.php?option=com\\_k2&view=item&id=2384:un-declares-a-level-3-emergency-for-iraq-to-ensure-more-effective-humanitarian-response&Itemid=605&lang=en](http://www.uniraq.org/index.php?option=com_k2&view=item&id=2384:un-declares-a-level-3-emergency-for-iraq-to-ensure-more-effective-humanitarian-response&Itemid=605&lang=en)

<sup>3</sup> [https://www.nytimes.com/2015/03/20/world/middleeast/isis-genocide-yazidis-iraq-un-panel.html?WT.nav=top-news&action=click&gwt=pay&module=second-column-region&pgtype=Homepage&region=top-news&\\_r=0](https://www.nytimes.com/2015/03/20/world/middleeast/isis-genocide-yazidis-iraq-un-panel.html?WT.nav=top-news&action=click&gwt=pay&module=second-column-region&pgtype=Homepage&region=top-news&_r=0)

36. The I.C.J. has been issued an order against Myanmar for the Application submitted by the Gambia requesting for the Indication of Provisional Measures (Exhibit 05).

37. Most importantly, the I.C.J. has not determined Genocide against Rohingya ethnic minority in its decision.

38. The Court (I.C.J.) further reaffirms that the decision given in the present proceedings in no way prejudices the question of the jurisdiction of the Court to deal with the merits of the case or any questions relating to the admissibility of the Application or the merits themselves. It leaves unaffected the right of the Governments of The Gambia and Myanmar to submit arguments and evidence in respect of those questions (Genocide). <sup>4</sup>

39. The inclusion of the Rohingya crisis into the mandatory course CHG381 as Genocide is factually incorrect.

40. Therefore, the mandatory course CHG381 proposed by TDSB must be rejected without any further consideration.

#### **41. GENOCIDE UNDER INVESTIGATION AS PROPOSED BY TDSB**

The TDSB proposed on its motion Genocide under Investigation also must teach under CHG381. The TDSB further states Indigenous People in Canada and Tamil Genocide should include teaching under compulsory learning of Genocide.

##### **42. (1) Alleged Indigenous People Genocide by Canada**

The Government of Canada is not recognized indigenous people Genocide. Genocide act against Indigenous people by Canada not under consideration or investigation, either I.C.C. or I.C.J. However, Prime Minister Justin Trudeau says his government accepts that the murders and disappearances of Indigenous women and girls across Canada in recent decades amount to a genocide, commenting on MMIWG Commissioner's report.

##### **43. Truth and Reconciliation Commission (T.R.C.)**

The T.R.C. commission recommends 94 actions to redress the legacy of residential schools and advance the process of Canadian reconciliation **(Exhibit 06)**. The report dedicated to

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<sup>4</sup> Gambia v. Myanmar, 2020, ICJ, Para 85. (Exhibit 05)

Education (recommending actions 6 to 17), Education for Reconciliation (recommending actions 62 to 65) and Youth Programs (recommending action 66).

44. The T.R.C. report is a well-consulted document with all stakeholders. The government of Canada is in the process of implementing its recommendation. The TDSB must implement recommendations as proposed by T.R.C. and should not introduce new compulsory course CHG381.

45. Further, the CHG381 course is not required to discuss aboriginal issues in Canada since they have already been included in the curriculum.

46. Grade 9 and 10 Canadian and World Studies curriculum had consisted of Indigenous Education in Ontario. The specific expectation A1.7, B1.1, B1.2, B1.3, B1.4, B2.4, B2.6, C1.1, C1.4, C1.5, C2.3, C2.4, D1.4, D2.1, D2.2, D2.3, D3.1, D3.2, E1.1, E1.4, E2.1, E2.3, E3.1, E3.3 are identified. Those specific expectations are directly connected with Education about Indigenous people in Canada.

47. There is no specific need for the course CHG381 include into the Ontario curriculum since all aspects of indigenous issues were addressed through the T.R.C. report and Grade 9 and 10 Canadian and World Studies curriculum.

48. Therefore, the TDSB proposal to include the Indigenous Genocide into the CHG381 course must be rejected.

**49. (2) (Alleged) Tamil Genocide**

Alleged Tamil Genocide is not under investigation by any competent jurisdiction such as I.C.C. or I.C.J. The Government of Canada does not recognize the alleged Tamil Genocide. Alleged Tamil Genocide is a politically motivated campaign against sovereign state Sri Lanka.

50. The government of Canada recognized it as an armed conflict<sup>5</sup> between Tamil terrorists Liberation Tigers Tamil Eelam (LTTE) and Government forces.

51. The facts are presented in the Bill 104, *Tamil Genocide Education Week Act*, 2019 is widely disputed.

52. Legislative Assembly Ontario has no jurisdiction to investigate alleged Genocide claims against Tamils.

53. The proposed Bill 104 is a real interference of the domestic affairs of Sri Lanka (armed conflicts between LTTE) and also undermines Sovereignty of the state, Sri Lanka.

54. The alleged Tamil Genocide is unproductive speculation about Genocide.

55. Therefore, TDSB's proposal to include the alleged Tamil Genocide into CHG 381 must be rejected.

56. Further, the proposed CHG381 course should not be considered to include the Ontario curriculum.

**Note:** A submission to Standing Committee on Regulations and Private Bills of the Legislative Assembly of Ontario against Bill 104, *Tamil Genocide Education Week Act*, 2019 will available upon request (**Exhibit 07**)

## **57. SUMMARY**

The horrific indiscriminate attacks against civilians simply did not always meet the internationally accepted definition of the term Genocide.

58. I have enormous sympathy for the people affected by various incidents and conflicts. But I fail to sympathize with the priority that some leaders of the community in Canada — not all — labelling their suffering and victimization as Genocide.

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<sup>5</sup> <https://pm.gc.ca/en/news/statements/2020/05/18/statement-prime-minister-11th-anniversary-end-armed-conflict-sri-lanka>

59. Alleged Tamil Genocide campaigns are just to obtain media attention and continuing for political reasons.
60. The proposed Genocide: Historical and Contemporary Implications (CHG381) is an overlapping current curriculum already approved in Ontario.
61. The proposed course CHG381 will severely affect Science, Technology, Engineering and Mathematics (STEM) stream students for securing their credit to enter University admission.
62. I.C.C. or I.C.J does not recognize the proposed Genocides such as Srebrenica massacre, the Genocide of Yazidis and the Rohingya Genocide.
63. The government of Canada does not recognize the Genocide against Indigenous Peoples in Canada. The Truth Reconciliation Commission has proposed 94 recommendations, including education on indigenous people issues. The TDSB must focus on T.R.C. recommendations, but not on introducing new CHG381.
64. Indigenous People Genocide by Canada not under investigation under any competent jurisdiction.
65. The proposed Genocide: Historical and Contemporary Implications (CHG381) compulsory course is unproductive speculation about Genocide and factually incorrect.
66. Alleged Tamil Genocide is not under investigation or consideration by any competent jurisdiction.
67. The proposed CHG381 course is directly aligned with Human Rights, but not the subject matter Genocide.
68. It can be concluded that subject matter proposed for the compulsory course CHG381 factually incorrect with regards to Genocide. The TDSB did not conduct an in-depth study prior to proposing the compulsory course.



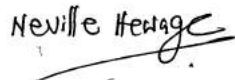
**69. CONCLUSION**

The proposed mandatory course Genocide: Historical and Contemporary Implications (CHG381) have no merit in all aspects to introduce into the Ontario Curriculum.

70. The course: Historical and Contemporary Implications (CHG381) proposed by the TDSB must be rejected without any further considerations.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED**

**Submitted at Ottawa, City of Ottawa, Ontario, on June 29, 2020.**



**Neville Hewage, Ph.D.**

Adjunct Professor

Research Fellow – Public Policy and Governance

International Centre for Interdisciplinary Research in Law

Laurentian University

Sudbury, Ontario.

L.S.O. No. P15799

**Mailing Address:**

2581 River Mist Road

Ottawa ON K2J 6G1

Tel: 613 612 7615

Email: nx\_hewage@laurentian.ca

**Exhibits Continue from Here**

**Written Notice of Motion for Consideration (Trustees Laskin and Moise)**

From: Denise Joseph-Dowers, Manager, Board Services, Governance and Board Services

In accordance with Board Bylaw 5.15.2, notice of the following motion was provided at the regular meeting of the Board on May 27, 2020 and is therefore submitted for consideration at this time.

5.15.2 A notice of motion will be introduced by a member who is present as an advance notification of a matter to be considered at a subsequent Board or Committee meeting. A notice of motion will not be debated at the meeting at which it is introduced...

5.15.2 (b) A notice of motion submitted prior to, or at a Board meeting, will be considered at a subsequent Board meeting or will be referred to the appropriate committee...

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**Incorporating Genocide Education as Compulsory Learning**

Whereas, procedure PR728, *Reporting and Responding to Racism and Hate Incidents Involving or Impacting Students in Schools* was developed in response to a Board decision on June 19, 2019, which directed staff to set clear expectations about the processes to be followed and the Board's responsibilities in situations where there are acts of racism and hate; and

Whereas, in the *Multi-Year Strategic Plan*, providing mandatory training for principals/vice-principals in anti-oppression and anti-Black racism connected to school improvement has been completed and building capacity among groups of educators who possess the facilitation skills and understanding to effectively co-lead learning in human rights, equity and anti-oppression is ongoing as is combatting various forms of discrimination (e.g., anti-Black racism, anti-Indigenous racism, Antisemitism, Islamophobia, anti-Asian racism, homophobia, transphobia, and the discrimination faced by those with physical and intellectual disabilities) through human rights training and more effective procedures is ongoing for staff; and

Whereas, the Toronto District School Board is committed to continuing the important work of *Holocaust and Genocide Education* in honour of Liberation75<sup>1</sup> and created a website "Encouraging Students to Investigate and Understand the Past to Think Critically about the Present and Future"; and

Whereas, in recent years, according to B'Nai Brith<sup>2</sup> there has been an unprecedented increase in antisemitic harassment, vandalism, and violence; and

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<sup>1</sup> Liberation75 marks the 75th anniversary of liberation from the Holocaust. Liberation75 was originally planned for May 31-June 2, 2020 at the Metro Toronto Convention Centre. Due to COVID-19, new dates and venue(s) for 2021 will be announced soon <https://www.liberation75.org/>

<sup>2</sup> Annual Audit of Antisemitic Incidents © 2020 B'nai Brith of Canada League for Human Rights  
[https://d3n8a8pro7vbm.cloudfront.net/bnaibrithcanada/pages/394/attachments/original/1588351819/B'nai\\_Brith\\_Canada\\_Audit\\_2019\\_ENG.pdf?1588351819](https://d3n8a8pro7vbm.cloudfront.net/bnaibrithcanada/pages/394/attachments/original/1588351819/B'nai_Brith_Canada_Audit_2019_ENG.pdf?1588351819)

Whereas, a recent study by the Azrieli Foundation<sup>1</sup> found that 22% of Canadians under the age of 34 either have not heard of the Holocaust or were unsure of whether they had; and

Whereas, hatred in all forms is on the rise and as a public education system we have the responsibility to educate against hate; and

Whereas, Genocide education is critical in fighting against intolerance, racism and hate;

Therefore, be it resolved:

That the Chair write to the Minister of Education with the following recommendations:

- a. That the *Genocide: Historical and Contemporary Implications* (CHG381)<sup>2</sup>, Grade 11, Locally Developed Course, be accredited as part of the Ontario Curriculum as a “university” or “mixed” course;
- b. That, as Genocide education is critical in fighting intolerance, racism and hate, the provincial government look for ways to ensure that Canada’s role in genocide examples are a comprehensive study as part of the mandatory *Canadian History since World War I*, Grade 10 Academic and Applied course;
- c. That the province convene a working group of experts to look critically at the Ontario curriculum to:
  - i. develop a policy framework which will enable students to graduate with a better understanding of human rights, peace, war, critical thinking, historical thinking, racism, etc;
  - ii. ensure students know their human rights and responsibilities, how to protect those rights, the consequences of indifference and how to take effective action when they or other members of the community experience, hate, racism, and other forms of discrimination and violence, now and in the future;
  - iii. include Genocide education<sup>3</sup> as mandatory curriculum in order to accomplish (i) and (ii) above.

---

<sup>1</sup> Canadian Holocaust Knowledge and Awareness Study - The Azrieli Foundation in partnership with the Conference on Jewish Material Claims Against Germany (Claims Conference) commissioned Schoen Consulting to conduct a comprehensive national study of Holocaust knowledge and awareness in Canada  
<https://azrielifoundation.org/canadian-holocaust-knowledge-and-awareness-study/>

<sup>2</sup> Course Description  
[https://www.tdsb.on.ca/DesktopModules/Tdsb.Webteam.Modules.SPC/CourseDescriptionPopup.aspx?courseID=1124\\_20132014\\_CHG381](https://www.tdsb.on.ca/DesktopModules/Tdsb.Webteam.Modules.SPC/CourseDescriptionPopup.aspx?courseID=1124_20132014_CHG381)

<sup>3</sup> The study of Genocide Education include but not limited to those officially recognized by the House of Commons including the Holocaust, the genocide against the Tutsi in Rwanda, the Ukrainian Holodomor, the Armenian Genocide, the Srebrenica massacre, the genocide of Yazidis and the Rohingya Genocide and those under investigation including the Genocide against Indigenous Peoples in Canada, and the Tamil Genocide in order to teach students the consequences of unchecked hate, racism and intolerance.

The Ontario Curriculum  
Grades 9 and 10

# Canadian and World Studies

GEOGRAPHY • HISTORY • CIVICS (POLITICS)



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This publications is available on the Ministry of Education website,  
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# PREFACE

This document replaces *The Ontario Curriculum, Grades 9 and 10: Canadian and World Studies, 2013*. Beginning in September 2018, all Canadian and world studies courses for Grades 9 and 10 will be based on the expectations outlined in this document.

This edition of the curriculum includes a revision of the history curriculum,<sup>1</sup> developed in collaboration with First Nations, Métis, and Inuit educators, community members, and organizations. The revision was undertaken in response to the Truth and Reconciliation Commission of Canada's calls to action numbers 62 and 63.

## SECONDARY SCHOOLS FOR THE TWENTY-FIRST CENTURY

The goal of Ontario secondary schools is to support high-quality learning while giving individual students the opportunity to choose programs that suit their skills and interests. The updated Ontario curriculum, in combination with a broader range of learning options outside traditional classroom instruction, will enable students to better customize their high school education and improve their prospects for success in school and in life.

The revised curriculum recognizes that, today and in the future, students need to be critically literate in order to synthesize information, make informed decisions, communicate effectively, and thrive in an ever-changing global community. It is important that students be connected to the curriculum; that they see themselves in what is taught, how it is taught, and how it applies to the world at large. The curriculum recognizes that the needs of learners are diverse, and helps all learners develop the knowledge, skills, and perspectives they need to be informed, productive, caring, responsible, healthy, and active citizens in their own communities and in the world.

## SUPPORTING STUDENTS' WELL-BEING AND ABILITY TO LEARN

Promoting the healthy development of all students, as well as enabling all students to reach their full potential, is a priority for educators across Ontario. Students' health and well-being contribute to their ability to learn in all disciplines, including Canadian and world studies, and that learning in turn contributes to their overall well-being.

Educators play an important role in promoting children and youth's well-being by creating, fostering, and sustaining a learning environment that is healthy, caring, safe, inclusive, and accepting. A learning environment of this kind will support not only students' cognitive, emotional, social, and physical development but also their sense of self and spirit, their mental health, their resilience, and their overall state of well-being. All this will help them achieve their full potential in school and in life.

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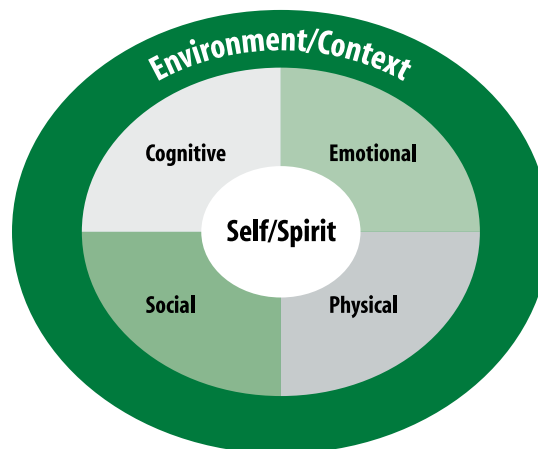
1. This revision focused only on the two history courses. Consequently, there may be differences in terminology and style between the revised courses and the balance of the document.



A variety of factors, known as the “determinants of health”, have been shown to affect a person’s overall state of well-being. Some of these are income, education and literacy, gender and culture, physical and social environment, personal health practices and coping skills, and availability of health services. Together, such factors influence not only whether individuals are physically healthy but also the extent to which they will have the physical, social, and personal resources needed to cope and to identify and achieve personal aspirations. These factors also have an impact on student learning, and it is important to be aware of them as factors contributing to a student’s performance and well-being.

An educator’s awareness of and responsiveness to students’ cognitive, emotional, social, and physical development, and to their sense of self and spirit, is critical to their success in school. A number of research-based frameworks, including those described in *Early Learning for Every Child Today: A Framework for Ontario Early Childhood Settings* (2007), *On My Way: A Guide to Support Middle Years Child Development* (2017), and *Stepping Stones: A Resource on Youth Development* (2012),<sup>2</sup> identify developmental stages that are common to the majority of students from Kindergarten to Grade 12. At the same time, these frameworks recognize that individual differences, as well as differences in life experiences and exposure to opportunities, can affect development, and that developmental events are not specifically age-dependent.

The framework described in *Stepping Stones* is based on a model that illustrates the complexity of human development. Its components – the cognitive, emotional, physical, and social domains – are interrelated and interdependent, and all are subject to the influence of a person’s environment or context. At the centre is an “enduring (yet changing) core” – a sense of self, or spirit – that connects the different aspects of development and experience (p. 17).



Source: *Stepping Stones: A Resource on Youth Development*, p. 17

2. Best Start Expert Panel on Early Learning, *Early Learning for Every Child Today: A Framework for Ontario Early Childhood Settings* (2007) is available at [www.edu.gov.on.ca/childcare/oelf/continuum/continuum.pdf](http://www.edu.gov.on.ca/childcare/oelf/continuum/continuum.pdf); Ministry of Children and Youth Services, *On My Way: A Guide to Support Middle Years Child Development* (2017) is available at [www.children.gov.on.ca/htdocs/English/professionals/middleyears/onmyway/index.aspx](http://www.children.gov.on.ca/htdocs/English/professionals/middleyears/onmyway/index.aspx); and Government of Ontario, *Stepping Stones: A Resource on Youth Development* (2012) is available at [www.children.gov.on.ca/htdocs/English/documents/youthopportunities/steppingstones/SteppingStones.pdf](http://www.children.gov.on.ca/htdocs/English/documents/youthopportunities/steppingstones/SteppingStones.pdf).

Educators who have an awareness of a student's development take each component into account, with an understanding of and focus on the following elements:

- ***cognitive development*** – brain development, processing and reasoning skills, use of strategies for learning
- ***emotional development*** – emotional regulation, empathy, motivation
- ***social development*** – self-development (self-concept, self-efficacy, self-esteem); identity formation (gender identity, social group identity, spiritual identity); relationships (peer, family, romantic)
- ***physical development*** – physical activity, sleep patterns, changes that come with puberty, body image, nutritional requirements

## The Role of Mental Health

Mental health touches all components of development. Mental health is much more than the absence of mental illness. Well-being is influenced not only by the absence of problems and risks but by the presence of factors that contribute to healthy growth and development. By nurturing and supporting students' strengths and assets, educators help promote positive mental health in the classroom. At the same time, they can identify students who need additional support and connect them with the appropriate services.<sup>3</sup>

What happens at school can have a significant influence on a student's well-being. With a broader awareness of mental health, educators can plan instructional strategies that contribute to a supportive classroom climate for learning in all subject areas, build awareness of mental health, and reduce stigma associated with mental illness. Taking students' well-being, including their mental health, into account when planning instructional approaches helps establish a strong foundation for learning.

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3. See the ministry document *Supporting Minds: An Educator's Guide to Promoting Students' Mental Health and Well-being* (2013).

# INTRODUCTION

## THE VISION AND GOALS OF THE CANADIAN AND WORLD STUDIES CURRICULUM

The Grade 9 to 12 Canadian and world studies curriculum shares a common vision with the Grade 1 to 8 social studies, history, and geography curriculum. That vision and the goals of the elementary and secondary program are as follows:

### **Vision and Goals for Social Studies, Grades 1 to 6; History and Geography, Grades 7 and 8; and Canadian and World Studies, Grades 9 to 12**

#### **Vision**

The social studies, history, geography, and Canadian and world studies programs will enable students to become responsible, active citizens within the diverse communities to which they belong. As well as becoming critically thoughtful and informed citizens who value an inclusive society, students will have the skills they need to solve problems and communicate ideas and decisions about significant developments, events, and issues.

#### **Goals**

In social studies, history, and geography, and all the subjects in Canadian and world studies, students realize the vision for the program as they:

- develop the ability to use the “concepts of disciplinary thinking” to investigate issues, events, and developments;
- develop the ability to determine and apply appropriate criteria to evaluate information and evidence and to make judgements;
- develop skills and personal attributes that are needed for discipline-specific inquiry and that can be transferred to other areas in life;
- build collaborative and cooperative working relationships;
- use appropriate technology as a tool to help them gather and analyse information, solve problems, and communicate.

The chart on the next page outlines how students will achieve the goals in the individual subjects of the Grade 9 and 10 Canadian and world studies curriculum – geography, history, and politics (civics)<sup>4</sup> – and how these subjects will prepare them to realize the vision of the program.

4. The goals for history and geography in the secondary Canadian and world studies curriculum are the same as those for history and geography in the elementary social studies, history, and geography curriculum. The goals for the subjects of economics and law, which are part of the Grade 11 and 12 Canadian and world studies curriculum, as well as for social studies in the elementary curriculum, can be found in Appendix A on page 167.

<b>Goals of Geography –</b> Developing a sense of place  <i>What is where, why there, and why care?</i>	<b>Goals of History –</b> Developing a sense of time  <i>Who are we? Who came before us? How have we changed?</i>	<b>Goals of Politics (Civics) –</b> Developing a sense of responsibility  <i>Where do I belong? How can I contribute?</i>
Students will work towards: <ul style="list-style-type: none"> <li>• developing an understanding of the characteristics and spatial diversity of natural and human environments and communities, on a local to a global scale;</li> <li>• analysing the connections within and between natural and human environments and communities;</li> <li>• developing spatial skills through the use of spatial technologies and the interpretation, analysis, and construction of various types of maps, globes, and graphs;</li> <li>• being responsible stewards of the Earth by developing an appreciation and respect for both natural and human environments and communities.</li> </ul>	Students will work towards: <ul style="list-style-type: none"> <li>• developing an understanding of past societies, developments, and events that enables them to interpret and analyse historical, as well as current, issues;</li> <li>• analysing how people from diverse groups have interacted and how they have changed over time;</li> <li>• understanding the experiences of and empathizing with people in past societies;</li> <li>• developing historical literacy skills by analysing and interpreting evidence from primary and secondary sources.</li> </ul>	Students will work towards: <ul style="list-style-type: none"> <li>• developing an understanding of how to influence change within the diverse communities to which they belong, and of how individuals and groups can participate in action that promotes change;</li> <li>• analysing current political issues, and assessing methods and processes that can be used to influence relevant political systems to act for the common good;</li> <li>• assessing the power and influence of different people involved in civic issues, using political perspective;</li> <li>• developing a respect and appreciation for different points of view on various political issues.</li> </ul>

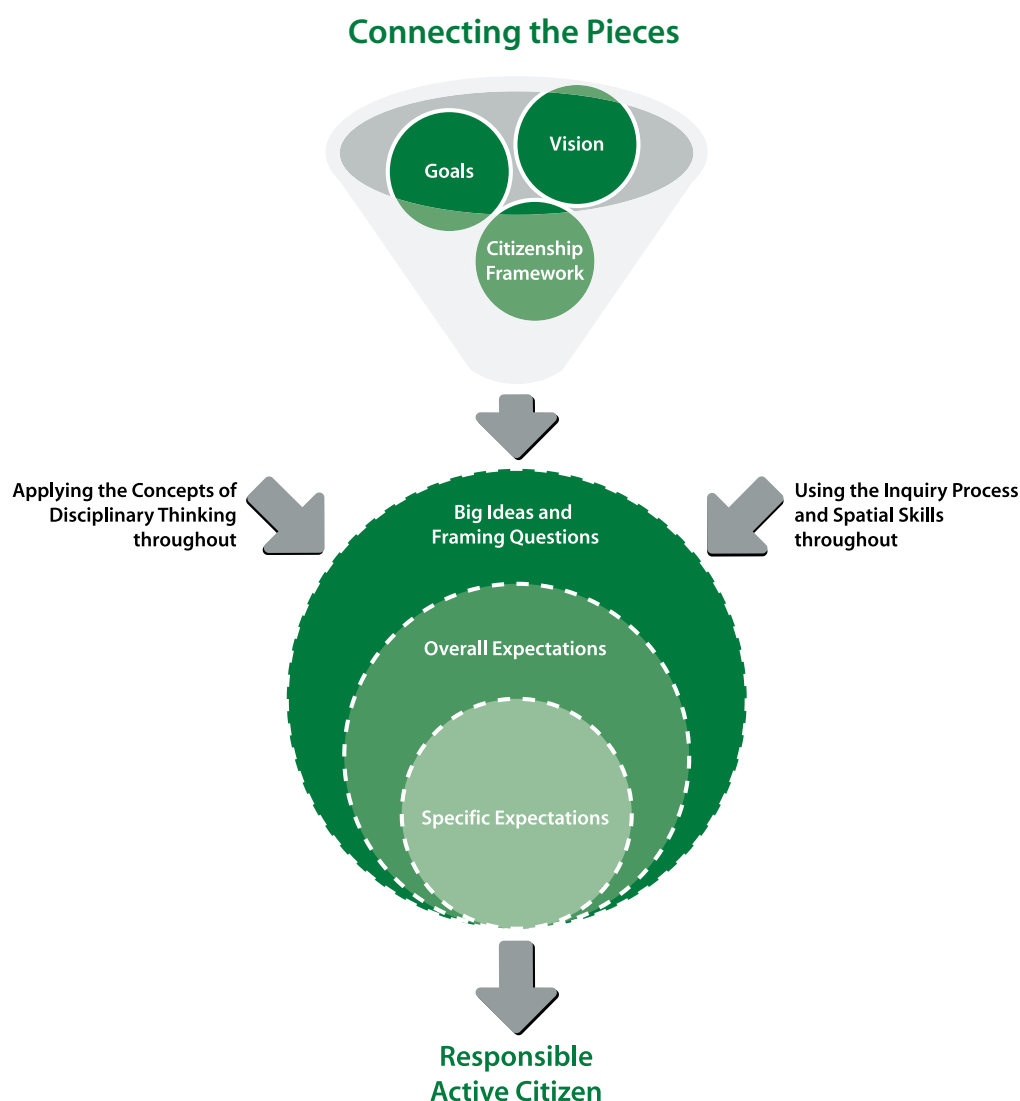
## Tools and Strategies to Help Achieve the Vision of the Program

The following tools and strategies have been incorporated into the curriculum as a necessary part of the learning to help students achieve the vision for learning in the Canadian and world studies curriculum.

- **The citizenship education framework** (see page 10): This framework brings together the main elements of citizenship education. All subjects in the Canadian and world studies curriculum provide multiple opportunities to incorporate aspects of citizenship education.
- **The concepts of disciplinary thinking** (see page 13): These concepts provide a way for students to develop the ability to think critically about significant events, developments, and issues, both within the curriculum and in their lives outside the classroom.
- **The inquiry process** (see page 27): Students use the components of the inquiry process for each subject to investigate, and to communicate their findings about, significant events, developments, and issues. By applying the inquiry process, students develop skills that they need in order to think critically, solve problems, make informed judgements, and communicate ideas.

- **Big ideas** (see page 14): The big ideas provide context for the overall expectations and the concepts of disciplinary thinking that are related to them. The big ideas reflect the enduring understandings that students retain from their learning, transfer to other subjects, and draw upon throughout their lives.
- **Framing questions** (see the overview charts for each course): The framing questions are overarching questions related to the overall expectations and big ideas. They are intended to stimulate students' critical thinking and to encourage them to consider the broader relevance of what they are studying.
- **Spatial skills**<sup>5</sup> (see page 29): Students use spatial skills and tools to analyse and construct various types of maps and graphs. By developing these skills, students will be able to understand and analyse visual data and information, contributing to their ability to solve problems.

The figure below illustrates the interrelationship between these tools and strategies and the achievement of expectations in the Canadian and world studies curriculum.



5. Spatial skills are directly taught in the geography courses but are used in all subjects in the Canadian and world studies curriculum. The Grade 9 geography courses include specific suggestions for the use of spatial skills.

## THE IMPORTANCE OF THE CANADIAN AND WORLD STUDIES CURRICULUM

In Canadian and world studies, students develop skills, knowledge and understanding, and attitudes that will serve them both inside and outside the classroom, including in the world of work and as responsible citizens in the various communities to which they belong. The focus of teaching and learning in the Canadian and world studies curriculum is the development of ways of thinking and of transferable skills that students need in order to acquire and apply knowledge and understanding. Students apply these concepts of thinking and skills in a variety of contexts to examine information critically; to assess the significance of events, developments, and processes; to develop an understanding of and respect for different points of view; to reach supportable conclusions; and to propose solutions to, and courses of actions to address, real problems.

### Citizenship Education in the Canadian and World Studies Curriculum

The responsible, active citizen participates in the community for the common good. Citizenship education provides *“ways in which young people are prepared and consequently ready and able to undertake their roles as citizens”*.

Julian Fraillon and Wolfram Schulz, “Concept and Design of the International Civic and Citizenship Study” (2008)

Citizenship education is an important facet of students’ overall education. In every grade and course in the Grade 9 and 10 Canadian and world studies curriculum, and particularly in Civics and Citizenship in Grade 10, students are given opportunities to learn about what it means to be a responsible, active citizen in the community of the classroom and the diverse communities to which they belong within and outside the school. It is important for students to understand that they belong to many communities and that, ultimately, they are all citizens of the global community.

The diagram on page 10 presents a framework for citizenship education. In this figure:

- the outer circle lists the four main elements of citizenship education – active participation, identity, attributes, and structures – and describes each element;
- the second circle outlines ways in which students may develop the knowledge, skills, and attitudes associated with responsible citizenship. Teachers should ensure that students have opportunities to develop these attitudes, understandings, and practices as they work to achieve the expectations in the subjects that make up the Canadian and world studies curriculum (and those in other subjects as well);
- the innermost circle lists various terms and topics that are related to citizenship education. Teachers may focus on these terms/topics when making connections between citizenship education and expectations in the Canadian and world studies curriculum as well as those in other curriculum documents. In the figure, each term/topic in the innermost circle is connected to a specific element within the framework. However, it is important to note that, in practice, a term can be applied to more than one element – as the dotted lines imply – and that a number of terms may be woven together in a unit that incorporates citizenship education.

## The Citizenship Education Framework



### GEOGRAPHY

*Our daily lives are interwoven with geography. Each of us lives in a unique place and in constant interaction with our surroundings. Geographic knowledge and skills are essential for us to understand the activities and patterns of our lives and the lives of others.*

Gilbert M. Grosvenor Center for Geographic Education,  
*Why Geography Is Important* (2007)

In defining geography, Charles Gritzner notes that “All geographic inquiry should begin with the question, ‘Where?’” He argues that, in considering “major Earth-bound events, features, and conditions”, geographers also investigate why they are where they are, or



happen where they happen. And, because these events, features, and conditions “can and often do have some impact on our lives”, geographers consider why they are important to us.<sup>6</sup> Gritzner has condensed these ideas into a short but meaningful phrase: “What is where, why there, and why care?” The Grade 9 geography courses provide students with opportunities to explore these three aspects of geography as they investigate geographic issues in Canada. In these courses, students will examine issues relating to interactions between physical processes and people living in Canada; changing populations in this country; economic and environmental sustainability; and interconnections between Canada and the global community.

In the Grade 9 geography courses, students will develop their ability to apply both the geographic inquiry process and the concepts of geographic thinking. They apply this process and these concepts as they investigate geographic issues in Canada and deepen their awareness of interconnections between Canadian and global issues. These courses enhance students’ ability to act as responsible global citizens and environmental stewards. Students will develop their spatial skills as they analyse information and data obtained from diverse sources, including field studies, aerial photographs, satellite imaging, various types of maps and graphs, geographic information systems (GIS), and digital representations. The study of geography in Grade 9 builds on the knowledge, attitudes, and skills, including thinking skills, developed in geography in Grades 7 and 8 and enables students to move on to the further study of geography in Grades 11 and 12.

## HISTORY

*Competent historical thinkers understand both the vast differences that separate us from our ancestors and the ties that bind us to them; they can analyze historical artifacts and documents, which can give them some of the best understandings of times gone by; they can assess the validity and relevance of historical accounts, when they are used to support entry into a war, voting for a candidate, or any of the myriad decisions knowledgeable citizens in a democracy must make. All this requires “knowing the facts”, but “knowing the facts” is not enough. Historical thinking does not replace historical knowledge: the two are related and interdependent.*

Peter Seixas, “Scaling Up’ the Benchmarks of Historical Thinking” (2008)

History involves the study of diverse individuals, groups, and institutions as well as significant events, developments, and issues in the past. The Grade 10 history courses provide students with an overview of Canadian history from the eve of World War I to the present. These courses convey a sense of the dynamic nature of Canada and of its interconnections with other parts of the world. Students learn that Canada has many stories and that each one is significant and requires thoughtful consideration. Students learn about the historical and contemporary impact of colonialism, the Indian Act, the residential school system, treaties, and systemic racism on Indigenous<sup>7</sup> individuals and communities in Canada.

Students will develop their ability to apply the concepts of historic thinking in order to deepen their understanding of modern Canadian history. They will also develop their

6. Charles Gritzner, “Defining Geography: What Is Where, Why There, and Why Care”, accessed at [http://apcentral.collegeboard.com/apc/members/courses/teachers\\_corner/155012.html](http://apcentral.collegeboard.com/apc/members/courses/teachers_corner/155012.html).

7. In this document, the term “Indigenous” is generally used to refer to First Nations, Métis, and Inuit individuals and communities in Canada. However, “Aboriginal” is used in specific historical or legal contexts, as appropriate.



ability to apply the historical inquiry process, gathering, interpreting, and analysing historical evidence and information from a variety of primary and secondary sources in order to investigate and reach conclusions about historical issues, developments, and events.

The study of history in Grade 10 enables students to more fully appreciate Canadian heritage and identity, the diversity and complexity of Canadian society, and the challenges and responsibilities associated with Canada's position in the world. In doing so, it helps prepare students to fulfil their role as informed and responsible global citizens. The study of history in Grade 10 builds on the knowledge, attitudes, and skills, including thinking skills, developed in history in Grades 7 and 8 and supports the further study of history in Grades 11 and 12.

## CIVICS (POLITICS)

*The global project of the twenty-first century is political: to engage citizens in and out of government ... in responding to [serious global] challenges...We need a way of understanding politics that embraces citizens both inside and outside of government since each have work that only they can do.*

Harold H. Saunders, *Politics Is About Relationship: A Blueprint for the Citizen's Century* (2005)

Politics involves the study of how societies are governed, how policy is developed, how power is distributed, and how citizens take public action. The Grade 10 course Civics and Citizenship focuses on civics, a branch of politics that explores the rights and responsibilities of citizens, the processes of public decision making, and ways in which citizens can act for the common good within communities at the local, national, and/or global level. By focusing on civics and citizenship education, this course enables students to develop their understanding of what it means to be a responsible citizen and to explore various elements of the citizenship education framework.

Civics and Citizenship provides opportunities for students to investigate issues of civic importance, the roles of different levels of government in addressing these issues, and how people's beliefs and values affect their positions on these issues. Students will analyse the roles, responsibilities, and influence of citizens in a democratic society and explore ways in which people can make a difference in the various communities to which they belong. Students are encouraged to clarify their own beliefs and values relating to matters of civic and political importance and to explore ways in which they can respond to these matters.

Civics and Citizenship introduces students to the political inquiry process and the concepts of political thinking. Students will develop ways of thinking about civics and citizenship education through the application of these concepts and will use the political inquiry process as they gather, interpret, and analyse data and information relating to issues of civic importance. Students will make informed judgements and draw conclusions about these issues and will develop plans of actions to address them. This course supports the further study of politics in Grades 11 and 12.

# CONCEPTS UNDERLYING THE CANADIAN AND WORLD STUDIES CURRICULUM

## Concepts of Disciplinary Thinking

In Canadian and world studies, it is crucial that students not simply learn various facts but that they develop the ability to think and to process content in ways best suited to each subject. To that end, the curriculum focuses on developing students’ ability to apply *concepts of disciplinary thinking*, which are inherent in “doing” each subject. Each of the subjects in the Grade 9 and 10 Canadian and world studies curriculum (as well as the subjects that make up the Grade 11 and 12 Canadian and world studies curriculum and the elementary social studies, history, and geography curriculum) has its own way of thinking, and its own concepts. The concepts for all the subjects in both Canadian and world studies and social studies, history, and geography are listed in the following chart. Given the inherently interdisciplinary nature of social studies, the six concepts of social studies thinking listed below provide the foundation for the concepts of thinking in each subject in the Canadian and world studies program. (Note that the variations in the wording of the concepts reflect terminology specific to each subject.) For full descriptions of the concepts of disciplinary thinking in geography, history, and politics, see the charts on pages 64, 104, and 150, respectively.

Concepts of Disciplinary Thinking across Subjects					
Social Studies	History	Geography	Politics	Economics	Law
Significance	Historical Significance	Spatial Significance	Political Significance	Economic Significance	Legal Significance
Cause and Consequence	Cause and Consequence		Objectives and Results	Cause and Effect	
Continuity and Change	Continuity and Change		Stability and Change		Continuity and Change
Patterns and Trends		Patterns and Trends		Stability and Variability	
Interrelationships		Interrelationships			Interrelationships
Perspective	Historical Perspective	Geographic Perspective	Political Perspective	Economic Perspective	Legal Perspective

Concepts of disciplinary thinking can be used in any investigation in geography, history, and politics (including civics), although certain concepts are more obviously related to some topics than others, and concepts are often interrelated. Students use the concepts when they are engaged in the inquiry process, whether they are conducting an investigation that involves the process as a whole or are applying specific skills related to different components of that process as they work towards achieving a given expectation. In Grade 9 and 10 Canadian and world studies, at least one concept of disciplinary thinking is identified as a focus for each overall expectation. Teachers can use the specified concepts to deepen students’ investigations (for example, encouraging students to apply the concept of geographic perspective to look at an issue from multiple points of view). It is important that teachers use their professional judgement to ensure that the degree of complexity is appropriate for both the grade level and the individual student’s learning style and that it does not lead to confusion.

## “Big Ideas” and Framing Questions

A “big idea” is an enduring understanding, an idea that we want students to delve into and retain long after they have forgotten many of the details of the course content. The big ideas address basic questions such as “Why am I learning this?” or “What is the point?” Through exploration of the big ideas, students are encouraged to become creators of their understandings and not passive receivers of information. Many of the big ideas are transferable to other subjects and, more broadly, to life itself. In many cases, they provide the opportunity for students to think across disciplines in an integrated way.

In this document, the big ideas are connected to the overall expectations and the related concepts of disciplinary thinking in each strand. They are given in the chart on the overview page that precedes each course in Canadian and world studies. The big ideas are also connected to the general framing questions that are provided for each strand. The big ideas combined with the framing questions are intended to stimulate students’ curiosity and critical thinking and to heighten the relevance of what they are studying. The framing questions are broad and often open-ended and can be used to frame a set of expectations or an entire strand. By way of example, the following chart shows the big ideas and framing questions that are related to the overall expectations in Strand B of the Grade 10 civics (politics) course, Civics and Citizenship.

Sample Overview – Civics and Citizenship		
Overall Expectations and Related Concepts of Political Thinking	Big Ideas	Framing Questions
<b>B: Civic Awareness</b>		
<b>B1. Civic Issues, Democratic Values:</b> describe beliefs and values associated with democratic citizenship in Canada, and explain how they are related to civic action and to one’s position on civic issues <b>(FOCUS ON: Political Significance; Political Perspective)</b>	In a democratic society, people have different beliefs, which influence their position and actions with respect to issues of civic importance.	What is the relationship between people’s beliefs and values and their positions on civic issues?  Why is it important to understand how political structures and processes work?
<b>B2. Governance in Canada:</b> explain, with reference to a range of issues of civic importance, the roles and responsibilities of various institutions, structures, and figures in Canadian governance <b>(FOCUS ON: Stability and Change; Political Perspective)</b>	An understanding of how various levels of government function and make decisions enables people to effectively engage in the political process.	What are some ways in which I can make my voice heard within the political process?
<b>B3. Rights and Responsibilities:</b> analyse key rights and responsibilities associated with citizenship, in both the Canadian and global context, and some ways in which these rights are protected <b>(FOCUS ON: Political Significance; Objectives and Results)</b>	People living in Canada have rights and freedoms based in law; at the same time, they have responsibilities associated with citizenship.	In what ways does the Canadian Charter of Rights and Freedoms protect me? What responsibilities come with these rights?

## INDIGENOUS EDUCATION IN ONTARIO

*First Nation, Métis, and Inuit students in Ontario will have the knowledge, skills, and confidence they need to successfully complete their elementary and secondary education in order to pursue postsecondary education or training and/or to enter the workforce. They will have the traditional and contemporary knowledge, skills, and attitudes required to be socially contributive, politically active, and economically prosperous citizens of the world. All students in Ontario will have knowledge and appreciation of contemporary and traditional First Nation, Métis, and Inuit traditions, cultures, and perspectives.*

*Ontario First Nation, Metis and Inuit Education Policy Framework (2007)*

The *Ontario First Nation, Métis, and Inuit Education Policy Framework* is part of Ontario's Indigenous Education Strategy, which supports the achievement and well-being of Indigenous students across the province. The strategy also raises awareness about First Nation, Métis, and Inuit cultures, histories, perspectives, and contributions among all students in Ontario schools. The strategy is an essential component of Ontario's partnership with Indigenous peoples, and addresses a critical gap in Ontario's efforts to promote high levels of achievement for *all* students.

Consistent with the strategy, the present revision of the social studies and history curriculum was developed in collaboration with First Nations, Métis, and Inuit educators, community members, and organizations in response to the Truth and Reconciliation Commission's calls to action numbers 62 and 63. The revision strengthens learning connected with Indigenous perspectives, cultures, histories, and contemporary realities, including those related to the residential school system and treaties.

It is essential that learning activities and materials used to support Indigenous education are authentic and accurate and do not perpetuate culturally and historically inaccurate ideas and understandings. It is important for educators and schools to select resources that portray the uniqueness of First Nations, Métis, and Inuit histories, perspectives, and world views authentically and respectfully. It is also important to select resources that reflect local Indigenous communities as well as First Nations, Métis, and Inuit individuals and communities from across Ontario and Canada. Resources that best support Indigenous education feature Indigenous voices and narratives and are developed by, or in collaboration with, First Nations, Métis, and Inuit communities. Schools can contact their board's Indigenous lead for assistance in evaluating and selecting resources.

### Cultural Safety

It is important to create a learning environment that is respectful and that makes students feel safe and comfortable not only physically, socially, and emotionally but also in terms of their cultural heritage. A culturally safe learning environment is one in which students feel comfortable about expressing their ideas, opinions, and needs and about responding authentically to topics that may be culturally sensitive. Teachers should be aware that some students may experience emotional reactions when learning about issues that have affected their own lives, their family, and/or their community, such as the legacy of the residential school system. Before addressing such topics in the classroom, teachers need to consider how to prepare and debrief students, and they need to ensure that resources are available to support students both inside and outside the classroom.

## ROLES AND RESPONSIBILITIES IN THE CANADIAN AND WORLD STUDIES PROGRAM

### Students

Students' responsibilities with respect to their own learning develop gradually and increase over time as they progress through elementary and secondary school. With appropriate instruction and with experience, students come to see how applied effort can enhance learning and improve achievement. As they mature and develop their ability to persist, to manage their behaviour and impulses, to take responsible risks, and to listen with understanding, students become better able to take more responsibility for their learning and progress. There are some students, however, who are less able to take full responsibility for their learning because of special challenges they face. The attention, patience, and encouragement of teachers can be extremely important to the success of these students. Learning to take responsibility for their improvement and achievement is an important part of every student's education.

Mastering the skills and concepts connected with learning in the Canadian and world studies curriculum requires ongoing practice, personal reflection, efforts to respond to feedback, and commitment from students. It also requires a willingness to try new activities, explore new ideas, keep an open mind, collaborate with peers, and follow safety practices both during field studies and in the classroom. Through ongoing practice and reflection about their development, students deepen their appreciation and understanding of themselves and others, the communities to which they belong, and the natural environment.

### Parents

Parents<sup>8</sup> have an important role to play in supporting student learning. Studies show that students perform better in school if their parents are involved in their education. By becoming familiar with the curriculum, parents can better appreciate what is being taught in the courses their children are taking and what they are expected to learn. This awareness will enhance parents' ability to discuss their children's work with them, to communicate with teachers, and to ask relevant questions about their children's progress. Knowledge of the expectations will also enhance parents' ability to work with teachers to improve their children's learning.

Effective ways in which parents can support their children's learning include attending parent-teacher interviews, participating in parent workshops, and becoming involved in school council activities (including becoming a school council member). Parents who encourage and monitor project completion or home practice, including the application of skills in new contexts, further support their children in their geography, history, and civics (politics) studies. Parents can be supportive by taking an interest in and discussing current events with their children, helping them make connections between their studies and current issues and developments. Parents can also promote their children's understanding of and appreciation for the multiple communities to which they belong – ethnocultural, religious, linguistic, national – by exposing them to people, cultural events, and stories related to their heritage. Within the school, parents can promote and attend events related to Canadian and world studies.

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8. The word *parent(s)* is used in this document to refer to parent(s) and guardian(s). It may also be taken to include caregivers or close family members who are responsible for raising the child.

## Teachers

Teachers and students have complementary responsibilities. Teachers develop appropriate instructional strategies to help students achieve the curriculum expectations, as well as appropriate methods for assessing and evaluating student learning. Teachers bring enthusiasm and varied teaching and assessment approaches to the classroom, addressing different student needs and ensuring sound learning opportunities for every student. Teachers reflect on the results of the learning opportunities they provide, and make adjustments to them as necessary to help every student achieve the curriculum expectations to the best of their ability.

Using a variety of instructional, assessment, and evaluation strategies, teachers provide numerous opportunities for students to develop and refine their critical-thinking, problem-solving, and communication skills, as they apply the concepts of disciplinary thinking to the content of the Canadian and world studies courses. The activities offered should give students opportunities to relate their knowledge and skills to the social, environmental, and economic conditions and concerns of the world in which they live. Such opportunities will motivate students to participate in their communities as responsible and engaged citizens and to become lifelong learners.

Canadian and world studies teachers can help students understand that applying specific inquiry processes when studying geography, history, and civics (politics) often requires a considerable expenditure of time and energy and a good deal of perseverance. Teachers can also encourage students to explore a range of solutions and to take the risks necessary to become successful problem solvers and investigators. To enable students to feel comfortable and confident in the classroom and to support them in approaching their inquiries with openness and creativity, it is important that teachers create a learning environment that will foster a sense of community, where all students feel included and appreciated and where their perspectives are treated with respect. One way to accomplish this is for teachers to select topics, resources, and examples that reflect the diversity in the classroom, and, where possible, to involve students in this selection process.

Teachers provide students with frequent opportunities to practise their skills and apply new learning and, through regular and varied assessment, give them the specific feedback they need in order to further develop and refine their skills. By assigning tasks that promote the development of higher-order thinking skills, teachers also help students become thoughtful, creative, and effective communicators. Opportunities to relate knowledge and skills in Canadian and world studies to wider contexts, both across the curriculum and in the world beyond the school, motivate students to learn and to become lifelong learners.

As part of effective teaching practice, teachers communicate with parents about what their children are learning. This communication occurs through the sharing of course outlines, ongoing formal and informal conversations, curriculum events, and other means of regular communication, such as newsletters, website postings, and blogs. Communication enables parents to work in partnership with the school, promoting discussion, follow-up at home, and student learning in a family context. Stronger connections between the home and the school support student learning and achievement.



## Principals

The principal works in partnership with teachers and parents to ensure that each student has access to the best possible educational experience. To support student learning, principals ensure that the Ontario curriculum is being properly implemented in all classrooms using a variety of instructional approaches. They also ensure that appropriate resources are made available for teachers and students. To enhance teaching and learning in all subjects, including Canadian and world studies, principals promote learning teams and work with teachers to facilitate their participation in professional development activities. Principals are also responsible for ensuring that every student who has an Individual Education Plan (IEP) is receiving the modifications and/or accommodations described in their plan – in other words, for ensuring that the IEP is properly developed, implemented, and monitored.

Principals are responsible for ensuring that up-to-date copies of the outlines of all of the courses of study for courses offered at the school are retained on file. These outlines must be available for parents and students to examine. Parents of students under the age of eighteen are entitled to information on course content since they are required to approve their child's choice of courses, and adult students need this information to help them choose their courses.

## Community Partners

Community partners can be an important resource for schools and students. They can be models of how the knowledge and skills acquired through the study of the curriculum relate to life beyond school. Partnerships with community organizations can enrich not only the educational experience of students but also the life of the community.

Schools and school boards can play a role by coordinating efforts with community partners. They can involve various community members in supporting learning related to the course expectations and in promoting a focus on issues related to Canadian and world studies inside and outside the school. Community partners can be included in events held in the school, such as skills competitions, ceremonies, information events, career days, and special days of recognition. Schools and boards can collaborate with leaders of existing community-based programs for youth, including programs offered in public libraries and community centres. Local museums, heritage sites, conservation lands, parks, and neighbourhoods can provide rich environments for field studies and for exploration of the local community and its resources. Where the opportunity presents itself, schools and boards may also extend their partnership with international communities and programs.

In choosing community partners, schools should build on existing links with their local communities and create new partnerships in conjunction with ministry and school board policies. These links are especially beneficial when they have direct connections to the curriculum. Teachers may find opportunities for their students to participate in community events, especially events that support the students' learning in the classroom, are designed for educational purposes, and provide descriptive feedback to student participants. Community partnerships can help the student make direct connections between their learning and the "real" world.

# THE PROGRAM IN CANADIAN AND WORLD STUDIES

## OVERVIEW OF THE PROGRAM

The overall aim of the secondary Canadian and world studies program is outlined in the vision statement and goals on page 6.

The Canadian and world studies program offers compulsory courses in geography, history, and civics (politics) in Grades 9 and 10. Students must take one of the Grade 9 geography courses (Issues in Canadian Geography), and one of the Grade 10 history courses (Canadian History since World War I). The Grade 10 course Civics and Citizenship is a half-credit compulsory course.

The Grade 9 and 10 Canadian and world studies program has been designed to ensure continuity with Grade 7 and 8 history and geography. Student learning in Grades 7 and 8 – including that related to content, the inquiry processes, and the concepts of disciplinary thinking – prepares students for the Grade 9 and 10 Canadian and world studies program. Likewise, the courses in this document provide a strong foundation for further study, not only in geography, history, and politics but also in economics and law, the other subjects in the Grade 11 and 12 Canadian and world studies program.

## Courses in Canadian and World Studies, Grades 9 and 10

The geography and history courses in the Grade 9 and 10 Canadian and world studies curriculum are offered in two course types: *academic* and *applied*. The course types are defined as follows:

- *Academic courses* develop students' knowledge and skill through the study of theory and abstract problems. These courses focus on the essential concepts of a subject and explore related concepts as well. They incorporate practical applications as appropriate.
- *Applied courses* focus on the essential concepts of a subject, and develop students' knowledge and skills through practical applications and concrete examples. Familiar situations are used to illustrate ideas, and students are given more opportunities to experience hands-on applications of the concepts and theories they study.



The Grade 10 civics (politics) course, *Civics and Citizenship*, is a half-credit *open* course – that is, a course designed to be appropriate for all students.

To proceed to any Grade 11 geography course, students must successfully complete either the academic or applied Grade 9 geography course. To proceed to any Grade 11 course in economics, history or law, students must successfully complete either the academic or applied Grade 10 history course. To proceed to Grade 11 politics, students must successfully complete the Grade 10 politics course, *Civics and Citizenship*. (See the prerequisite charts on pages 21–23.)

It should be noted that successful completion of either the academic or applied Grade 9 geography course allows students to proceed directly to the Grade 12 college preparation or workplace preparation geography course. Successful completion of either the academic or applied Grade 10 history course allows students to proceed directly to the Grade 11 or 12 workplace preparation course in economics, history, or law.

Although all Grade 11 and 12 courses in Canadian and world studies are optional, students should keep in mind that, to meet the requirements for the secondary school diploma, they must earn at least one senior-level credit in their choice of Canadian and world studies, English (including the Ontario Secondary School Literacy Course), French as a second language, classical studies and international languages, Native languages, First Nations, Métis, and Inuit studies (formerly Native studies), social sciences and humanities, guidance and career education, or cooperative education.<sup>9</sup> Any Grade 11 or 12 course in the Canadian and world studies program will allow students to fulfil this requirement.

### Locally Developed Compulsory Credit Courses (LDCCs)

School boards may offer one Grade 10 locally developed compulsory credit course in Canadian history that may be used to meet the compulsory credit requirement in Canadian history.<sup>10</sup> Whether it is counted as the compulsory credit or not, this course may be developed to prepare students for success in any of the *workplace preparation* courses offered in economics, history, or law.

Courses in Canadian and World Studies, Grades 9 and 10*					
Grade	Course Name	Course Type	Course Code	Credit Value	Prerequisite
9	Issues in Canadian Geography	Academic	CGC1D	1	None
9	Issues in Canadian Geography	Applied	CGC1P	1	None
10	Canadian History since World War I	Academic	CHC2D	1	None
10	Canadian History since World War I	Applied	CHC2P	1	None
10	Civics and Citizenship	Open	CHV2O	0.5	None

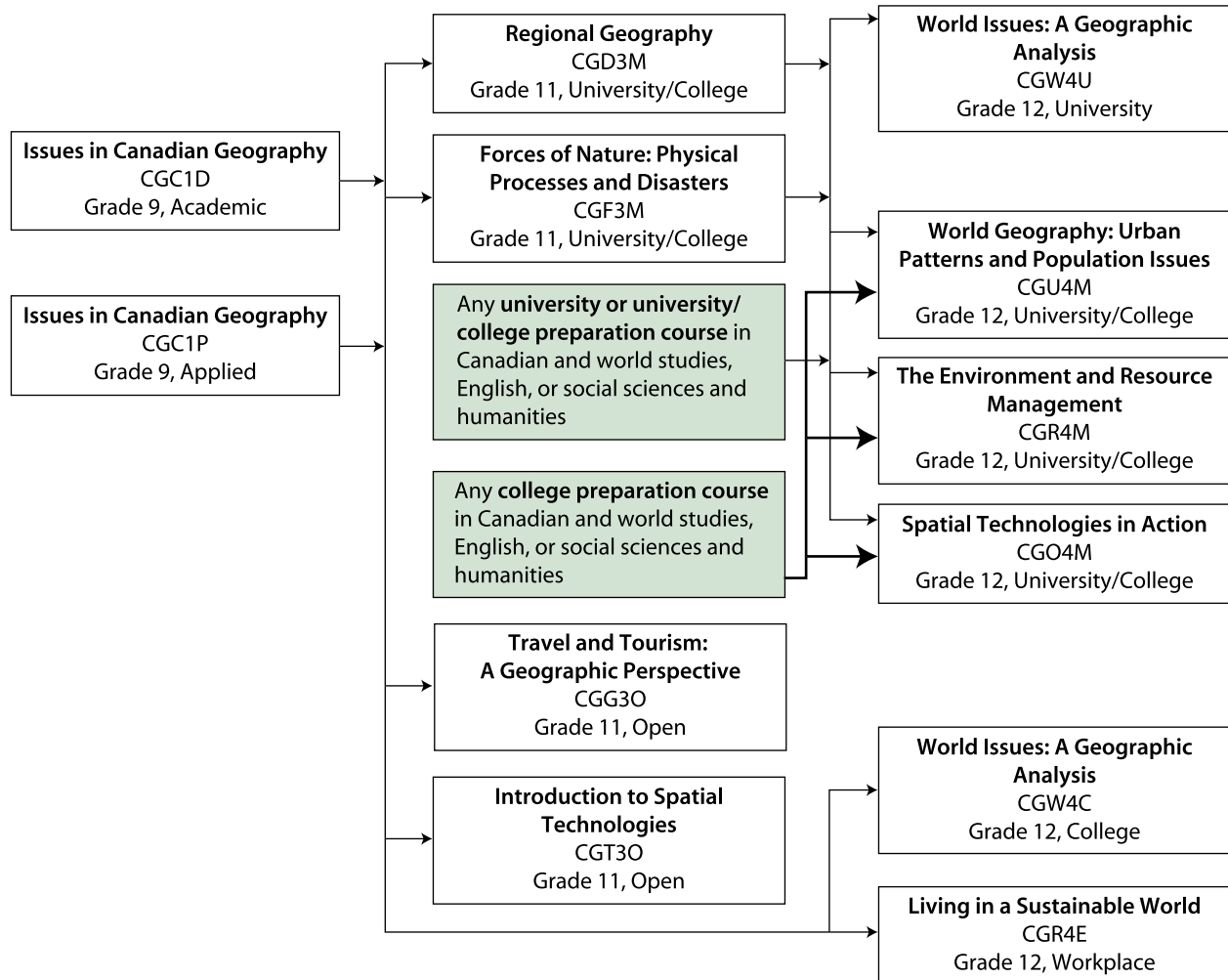
\* See the information about the Grade 10 locally developed compulsory history course in the preceding section.

9. *Ontario Schools, Kindergarten to Grade 12: Policy and Program Requirement, 2011 (OS)*, p. 55.

10. According to section 7.3.1 of *Ontario Schools* (p. 70), “Boards may develop locally and offer one Grade 9 course in English, in mathematics, in science, and in French as a second language, and one Grade 10 course in English, in mathematics, in science, and in Canadian history that can be counted as a compulsory credit in that discipline”.

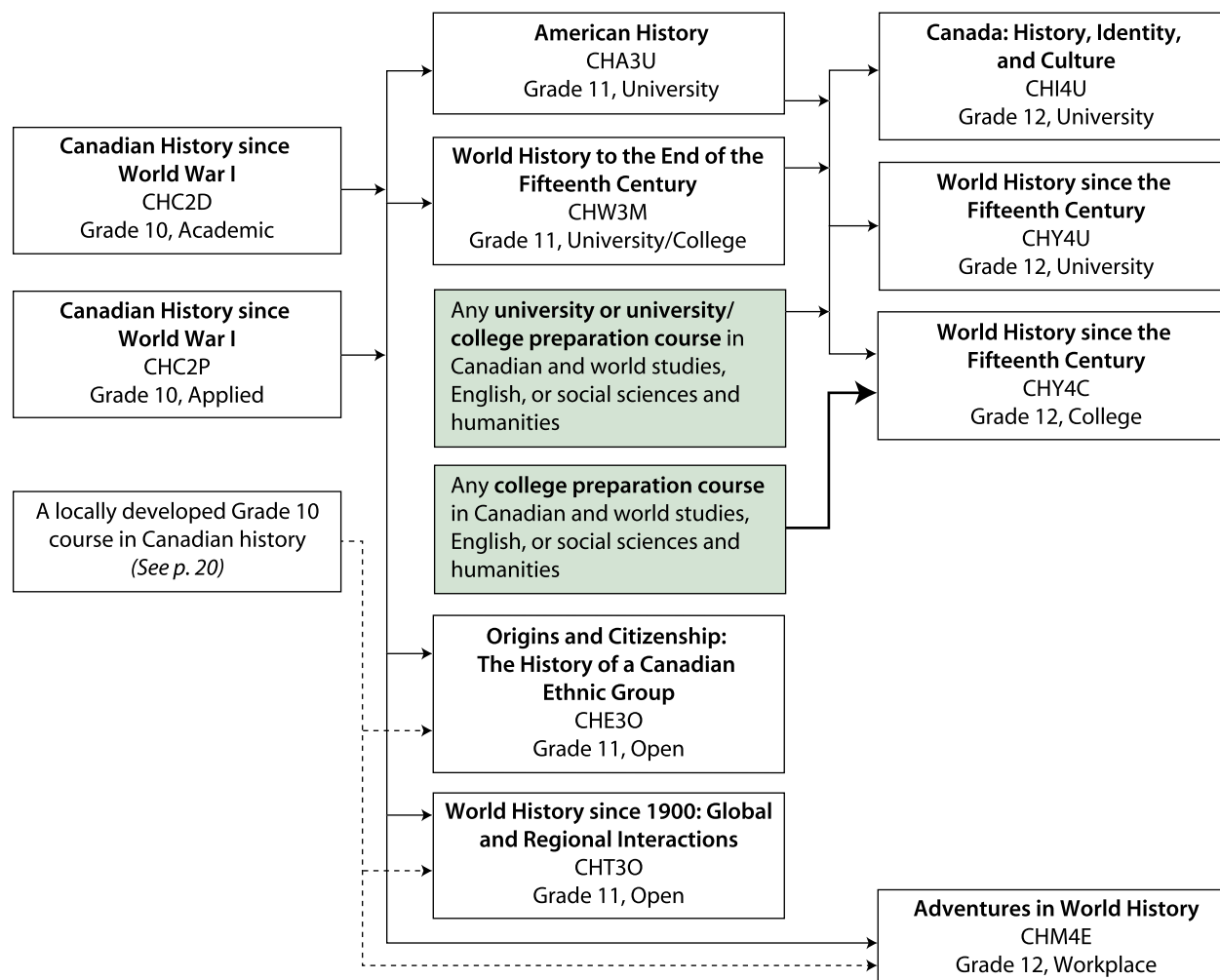
## Prerequisite Chart for Canadian and World Studies, Grades 9–12 – Geography

This chart maps out all the courses in the discipline and shows the links between courses and the possible prerequisites for them. It does not attempt to depict all possible movements from course to course.



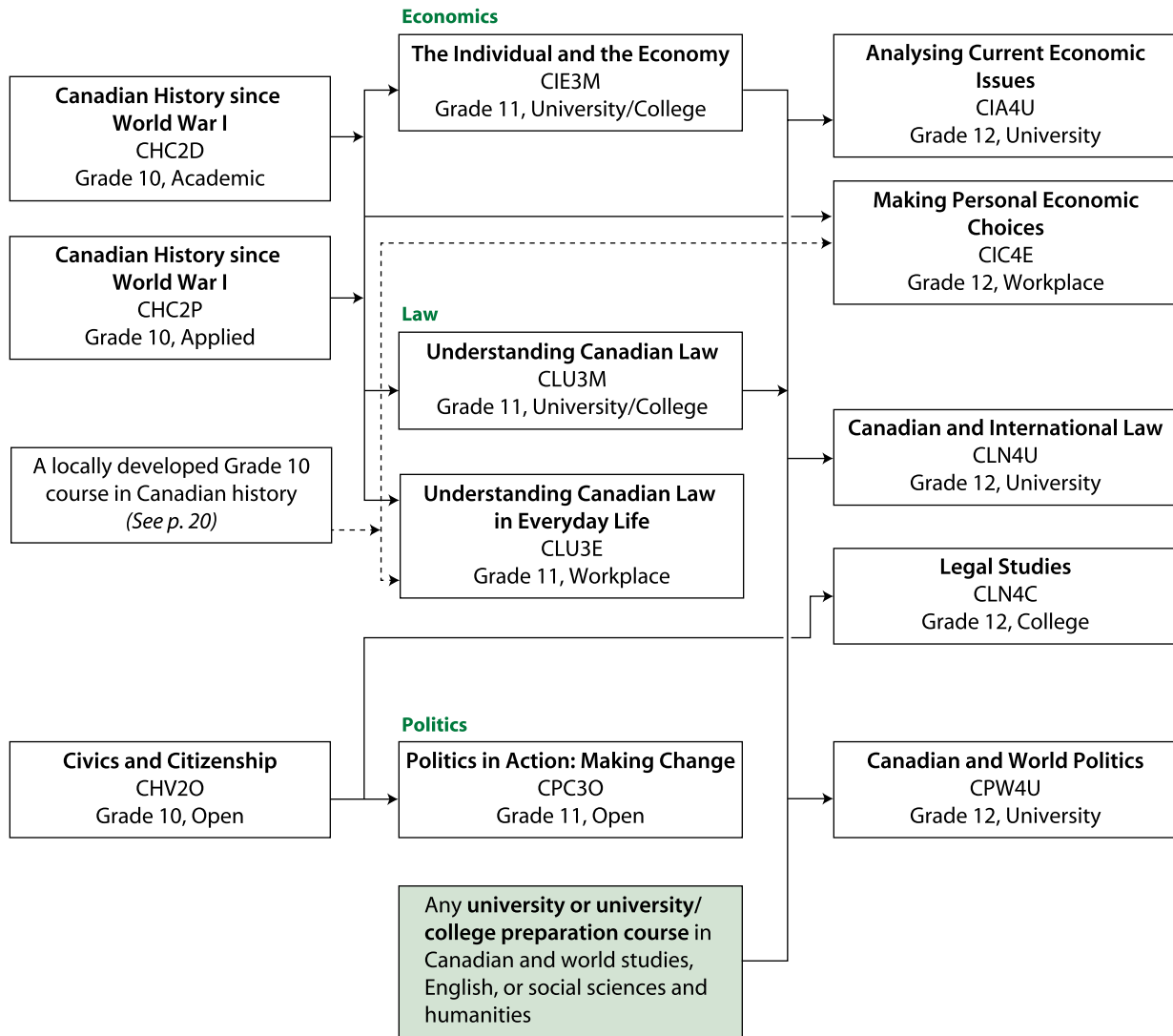
## Prerequisite Chart for Canadian and World Studies, Grades 9–12 – History

This chart maps out all the courses in the discipline and shows the links between courses and the possible prerequisites for them. It does not attempt to depict all possible movements from course to course.



## Prerequisite Chart for Canadian and World Studies, Grades 9–12 – Economics, Law, and Politics

This chart maps out all the courses in the discipline and shows the links between courses and the possible prerequisites for them. It does not attempt to depict all possible movements from course to course.



## Half-Credit Courses

With the exception of the half-credit Grade 10 course Civics and Citizenship, all the courses outlined in both the Grade 9 and 10 and the Grade 11 and 12 Canadian and world studies curriculum documents are designed as full-credit courses. However, *with the exception of Grade 12 university preparation and university/college preparation courses*, they may also be delivered as half-credit courses.

Half-credit courses, which require a minimum of fifty-five hours of scheduled instructional time, adhere to the following conditions:

- The two half-credit courses created from a full course must together contain all of the expectations of the full course. The expectations for each half-credit course must be drawn from all strands of the full course and must be divided in a manner that best enables students to achieve the required knowledge and skills in the allotted time.
- A course that is a prerequisite for another course in the secondary curriculum may be offered as two half-credit courses, but students must successfully complete both parts of the course to fulfil the prerequisite. (Students are not required to complete both parts unless the course is a prerequisite for another course they wish to take.)
- The title of each half-credit course must include the designation *Part 1* or *Part 2*. A half credit (0.5) will be recorded in the credit-value column of both the report card and the Ontario Student Transcript.

Boards will ensure that all half-credit courses comply with the conditions described above, and will report all half-credit courses to the ministry annually in the School October Report.

## CURRICULUM EXPECTATIONS

The expectations identified for each course describe the knowledge and skills that students are expected to develop and demonstrate in their class work, on tests, and in various other activities on which their achievement is assessed and evaluated.

Two sets of expectations – overall expectations and specific expectations – are listed for each *strand*, or broad area of the curriculum. (In most courses in Canadian and world studies, the strands are numbered A through E.) Taken together, the overall and specific expectations represent the mandated curriculum.

The *overall expectations* describe in general terms the knowledge and skills that students are expected to demonstrate by the end of each course.

The *specific expectations* describe the expected knowledge and skills in greater detail. The specific expectations are grouped under numbered headings, each of which indicates the strand and the overall expectation to which the group of specific expectations corresponds (e.g., “B2” indicates that the group relates to overall expectation 2 in strand B). This organization is not meant to imply that the expectations in any one group are achieved independently of the expectations in the other groups. The subheadings are used merely to help teachers focus on particular aspects of knowledge and skills as they plan learning activities for their students.

Most specific expectations are accompanied by examples and “sample questions”, as requested by educators. The examples, given in parentheses, are meant to clarify the requirement specified in the expectation, illustrating the kind of knowledge or skill, the specific area of learning, the depth of learning, and/or the level of complexity that the expectation entails. The sample questions are meant to illustrate the kinds of questions teachers might pose in relation to the requirement specified in the expectation. Both the examples and the sample questions have been developed to model appropriate practice for the grade and are meant to serve as illustrations for teachers. Both are intended as suggestions for teachers rather than as exhaustive or mandatory lists. Teachers can choose to use the examples and sample questions that are appropriate for their classrooms, or they may develop their own approaches that reflect a similar level of complexity. In geography an additional element, “using spatial skills”, follows a number of specific expectations. This element highlights opportunities for students to learn or apply specific spatial skills relevant to the expectations. Whatever the specific ways in which the requirements outlined in the expectations are implemented in the classroom, they must, wherever possible, be inclusive and reflect the diversity of the student population and the population of the province.

The diagram on page 26 shows all of the elements to be found on a page of curriculum expectations.

Expectations in geography and history are organized into five **strands**, numbered A through E. The expectations in the Grade 10 civics (politics) course are organized into three **strands**, numbered A, B, and C.

The **overall expectations** describe in general terms the knowledge and skills students are expected to demonstrate by the end of each course. Two or three overall expectations are provided for each strand in every course. The numbering of overall expectations indicates the strand to which they belong (e.g., B1 through B3 are the overall expectations for strand B).

## B. INTERACTIONS IN THE PHYSICAL ENVIRONMENT

### OVERALL EXPECTATIONS

By the end of this course, students will:

- B1. The Physical Environment and Human Activities:** analyse various interactions between physical processes, phenomena, and events and human activities in Canada (**FOCUS ON:** *Interrelationships; Geographic Perspective*)
- B2. Interrelationships between Physical Systems, Processes, and Events:** analyse characteristics of various physical processes, phenomena, and events affecting Canada and their interrelationship with global physical systems (**FOCUS ON:** *Patterns and Trends; Interrelationships*)
- B3. The Characteristics of Canada's Natural Environment:** describe various characteristics of the natural environment and the spatial distribution of physical features in Canada, and explain the role of physical processes, phenomena, and events in shaping them (**FOCUS ON:** *Spatial Significance; Patterns and Trends*)

### SPECIFIC EXPECTATIONS

#### B1. The Physical Environment and Human Activities

**FOCUS ON:** *Interrelationships; Geographic Perspective*

By the end of this course, students will:

- B1.1** analyse environmental, economic, social, and/or political implications of different ideas and beliefs about the value of Canada's natural environment, and explain how these ideas/beliefs affect the use and protection of Canada's natural assets  
*Sample questions:* "How does the traditional ecological knowledge of the First Nations, Métis, and Inuit peoples influence their beliefs about the natural environment and its importance to them?" "Is there a current issue that highlights conflicting beliefs about the value of Canada's natural environment and how it should be used or protected? What actions and processes are occurring in order to resolve the conflict?" "What is the difference between a preservation or conservation park system?" "How might the opening of the Northwest Passage affect Canada's claim to Arctic sovereignty?" "How does the protection of wildlife relate to one's beliefs about the value of wildlife?"
- B1.2** analyse interrelationships between Canada's physical characteristics and various human activities that they support (e.g., *mountainous*

*landforms support recreation; water bodies and flat land facilitate urban development and transportation*)

*Sample questions:* "How do the physical characteristics of different regions influence tourism in Canada?" "How would a graph showing seismic activity help planners make decisions relating to urban settlement?" "How would you use GIS to determine the best place to locate a wind farm?" "How do soil, climate, and landscape influence agricultural practices (e.g., contour ploughing, ranching, intensive agriculture)?" "How will the effect of warmer temperatures on caribou migration affect Inuit and First Nations communities in Canada's North?"

*Using spatial skills:* GIS is a valuable tool for identifying relationships between physical features or events and human activities. For example, students can identify risks to various populations from natural hazards by layering a population density map with maps showing plate boundaries, hurricane paths, and flood lines.

- B1.3** assess environmental, economic, social, and/or political consequences for Canada of changes in some of the Earth's physical processes (e.g., *warming in the North is leading to a shorter, less reliable ice season and changes in plant and animal populations [environmental], threatening*

A **numbered subheading** introduces each overall expectation and is repeated in the coloured bar used to identify each group of specific expectations related to that particular overall expectation (e.g., "B1. The Physical Environment and Human Activities" relates to overall expectation B1).

At least one **concept of disciplinary thinking** relevant to the overall expectation and its related specific expectations is listed following the overall expectation as well as its numbered subheading above the specific expectations.

The **specific expectations** describe the expected knowledge and skills in greater detail. The expectation number identifies the strand to which the expectation belongs and the overall expectations to which it relates (e.g., B1.1, B1.2, and B1.3 relate to the first overall expectation in strand B).

**Sample questions** illustrate the kinds of questions that teachers might pose in relation to the requirement specified in the expectation, suggesting the intended depth and level of complexity of the expectations. They are illustrations only, not requirements. Sample questions follow the specific expectations and examples.

The **examples** help to clarify the requirement specified in the expectations and to suggest the intended depth and level of complexity. The examples are illustrations only, not requirements. They appear in parentheses and are set in italics.

In the Grade 9 geography course, **using spatial skills** highlights opportunities for students to apply particular spatial skills related to the content of some specific expectations. They are suggestions only, not requirements. The skills relate directly to the map, globe, and graphing skills continuum in Appendix C.

## STRANDS IN THE CANADIAN AND WORLD STUDIES CURRICULUM

The expectations for the Grade 9 and 10 Canadian and world studies courses are organized into distinct but related strands. The first strand (strand A) in all courses focuses on the inquiry process for the particular subject and on skill development. The remaining strands – B–E in geography and history, B–C in Civics and Citizenship – represent the major content areas for each course.

### The Inquiry Processes in Geography, History, and Politics

The inquiry processes for all the subjects in the Canadian and world studies program are based on the same general model, although terminology, content, concepts of thinking, and the types of questions asked vary from subject to subject. This model represents a process that students use to investigate events, developments, and issues; solve problems; develop plans of action; and reach supportable conclusions and decisions. The inquiry process consists of five components:

- formulating questions
- gathering and organizing information, evidence, and/or data
- interpreting and analysing information, evidence, and/or data
- evaluating information, evidence, and/or data and drawing conclusions
- communicating findings and/or plans of action

It is important for teachers to understand that the inquiry process is not necessarily implemented in a linear fashion. Not all investigations will involve all five components; moreover, there are different entry points within the process. For example, teachers may:

- provide students with questions and ask them to gather and analyse information, evidence, and/or data to investigate them;
- provide students with a piece of evidence and ask them to analyse it and to draw conclusions based on their analysis;
- ask students to apply the entire process.

The entry points into the inquiry process may depend on student readiness. Prior knowledge, resources, and time may also be factors.

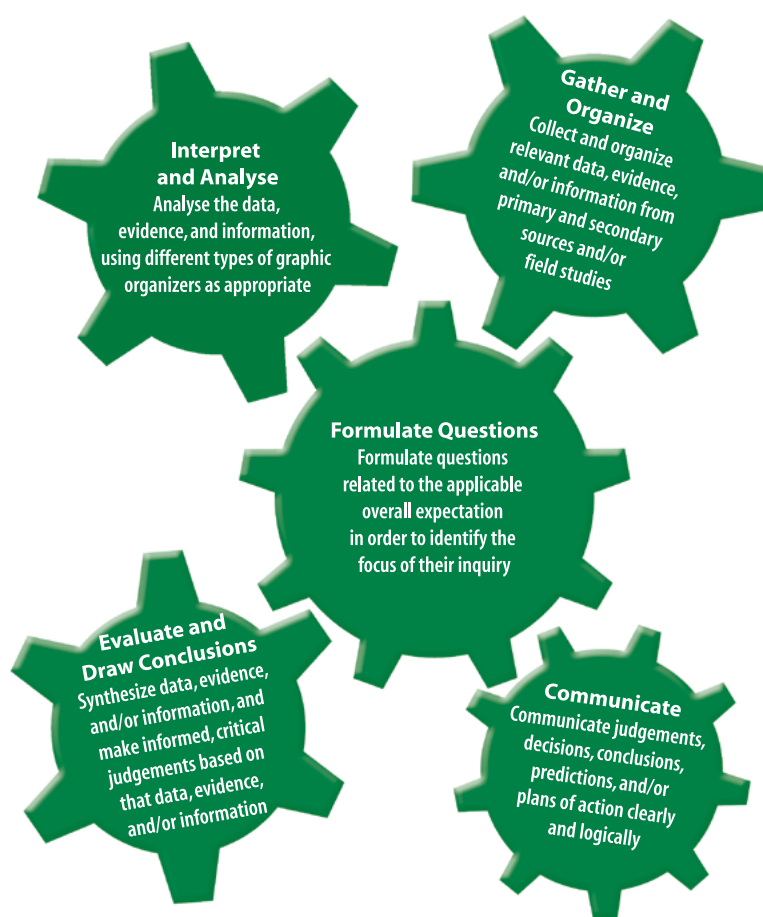
It is important to be aware that inquiries will not always result in one “right answer”. Rather, to assess the effectiveness of their investigations, students must develop the ability to reflect on their work throughout the inquiry process. Such reflection requires the ability to develop criteria that can be used, for example, to evaluate the relevance of their questions, the accuracy and strength of their evidence, the depth and logic of their analysis, and the strength of the support for their interpretation and conclusion. Teachers need to demonstrate the skills needed for reflection, and provide opportunities for students to practise them, while encouraging students to continually reflect on their work.

Likewise, students are engaged in aspects of communication throughout the inquiry process, as they ask questions, organize and analyse information, and critically evaluate their findings. The final communication of a student’s findings should take the form most suited to the nature of the inquiry, as well as to the intended audience, and should take the student’s learning style and strengths into account.



Each subject brings a particular way of thinking through content, and a different approach to the inquiry process. Skills and strategies for each stage of the geographic, historical, and political inquiry processes need to be taught explicitly. The type of questions asked, the information, evidence, and/or data gathered, and the analysis applied will vary by subject. Charts outlining approaches to the inquiry process in geography, history, and politics can be found on pages 66, 105, and 152, respectively.

## The Inquiry Process



## The Content Strands

In each course in Canadian and world studies, the content strands follow strand A. Although the inquiry strand is presented separately from the content strands, in practice students constantly apply the skills and approaches included in strand A, as well as the related concept(s) of thinking, as they work to achieve the expectations in the content strands.

Given the diversity of subjects in the Canadian and world studies program, the content strands in each subject are distinct, reflecting different topics, focuses, skills, and understandings. In the Grade 10 history courses, the content strands are organized chronologically; in geography and civics (politics), they are organized thematically. Descriptions of the content strands for geography and civics (politics) are found in the subject openers on pages 63–64 and 149.

## **SPATIAL SKILLS: USING MAPS, GLOBES, AND GRAPHS**

Spatial skills underpin spatial literacy, enabling students to develop and communicate a sense of place. Map, globe, and graphing skills help students visualize and make meaning of spatial data. These skills help students understand how data relating to three-dimensional spaces can be represented on two-dimensional surfaces. In the twenty-first century, a range of spatial technologies can assist students in their inquiries, and it is important that students develop the skills needed to use these technologies. Although students learn spatial skills in geography, they apply them, in conjunction with the concepts of disciplinary thinking, in all subjects in the Canadian and world studies curriculum. In addition, students may apply these skills in everyday contexts and in other subjects.

### **Using Spatial Skills and the Spatial Skills Continuum**

While students have opportunities to develop their spatial skills in all subjects in the Canadian and world studies curriculum, these skills are essential to doing geography. In order to highlight the use of spatial skills in that subject, some of the specific expectations are followed by an element, “using spatial skills”, which suggests how students might apply particular spatial skills related to the content of the expectation.

To provide teachers with a clear indication of appropriate skills development throughout the social studies, history, geography, and Canadian and world studies program, selected spatial skills have been organized into a continuum, which appears in Appendix C to this document (see page 171). This continuum illustrates progression in the spatial skills categories of map and globe skills (divided into map elements and spatial representation) and graphing skills from Grades 1 to 12.

# ASSESSMENT AND EVALUATION OF STUDENT ACHIEVEMENT

## BASIC CONSIDERATIONS

*Growing Success: Assessment, Evaluation, and Reporting in Ontario Schools, First Edition, Covering Grades 1 to 12, 2010* sets out the Ministry of Education's assessment, evaluation, and reporting policy. The policy aims to maintain high standards, improve student learning, and benefit students, parents, and teachers in elementary and secondary schools across the province. Successful implementation of this policy depends on the professional judgement<sup>11</sup> of educators at all levels as well as on their ability to work together and to build trust and confidence among parents and students.

A brief summary of some major aspects of the current assessment, evaluation, and reporting policy, with a focus on policy relating to secondary schools, is given below. Teachers should refer to *Growing Success* for more detailed information.

## Fundamental Principles

The primary purpose of assessment and evaluation is to improve student learning.

The following seven fundamental principles lay the foundation for rich and challenging practice. When these principles are fully understood and observed by all teachers, they will guide the collection of meaningful information that will help inform instructional decisions, promote student engagement, and improve student learning.

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11. "Professional judgement", as defined in *Growing Success* (p. 152), is "judgement that is informed by professional knowledge of curriculum expectations, context, evidence of learning, methods of instruction and assessment, and the criteria and standards that indicate success in student learning. In professional practice, judgement involves a purposeful and systematic thinking process that evolves in terms of accuracy and insight with ongoing reflection and self-correction".

To ensure that assessment, evaluation, and reporting are valid and reliable, and that they lead to the improvement of learning for all students, teachers use practices and procedures that:

- are fair, transparent, and equitable for all students;
- support all students, including those with special education needs, those who are learning the language of instruction (English or French), and those who are First Nation, Métis, or Inuit;
- are carefully planned to relate to the curriculum expectations and learning goals and, as much as possible, to the interests, learning styles and preferences, needs, and experiences of all students;
- are communicated clearly to students and parents at the beginning of the school year or course and at other appropriate points throughout the school year or course;
- are ongoing, varied in nature, and administered over a period of time to provide multiple opportunities for students to demonstrate the full range of their learning;
- provide ongoing descriptive feedback that is clear, specific, meaningful, and timely to support improved learning and achievement;
- develop students' self-assessment skills to enable them to assess their own learning, set specific goals, and plan next steps for their learning.

## Learning Skills and Work Habits

The development of learning skills and work habits is an integral part of a student's learning. To the extent possible, however, the evaluation of learning skills and work habits, apart from any that may be included as part of a curriculum expectation in a course, should *not* be considered in the determination of a student's grades. Assessing, evaluating, and reporting on the achievement of curriculum expectations and on the demonstration of learning skills and work habits *separately* allows teachers to provide information to the parents and the student that is specific to each of these two areas of achievement.

The six learning skills and work habits are responsibility, organization, independent work, collaboration, initiative, and self-regulation.

## Content Standards and Performance Standards

The Ontario curriculum for Grades 1 to 12 comprises *content standards* and *performance standards*. Assessment and evaluation will be based on both the content standards and the performance standards.

The content standards are the overall and specific curriculum expectations identified in the curriculum documents for every subject and discipline.

The performance standards are outlined in the achievement chart, which is provided in the curriculum documents for every subject or discipline (see pages 36–37). The achievement chart is a standard province-wide guide and is to be used by all teachers as a framework within which to assess and evaluate student achievement of the expectations in the particular subject or discipline. It enables teachers to make consistent judgements about the quality of student learning based on clear performance standards and on a

body of evidence collected over time. It also provides teachers with a foundation for developing clear and specific feedback for students and parents.

The purposes of the achievement chart are to:

- provide a common framework that encompasses all curriculum expectations for all subjects/courses across the grades;
- guide the development of high-quality assessment tasks and tools (including rubrics);
- help teachers plan instruction for learning;
- provide a basis for consistent and meaningful feedback to students in relation to provincial content and performance standards;
- establish categories and criteria with which to assess and evaluate students' learning.

### Assessment *for* Learning and *as* Learning

Assessment is the process of gathering information that accurately reflects how well a student is achieving the curriculum expectations in a course. The primary purpose of assessment is to improve student learning. Assessment for the purpose of improving student learning is seen as both “assessment *for* learning” and “assessment *as* learning”. As part of assessment *for* learning, teachers provide students with descriptive feedback and coaching for improvement. Teachers engage in assessment *as* learning by helping all students develop their capacity to be independent, autonomous learners who are able to set individual goals, monitor their own progress, determine next steps, and reflect on their thinking and learning.

As essential steps in assessment *for* learning and *as* learning, teachers need to:

- plan assessment concurrently and integrate it seamlessly with instruction;
- share learning goals and success criteria with students at the outset of learning to ensure that students and teachers have a common and shared understanding of these goals and criteria as learning progresses;
- gather information about student learning before, during, and at or near the end of a period of instruction, using a variety of assessment strategies and tools;
- use assessment to inform instruction, guide next steps, and help students monitor their progress towards achieving their learning goals;
- analyse and interpret evidence of learning;
- give and receive specific and timely descriptive feedback about student learning;
- help students to develop skills of peer assessment and self-assessment.

### Evaluation

Evaluation refers to the process of judging the quality of student learning on the basis of established performance standards and assigning a value to represent that quality. Evaluation accurately summarizes and communicates to parents, other teachers, employers, institutions of further education, and students themselves what students know and can do with respect to the overall curriculum expectations. Evaluation is based on assessment *of* learning that provides evidence of student achievement at strategic times throughout the course, often at the end of a period of learning.

All curriculum expectations must be accounted for in instruction and assessment, but *evaluation focuses on students' achievement of the overall expectations*. Each student's achievement of the overall expectations is evaluated on the basis of the student's achievement of related specific expectations. The overall expectations are broad in nature, and the specific expectations define the particular content or scope of the knowledge and skills referred to in the overall expectations. Teachers will use their professional judgement to determine which specific expectations should be used to evaluate achievement of the overall expectations, and which ones will be accounted for in instruction and assessment but not necessarily evaluated.

Determining a report card grade involves the interpretation of evidence collected through observations, conversations, and student products (tests/exams, assignments for evaluation), combined with the teacher's professional judgement and consideration of factors such as the number of tests/exams or assignments for evaluation that were not completed or submitted and the fact that some evidence may carry greater weight than other evidence.

Seventy per cent of the final grade (a percentage mark) in a course will be based on evaluation conducted throughout the course. This portion of the grade should reflect the student's most consistent level of achievement, with special consideration given to more recent evidence. Thirty per cent will be based on a final evaluation administered at or towards the end of the course.

### Reporting Student Achievement

The Provincial Report Card, Grades 9–12, shows a student's achievement at specific points in the school year or semester. There are two formal reporting periods for a semestered course and three formal reporting periods for a non-semestered course. The reports reflect student achievement of the overall curriculum expectations, as well as development of learning skills and work habits.

Although there are formal reporting periods, communication with parents and students about student achievement should be continuous throughout the course, by means such as parent-teacher or parent-student-teacher conferences, portfolios of student work, student-led conferences, interviews, phone calls, checklists, and informal reports. Communication about student achievement should be designed to provide detailed information that will encourage students to set goals for learning, help teachers to establish plans for teaching, and assist parents in supporting learning at home.

## THE ACHIEVEMENT CHART FOR CANADIAN AND WORLD STUDIES

The achievement chart identifies four categories of knowledge and skills and four levels of achievement in Canadian and world studies. The components of the chart are explained below. (See also the section "Content Standards and Performance Standards", on page 31.)

### Categories of Knowledge and Skills

The categories represent four broad areas of knowledge and skills within which the expectations for any given subject or course can be organized. The four categories should be considered as interrelated, reflecting the wholeness and interconnectedness of learning.

The categories help teachers focus not only on students' acquisition of knowledge but also on their development of the skills of thinking, communication, and application.

The categories of knowledge and skills are as follows:

**Knowledge and Understanding.** Subject-specific content acquired in each grade or course (knowledge), and the comprehension of its meaning and significance (understanding).

**Thinking.** The use of critical and creative thinking skills and/or processes.

**Communication.** The conveying of meaning and expression through various forms.

**Application.** The use of knowledge and skills to make connections within and between various contexts.

In all subjects and courses, students should be given numerous and varied opportunities to demonstrate the full extent of their achievement of the curriculum expectations across all four categories of knowledge and skills.

Teachers will ensure that student learning is assessed and evaluated in a balanced manner with respect to the four categories, and that achievement of particular expectations is considered within the appropriate categories. The emphasis on “balance” reflects the fact that all categories of the achievement chart are important and need to be a part of the process of instruction, learning, assessment, and evaluation. However, it also indicates that for different courses, the *relative* importance of each of the categories may vary. The importance accorded to each of the four categories in assessment and evaluation should reflect the emphasis accorded to them in the curriculum expectations for the subject or course, and in instructional practice.

## Criteria and Descriptors

To further guide teachers in their assessment and evaluation of student learning, the achievement chart provides “criteria” and “descriptors”.

A set of criteria is identified for each category in the achievement chart. The criteria are subsets of the knowledge and skills that define the category. The criteria identify the aspects of student performance that are assessed and/or evaluated, and they serve as a guide to what teachers look for. In the Canadian and world studies curriculum, the criteria for each category are as follows:

### Knowledge and Understanding

- knowledge of content
- understanding of content

### Thinking

- use of planning skills
- use of processing skills
- use of critical/creative thinking processes



## Communication

- expression and organization of ideas and information in oral, visual, and/or written forms
- communication for different audiences and purposes in oral, visual, and/or written forms
- use of conventions, vocabulary, and terminology of the discipline in oral, visual, and/or written forms

## Application

- application of knowledge and skills in familiar contexts
- transfer of knowledge and skills to new contexts
- making connections within and between various contexts

“Descriptors” indicate the characteristics of the student’s performance, with respect to a particular criterion, on which assessment or evaluation is focused. *Effectiveness* is the descriptor used for each of the criteria in the Thinking, Communication, and Application categories. What constitutes effectiveness in any given performance task will vary with the particular criterion being considered. Assessment of effectiveness may therefore focus on a quality such as appropriateness, clarity, accuracy, precision, logic, relevance, significance, fluency, flexibility, depth, or breadth, as appropriate for the particular criterion.

## Levels of Achievement

The achievement chart also identifies four levels of achievement, defined as follows:

**Level 1** represents achievement that falls much below the provincial standard. The student demonstrates the specified knowledge and skills with limited effectiveness. Students must work at significantly improving in specific areas, as necessary, if they are to be successful in a course in the next grade.

**Level 2** represents achievement that approaches the standard. The student demonstrates the specified knowledge and skills with some effectiveness. Students performing at this level need to work on identified learning gaps to ensure future success.

**Level 3** represents the provincial standard for achievement. The student demonstrates the specified knowledge and skills with considerable effectiveness. Parents of students achieving at level 3 can be confident that their children will be prepared for work in subsequent courses.

**Level 4** identifies achievement that surpasses the provincial standard. The student demonstrates the specified knowledge and skills with a high degree of effectiveness. *However, achievement at level 4 does not mean that the student has achieved expectations beyond those specified for the course.*

Specific “qualifiers” are used with the descriptors in the achievement chart to describe student performance at each of the four levels of achievement – the qualifier *limited* is used for level 1; *some* for level 2; *considerable* for level 3; and *a high degree of* or *thorough* for level 4. Hence, achievement at level 3 in the Thinking category for the criterion “use of planning skills” would be described in the achievement chart as “[The student] uses planning skills with *considerable* effectiveness”.



## THE ACHIEVEMENT CHART: CANADIAN AND WORLD STUDIES, GRADES 9–12

Categories	Level 1	Level 2	Level 3	Level 4
<b>Knowledge and Understanding</b> – Subject-specific content acquired in each grade (knowledge), and the comprehension of its meaning and significance (understanding)				
	The student:			
<b>Knowledge of content</b> (e.g., facts, terms, definitions)	demonstrates limited knowledge of content	demonstrates some knowledge of content	demonstrates considerable knowledge of content	demonstrates thorough knowledge of content
<b>Understanding of content</b> (e.g., concepts, ideas, theories, interrelationships, procedures, processes, methodologies, spatial technologies)	demonstrates limited understanding of content	demonstrates some understanding of content	demonstrates considerable understanding of content	demonstrates thorough understanding of content
<b>Thinking</b> – The use of critical and creative thinking skills and/or processes				
	The student:			
<b>Use of planning skills</b> (e.g., organizing an inquiry; formulating questions; gathering and organizing data, evidence, and information; setting goals; focusing research)	uses planning skills with limited effectiveness	uses planning skills with some effectiveness	uses planning skills with considerable effectiveness	uses planning skills with a high degree of effectiveness
<b>Use of processing skills</b> (e.g., interpreting, analysing, synthesizing, and evaluating data, evidence, and information; analysing maps; detecting point of view and bias; formulating conclusions)	uses processing skills with limited effectiveness	uses processing skills with some effectiveness	uses processing skills with considerable effectiveness	uses processing skills with a high degree of effectiveness
<b>Use of critical/creative thinking processes</b> (e.g., applying concepts of disciplinary thinking; using inquiry, problem-solving, and decision-making processes)	uses critical/creative thinking processes with limited effectiveness	uses critical/creative thinking processes with some effectiveness	uses critical/creative thinking processes with considerable effectiveness	uses critical/creative thinking processes with a high degree of effectiveness
<b>Communication</b> – The conveying of meaning through various forms				
	The student:			
<b>Expression and organization of ideas and information</b> (e.g., clear expression, logical organization) in oral, visual, and written forms	expresses and organizes ideas and information with limited effectiveness	expresses and organizes ideas and information with some effectiveness	expresses and organizes ideas and information with considerable effectiveness	expresses and organizes ideas and information with a high degree of effectiveness

Categories	Level 1	Level 2	Level 3	Level 4
<b>Communication – (continued)</b>				
	The student:			
<b>Communication for different audiences (e.g., peers, adults) and purposes (e.g., to inform, to persuade) in oral, visual, and written forms</b>	communicates for different audiences and purposes with limited effectiveness	communicates for different audiences and purposes with some effectiveness	communicates for different audiences and purposes with considerable effectiveness	communicates for different audiences and purposes with a high degree of effectiveness
<b>Use of conventions (e.g., mapping and graphing conventions, communication conventions), vocabulary, and terminology of the discipline in oral, visual, and written forms</b>	uses conventions, vocabulary, and terminology of the discipline with limited effectiveness	uses conventions, vocabulary, and terminology of the discipline with some effectiveness	uses conventions, vocabulary, and terminology of the discipline with considerable effectiveness	uses conventions, vocabulary, and terminology of the discipline with a high degree of effectiveness
<b>Application – The use of knowledge and skills to make connections within and between various contexts</b>				
	The student:			
<b>Application of knowledge and skills (e.g., concepts, procedures, spatial skills, processes, technologies) in familiar contexts</b>	applies knowledge and skills in familiar contexts with limited effectiveness	applies knowledge and skills in familiar contexts with some effectiveness	applies knowledge and skills in familiar contexts with considerable effectiveness	applies knowledge and skills in familiar contexts with a high degree of effectiveness
<b>Transfer of knowledge and skills (e.g., concepts of thinking, procedures, spatial skills, methodologies, technologies) to new contexts</b>	transfers knowledge and skills to new contexts with limited effectiveness	transfers knowledge and skills to new contexts with some effectiveness	transfers knowledge and skills to new contexts with considerable effectiveness	transfers knowledge and skills to new contexts with a high degree of effectiveness
<b>Making connections within and between various contexts (e.g., between topics/issues being studied and everyday life; between disciplines; between past, present, and future contexts; in different spatial, cultural, or environmental contexts; in proposing and/or taking action to address related issues; in making predictions)</b>	makes connections within and between various contexts with limited effectiveness	makes connections within and between various contexts with some effectiveness	makes connections within and between various contexts with considerable effectiveness	makes connections within and between various contexts with a high degree of effectiveness

# SOME CONSIDERATIONS FOR PROGRAM PLANNING IN CANADIAN AND WORLD STUDIES

## INSTRUCTIONAL APPROACHES

*Effective instruction is key to student success.* To provide effective instruction, teachers need to consider what they want students to learn, how they will know whether students have learned it, how they will design instruction to promote the learning, and how they will respond to students who are not making progress.

When planning what students will learn, teachers identify the main concepts and skills described in the curriculum expectations, consider the contexts in which students will apply the learning, and determine students' learning goals.

Instructional approaches should be informed by the findings of current research on instructional practices that have proved effective in the classroom. For example, research has provided compelling evidence about the benefits of the explicit teaching of strategies that can help students develop a deeper understanding of concepts. Strategies such as “compare and contrast” (e.g., through Venn diagrams and comparison matrices) and the use of analogy give students opportunities to examine concepts in ways that help them see what the concepts *are* and what they *are not*. Although such strategies are simple to use, teaching them explicitly is important in order to ensure that all students use them effectively.

A well-planned instructional program should always be at the student's level, but it should also push them towards their optimal level of challenge for learning, while providing the support and anticipating and directly teaching the skills that are required for success.

## A Differentiated Approach to Teaching and Learning

An understanding of students' strengths and needs, as well as of their backgrounds and life experiences, can help teachers plan effective instruction and assessment. Teachers continually build their awareness of students' learning strengths and needs by observing and assessing their readiness to learn, their interests, and their learning styles and preferences. As teachers develop and deepen their understanding of individual students, they can respond more effectively to the students' needs by differentiating instructional approaches – adjusting the method or pace of instruction, using different types of resources, allowing a wider choice of topics, even adjusting the learning environment, if appropriate, to suit the way their students learn and how they are best able to demonstrate their learning. Unless students have an Individual Education Plan with modified curriculum expectations, *what* they learn continues to be guided by the curriculum expectations and remains the same for all students.

## Lesson Design

Effective lesson design involves several important elements. Teachers engage students in a lesson by activating their prior learning and experiences, clarifying the purpose for learning, and making connections to contexts that will help them see the relevance and usefulness of what they are learning. Teachers select instructional strategies to effectively introduce concepts, and consider how they will scaffold instruction in ways that will best meet the needs of their students. At the same time, they consider when and how to check students' understanding and to assess their progress towards achieving their learning goals. Teachers provide multiple opportunities for students to apply their knowledge and skills and to consolidate and reflect on their learning. A three-part lesson design (e.g., "Minds On, Action, and Consolidation") is often used to structure these elements.

## Instructional Approaches in Canadian and World Studies

Instruction in Grade 9 and 10 Canadian and world studies should help students acquire the knowledge, skills, and attributes they need in order to achieve the curriculum expectations and to be able to think critically throughout their lives about issues related to geography, history, and civics (politics). Effective instruction motivates students and instils positive habits of mind, such as curiosity and open-mindedness; a willingness to think, question, challenge, and be challenged; and an awareness of the value of listening or reading closely and communicating clearly. To be effective, instruction must be based on the belief that all students can be successful and that learning in Canadian and world studies is important and valuable for all students.

Students' views of and attitudes towards Canadian and world studies can have a significant effect on their achievement of expectations. When students believe that these subjects simply represent a body of preordained knowledge about certain topics, they may question the relevance of their studies or may not approach their investigations with an open and inquiring mind. Students must be given opportunities to see that inquiry is not just about finding what others have found, and that they can use the inquiry process not only to uncover knowledge but also to construct understandings and develop their own positions on issues. Learning should be seen as a process in which students monitor and reflect on the development of their knowledge, understandings, and skills.

The Grade 9 and 10 Canadian and world studies curriculum provides opportunities for teachers and students to select, within the broad parameters of the expectations, topics for investigation. This flexibility allows teachers to tailor topics to suit the interests and readiness of their students and to address the context of their local communities. It also allows students to focus on the process of “doing” geography, history, and civics (politics), rather than simply assimilating content. It is important that teachers plan their program or units with the “end in mind”, selecting appropriate content, including issues and examples, and ensuring that students develop the knowledge, understanding, and skills to support this end.

### Indigenous Expertise and Protocols

Teachers can provide opportunities for Elders, Métis Senators, knowledge keepers, knowledge holders, residential school survivors and intergenerational survivors, and Indigenous experts in fields such as history, the environment, culture, governance, and law to offer their experience, skills, knowledge, and wisdom to benefit all students. Teachers ensure that the expertise of the community advisers they consult and/or invite into the classroom is well suited to the topic at hand, that cultural and engagement protocols are followed, and that community members are approached in a respectful and appropriate manner. Schools can contact their board’s Indigenous lead or a local Indigenous organization for assistance in identifying experts in particular areas and determining the protocols for inviting them into the school or classroom.

### Connections to Current Events and Issues

Teachers need to integrate current events and issues within the curriculum expectations, and not treat them as separate topics. The integration of current events and issues into the curriculum will help students make connections between what they are learning in class and past and present-day local, national, and global events, developments, and issues. Examining current events helps students analyse controversial issues, understand diverse perspectives, develop informed opinions, and build a deeper understanding of the world in which they live. In addition, investigating current events will stimulate students’ interest in and curiosity about the world around them. The inclusion of current events in Canadian and world studies will help keep the curriculum a relevant, living document.

## PLANNING CANADIAN AND WORLD STUDIES PROGRAMS FOR STUDENTS WITH SPECIAL EDUCATION NEEDS

Classroom teachers are the key educators of students with special education needs. They have a responsibility to help all students learn, and they work collaboratively with special education teachers, where appropriate, to achieve this goal. Classroom teachers commit to assisting every student to prepare for living with the highest degree of independence possible.

*Learning for All: A Guide to Effective Assessment and Instruction for All Students, Kindergarten to Grade 12 (Draft 2011)* describes a set of beliefs, based in research, that should guide program planning for students with special education needs in all disciplines. Teachers

planning Canadian and world studies courses need to pay particular attention to these beliefs, which are as follows:

- All students can succeed.
- Each student has their own unique patterns of learning.
- Successful instructional practices are founded on evidence-based research, tempered by experience.
- Universal design<sup>12</sup> and differentiated instruction<sup>13</sup> are effective and interconnected means of meeting the learning or productivity needs of any group of students.
- Classroom teachers are the key educators for a student's literacy and numeracy development.
- Classroom teachers need the support of the larger community to create a learning environment that supports students with special education needs.
- Fairness is not sameness.

In any given classroom, students may demonstrate a wide range of strengths and needs. Teachers plan programs that recognize this diversity and give students performance tasks that respect their particular abilities so that all students can derive the greatest possible benefit from the teaching and learning process. The use of flexible groupings for instruction and the provision of ongoing assessment are important elements of programs that accommodate a diversity of learning needs.

In planning Canadian and world studies courses for students with special education needs, teachers should begin by examining both the curriculum expectations in the course appropriate for the individual student and the student's particular strengths and learning needs to determine which of the following options is appropriate for the student:

- no accommodations<sup>14</sup> or modified expectations; or
- accommodations only; or
- modified expectations, with the possibility of accommodations; or
- alternative expectations, which are not derived from the curriculum expectations for a course and which constitute alternative programs and/or courses.

If the student requires either accommodations or modified expectations, or both, the relevant information, as described in the following paragraphs, must be recorded in their Individual Education Plan (IEP). More detailed information about planning programs for students with special education needs, including students who require alternative programs and/or courses,<sup>15</sup> can be found in *Special Education in Ontario, Kindergarten to Grade 12: Policy and Resource Guide, 2017 (Draft)* (referred to hereafter as *Special Education in*

12. The goal of Universal Design for Learning (UDL) is to create a learning environment that is open and accessible to all students, regardless of age, skills, or situation. Instruction based on principles of universal design is flexible and supportive, can be adjusted to meet different student needs, and enables all students to access the curriculum as fully as possible.

13. Differentiated instruction, as discussed on page 39 of this document, is effective instruction that shapes each student's learning experience in response to the student's particular learning preferences, interests, and readiness to learn.

14. "Accommodations" refers to individualized teaching and assessment strategies, human supports, and/or individualized equipment (see *Growing Success: Assessment, Evaluation, and Reporting in Ontario Schools, First Edition, Covering Grades 1 to 12, 2010*, p. 72).

15. Alternative programs are identified on the IEP by the term "alternative (ALT)".



Ontario, 2017). For a detailed discussion of the ministry's requirements for IEPs, see Part E of *Special Education in Ontario*. (The document is available at [http://www.edu.gov.on.ca/eng/document/policy/os/onschools\\_2017e.pdf](http://www.edu.gov.on.ca/eng/document/policy/os/onschools_2017e.pdf))

## Students Requiring Accommodations Only

Some students with special education needs are able, with certain accommodations, to participate in the regular course curriculum and to demonstrate learning independently. Accommodations allow the student with special education needs to access the curriculum without any changes to the course expectations. The accommodations required to facilitate the student's learning must be identified in the student's IEP (*Special Education in Ontario, 2017*, p. E38). A student's IEP is likely to reflect the same accommodations for many, or all, subjects or courses.

Providing accommodations to students with special education needs should be the first option considered in program planning. Instruction based on principles of universal design and differentiated instruction focuses on the provision of accommodations to meet the diverse needs of learners.

There are three types of accommodations:

- *Instructional accommodations* are changes in teaching strategies, including styles of presentation, methods of organization, or use of technology and multimedia. Some examples include the use of graphic organizers, photocopied notes, or assistive software.
- *Environmental accommodations* are changes that the student may require in the classroom and/or school environment, such as preferential seating or special lighting.
- *Assessment accommodations* are changes in assessment procedures that enable the student to demonstrate their learning, such as allowing additional time to complete tests or assignments or permitting oral responses to test questions.

(See page E39 of *Special Education in Ontario, 2017*, for more examples.)

If a student requires "accommodations only" in Canadian and world studies courses, assessment and evaluation of their achievement will be based on the regular course curriculum expectations and the achievement levels outlined in this document. The IEP box on the student's provincial report card will not be checked, and no information on the provision of accommodations will be included.

## Students Requiring Modified Expectations

In Canadian and world studies courses, modified expectations for most students with special education needs will be based on the regular course expectations, with an increase or decrease in the number and/or complexity of the expectations. Modified expectations must represent specific, realistic, observable, and measurable goals, and must describe specific knowledge and/or skills that the student can demonstrate independently, given the appropriate assessment accommodations.

It is important to monitor, and to reflect clearly in the student's IEP, the extent to which expectations have been modified. The principal will determine whether achievement of the modified expectations constitutes successful completion of the course, and will decide

whether the student is eligible to receive a credit for the course. This decision must be communicated to the parents and the student.

Modified expectations must indicate the knowledge and/or skills that the student is expected to demonstrate and that will be assessed in each reporting period (*Special Education in Ontario, 2017*, p. E27). Modified expectations should be expressed in such a way that the student and parents can understand not only exactly what the student is expected to know or be able to demonstrate independently, but also the basis on which the student's performance will be evaluated, resulting in a grade or mark that is recorded on the provincial report card. The student's learning expectations must be reviewed in relation to the student's progress at least once every reporting period, and must be updated as necessary (*Special Education in Ontario, 2017*, p. E28).

If a student requires modified expectations in Canadian and world studies courses, assessment and evaluation of their achievement will be based on the learning expectations identified in the IEP and on the achievement levels outlined in this document. If some of the student's learning expectations for a course are modified but the student is working towards a credit for the course, it is sufficient simply to check the IEP box on the provincial report card. If, however, the student's learning expectations are modified to such an extent that the principal deems that a credit will not be granted for the course, the IEP box must be checked and the appropriate statement from *Growing Success: Assessment, Evaluation, and Reporting in Ontario Schools, First Edition, Covering Grades 1 to 12, 2010*, page 62, must be inserted. The teacher's comments should include relevant information on the student's demonstrated learning of the modified expectations, as well as next steps for the student's learning in the course.

## PROGRAM CONSIDERATIONS FOR ENGLISH LANGUAGE LEARNERS

Ontario schools have some of the most multilingual student populations in the world. The first language of approximately 26 per cent of the students in Ontario's English-language schools is a language other than English. In addition, some students use varieties of English – also referred to as dialects – that differ significantly from the English required for success in Ontario schools. Many English language learners were born in Canada and have been raised in families and communities in which languages other than English, or varieties of English that differ from the language used in the classroom, are spoken. Other English language learners arrive in Ontario as newcomers from other countries; they may have experience of highly sophisticated educational systems, or they may have come from regions where access to formal schooling was limited.

When they start school in Ontario, many of these students are entering a new linguistic and cultural environment. All teachers share in the responsibility for these students' English-language development.

English language learners (students who are learning English as a second or additional language in English-language schools) bring a rich diversity of background knowledge and experience to the classroom. These students' linguistic and cultural backgrounds not only support their learning in their new environment but also become a cultural asset in the classroom community. Teachers will find positive ways to incorporate this diversity into their instructional programs and into the classroom environment.



Most English language learners in Ontario schools have an age-appropriate proficiency in their first language. Although they need frequent opportunities to use English at school, there are important educational and social benefits associated with continued development of their first language while they are learning English. Teachers need to encourage parents to continue to use their own language at home in rich and varied ways as a foundation for language and literacy development in English. It is also important for teachers to find opportunities to bring students' languages into the classroom, using parents and community members as a resource.

During their first few years in Ontario schools, English language learners may receive support through one of two distinct programs from teachers who specialize in meeting their language-learning needs:

*English as a Second Language (ESL)* programs are for students born in Canada or newcomers whose first language is a language other than English, or is a variety of English significantly different from that used for instruction in Ontario schools.

*English Literacy Development (ELD)* programs are primarily for newcomers whose first language is a language other than English, or is a variety of English significantly different from that used for instruction in Ontario schools, and who arrive with significant gaps in their education. These students generally come from countries where access to education is limited or where there are limited opportunities to develop language and literacy skills in any language. Some First Nations, Métis, or Inuit students from remote communities in Ontario may also have had limited opportunities for formal schooling, and they also may benefit from ELD instruction.

In planning programs for students with linguistic backgrounds other than English, teachers need to recognize the importance of the orientation process, understanding that every learner needs to adjust to the new social environment and language in a unique way and at an individual pace. For example, students who are in an early stage of English-language acquisition may go through a "silent period" during which they closely observe the interactions and physical surroundings of their new learning environment. They may use body language rather than speech or they may use their first language until they have gained enough proficiency in English to feel confident of their interpretations and responses. Students thrive in a safe, supportive, and welcoming environment that nurtures their self-confidence while they are receiving focused literacy instruction. When they are ready to participate, in paired, small-group, or whole-class activities, some students will begin by using a single word or phrase to communicate a thought, while others will speak quite fluently.

In a supportive learning environment, most students will develop oral language proficiency quite quickly. Teachers can sometimes be misled by the high degree of oral proficiency demonstrated by many English language learners in their use of everyday English and may mistakenly conclude that these students are equally proficient in their use of academic English. Most English language learners who have developed oral proficiency in everyday English will nevertheless require instructional scaffolding to meet curriculum expectations. Research has shown that it takes five to seven years for most English language learners to catch up to their English-speaking peers in their ability to use English for academic purposes.

Responsibility for students' English-language development is shared by the classroom teacher, the ESL/ELD teacher (where available), and other school staff. Volunteers and peers may also be helpful in supporting English language learners in the classroom. Teachers must adapt the instructional program in order to facilitate the success of these students in their classrooms. Appropriate adaptations include:

- modification of some or all of the subject expectations so that they are challenging but attainable for the learners at their present level of English proficiency, given the necessary support from the teacher;
- use of a variety of instructional strategies (e.g., extensive use of visual cues, graphic organizers, and scaffolding; previewing of textbooks; pre-teaching of key vocabulary; peer tutoring; strategic use of students' first languages);
- use of a variety of learning resources (e.g., visual material, simplified text, bilingual dictionaries, and materials that reflect cultural diversity);
- use of assessment accommodations (e.g., granting of extra time; use of oral interviews, demonstrations or visual representations, or tasks requiring completion of graphic organizers or cloze sentences instead of essay questions and other assessment tasks that depend heavily on proficiency in English).

Teachers need to adapt the program for English language learners as they acquire English proficiency. For students in the early stages of language acquisition, teachers need to modify the curriculum expectations in some or all curriculum areas. Most English language learners require accommodations for an extended period, long after they have achieved proficiency in everyday English.

When curriculum expectations are modified in order to meet the language-learning needs of English language learners, assessment and evaluation will be based on the documented modified expectations. Teachers will check the ESL/ELD box on the provincial report card only when modifications have been made to curriculum expectations to address the language needs of English language learners (the box should not be checked to indicate simply that they are participating in ESL/ELD programs or if they are only receiving accommodations). There is no requirement for a statement to be added to the "Comments" section of the report cards when the ESL/ELD box is checked.

Although the degree of program adaptation required will decrease over time, students who are no longer receiving ESL or ELD support may still need some program adaptations to be successful.

For further information on supporting English language learners, refer to the following documents:

- *The Ontario Curriculum, Grades 9–12: English as a Second Language and English Literacy Development*, 2007
- *English Language Learners – ESL and ELD Programs and Services: Policies and Procedures for Ontario Elementary and Secondary Schools, Kindergarten to Grade 12*, 2007
- *Supporting English Language Learners with Limited Prior Schooling: A Practical Guide for Ontario Educators, Grades 3 to 12*, 2008
- *Many Roots, Many Voices: Supporting English Language Learners in Every Classroom*, 2005.

## ENVIRONMENTAL EDUCATION AND CANADIAN AND WORLD STUDIES

*Ontario's education system will prepare students with the knowledge, skills, perspectives, and practices they need to be environmentally responsible citizens. Students will understand our fundamental connections to each other and to the world around us through our relationship to food, water, energy, air, and land, and our interaction with all living things. The education system will provide opportunities within the classroom and the community for students to engage in actions that deepen this understanding.*

*Acting Today, Shaping Tomorrow: A Policy Framework for Environmental Education in Ontario Schools, 2009, p. 6*

*Acting Today, Shaping Tomorrow: A Policy Framework for Environmental Education in Ontario Schools* outlines an approach to environmental education that recognizes the needs of all Ontario students and promotes environmental responsibility in the operations of all levels of the education system.

The three goals outlined in *Acting Today, Shaping Tomorrow* are organized around the themes of teaching and learning, student engagement and community connections, and environmental leadership. The first goal is to promote learning about environmental issues and solutions. The second is to engage students in practising and promoting environmental stewardship, both in the school and in the community. The third stresses the importance of having organizations and individuals within the education system provide leadership by implementing and promoting responsible environmental practices throughout the system so that staff, parents, community members, and students become dedicated to living more sustainably.

There are many opportunities to integrate environmental education into the teaching of Canadian and world studies. In all subjects of this program, students can be encouraged to explore a range of environmental issues. In the Grade 9 geography courses, students may investigate environmental issues relating to topics such as Canadian resource management, population growth and urban sprawl, and the impact of human activity on the natural environment. Students also analyse the environmental sustainability of current behaviours and practices, explore ways in which environmental stewardship can be improved, and make connections between local, national, and global environmental issues, practices, and processes. In the Grade 10 history courses, students are able to explore various Canadian political policies and social movements related to the environment. In Civics and Citizenship, students learn that the responsibilities of citizenship include the protection and stewardship of the global commons, such as air and water, on a local, national, and global scale. This course also provides opportunities for students to explore various environmental issues of civic importance.

A resource document – *The Ontario Curriculum, Grades 9–12: Environmental Education, Scope and Sequence of Expectations, 2011* – has been prepared to assist teachers in planning lessons that integrate environmental education with other subject areas. It identifies curriculum expectations and related examples and prompts in disciplines across the Ontario curriculum that provide opportunities for student learning “in, about, and/or for” the environment. Teachers can use the document to plan lessons that relate explicitly to the environment, or they can draw on it for opportunities to use the environment as the *context for learning*. The document can also be used to make curriculum connections to school-wide environmental initiatives. This publication is available on the Ministry of Education’s website, at [www.edu.gov.on.ca/eng/curriculum/secondary/enviro9to12.pdf](http://www.edu.gov.on.ca/eng/curriculum/secondary/enviro9to12.pdf)

## HEALTHY RELATIONSHIPS AND CANADIAN AND WORLD STUDIES

Every student is entitled to learn in a safe, caring environment, free from violence and harassment. Research has shown that students learn and achieve better in such environments. A safe and supportive social environment in a school is founded on healthy relationships – the relationships between students, between students and adults, and between adults. Healthy relationships are based on respect, caring, empathy, trust, and dignity, and thrive in an environment in which diversity is honoured and accepted. Healthy relationships do not tolerate abusive, controlling, violent, bullying/harassing, or other inappropriate behaviours. To experience themselves as valued and connected members of an inclusive social environment, students need to be involved in healthy relationships with their peers, teachers, and other members of the school community.

Several provincial policies and initiatives, including the Foundations for a Healthy School framework, the equity and inclusive education strategy, and the Safe Schools strategy, are designed to foster caring and safe learning environments in the context of healthy and inclusive schools. These policies and initiatives promote positive learning and teaching environments that support the development of healthy relationships, encourage academic achievement, and help all students reach their full potential.

In its 2008 report, *Shaping a Culture of Respect in Our Schools: Promoting Safe and Healthy Relationships*, the Safe Schools Action Team confirmed “that the most effective way to enable all students to learn about healthy and respectful relationships is through the school curriculum” (p. 11). Teachers can promote this learning in a variety of ways. For example, they can help students develop and practise the skills they need for building healthy relationships by giving them opportunities to apply critical-thinking and problem-solving strategies and to address issues through group discussions, role play, case study analysis, and other means. Co-curricular activities such as clubs and intramural and interschool sports provide additional opportunities for the kind of interaction that helps students build healthy relationships. Teachers can also have a positive influence on students by modelling the behaviours, values, and skills that are needed to develop and sustain healthy relationships, and by taking advantage of “teachable moments” to address immediate relationship issues that may arise among students.

One of the elements of the citizenship education framework (see page 10) is attributes – that is, character traits, values, and habits of mind that are associated with responsible citizenship. Several of these attributes – including collaboration, cooperation, empathy, fairness, inclusiveness, and respect – are conducive to healthy relationships. The inter-connections between citizenship education and the Canadian and world studies curriculum provide multiple opportunities for students to explore and develop these attributes, which help foster not only responsible, active citizenship but also healthy relationships, both inside and outside the classroom.

A climate of cooperation, collaboration, respect, and open-mindedness is vital in the Canadian and world studies classroom. These attitudes and attributes enable students to develop an awareness of the complexity of a range of issues. Moreover, in examining issues from multiple perspectives, students develop not only an understanding of various positions on these issues but also a respect for different points of view. Students develop empathy as they analyse events and issues from the perspectives of people in different parts of Canada or the world, or from different historical eras. These attitudes and attributes provide a foundation on which students can develop their own identity, explore inter-connectedness with others, and form and maintain healthy relationships.

## EQUITY AND INCLUSIVE EDUCATION IN THE CANADIAN AND WORLD STUDIES PROGRAM

The Ontario equity and inclusive education strategy focuses on respecting diversity, promoting inclusive education, and identifying and eliminating discriminatory biases, systemic barriers, and power dynamics that limit the ability of students to learn, grow, and contribute to society. Antidiscrimination education continues to be an important and integral component of the strategy.

In an environment based on the principles of inclusive education, all students, parents, caregivers, and other members of the school community – regardless of ancestry, culture, ethnicity, sex, physical or intellectual ability, race, religion, creed, gender identity/expression, gender, sexual orientation, socio-economic status, or other factors – are welcomed, included, treated fairly, and respected. Diversity is valued when all members of the school community feel safe, welcomed, and accepted. Every student is supported and inspired to succeed in a culture of high expectations for learning. In an inclusive education system, all students see themselves reflected in the curriculum, their physical surroundings, and the broader environment, so that they can feel engaged in and empowered by their learning experiences.

The implementation of antidiscrimination principles in education influences all aspects of school life. It promotes a school climate that encourages all students to strive for high levels of achievement, affirms the worth of all students, and helps students strengthen their sense of identity and develop a positive self-image. It encourages staff and students alike to value and show respect for diversity in the school and the broader society. Antidiscrimination education promotes equity, healthy relationships, and active, responsible citizenship.

Teachers can give students a variety of opportunities to learn about diversity and diverse perspectives. By drawing attention to the contributions of women, the perspectives of various ethnocultural, religious, and racial communities, and the beliefs and practices of First Nations, Métis, and Inuit peoples, teachers enable students from a wide range of backgrounds to see themselves reflected in the curriculum. It is essential that learning activities and materials used to support the curriculum reflect the diversity of Ontario society. In addition, teachers should differentiate instruction and assessment strategies to take into account the background and experiences, as well as the interests, aptitudes, and learning needs, of all students.

Interactions between the school and the community should reflect the diversity of both the local community and the broader society. A variety of strategies can be used to communicate with and engage parents and members from diverse communities, and to encourage their participation in and support for school activities, programs, and events. Family and community members should be invited to take part in teacher interviews, the school council, and the parent involvement committee, and to attend and support activities such as plays, concerts, co-curricular activities and events, and various special events at the school. Schools may consider offering assistance with childcare or making alternative scheduling arrangements in order to help caregivers participate. Students can also help by encouraging and accompanying their families, who may be unfamiliar with the Ontario school system. Special outreach strategies and encouragement may be needed to draw in the parents of English language learners and First Nations, Métis, or Inuit students, and to make them feel more welcomed in their interactions with the school.



The valuing of inclusiveness is an element of the vision statement for the social studies, history, geography, and Canadian and world studies programs (see page 6). Thus, encouraging students to understand and value diversity is a focus of geography, history, and civics (politics) in Grades 9 and 10. The expectations in these courses provide numerous opportunities for students to break through stereotypes and to learn about various social, religious, and ethnocultural groups, including First Nations, Métis, and Inuit people, and how their beliefs, values, and traditions are reflected in the community. Students also investigate injustices and inequalities within various communities, but not simply through the lens of victimization. Rather, they examine ways in which various people act or have acted as agents of change and can serve as role models for responsible, active citizenship.

It is important that teachers of Canadian and world studies create an environment that will foster a sense of community where all students feel included and appreciated. It is imperative that students see themselves reflected in the choices of issues, examples, materials, and resources selected by the teacher. When leading discussions on topics related to diverse ethnocultural, socio-economic, or religious groups or the rights of citizenship, teachers should ensure that all students – regardless of culture, religious affiliation, gender, class, or sexual orientation – feel included and recognized in all learning activities and discussions. By teachers carefully choosing support materials that reflect the makeup of a class, students will see that they are respected. This will lead to student understanding of and respect for the differences that exist in their classroom and in the multiple communities to which they belong.

## FINANCIAL LITERACY IN CANADIAN AND WORLD STUDIES

The document *A Sound Investment: Financial Literacy Education in Ontario Schools, 2010* (p. 4) sets out the vision that:

*Ontario students will have the skills and knowledge to take responsibility for managing their personal financial well-being with confidence, competence, and a compassionate awareness of the world around them.*

There is a growing recognition that the education system has a vital role to play in preparing young people to take their place as informed, engaged, and knowledgeable citizens in the global economy. Financial literacy education can provide the preparation Ontario students need to make informed decisions and choices in a complex and fast-changing financial world.

Because making informed decisions about economic and financial matters has become an increasingly complex undertaking in the modern world, students need to build knowledge and skills in a wide variety of areas. In addition to learning about the specifics of saving, spending, borrowing, and investing, students need to develop broader skills in problem solving, inquiry, decision making, critical thinking, and critical literacy related to financial issues, so that they can analyse and manage the risks that accompany various financial choices. They also need to develop an understanding of world economic forces and the effects of those forces at the local, national, and global level. In order to make wise choices, they will need to understand how such forces affect their own and their families' economic and financial circumstances. Finally, to become responsible citizens in the global economy, they will need to understand the social, environmental, and ethical implications of their

own choices as consumers. For all of these reasons, financial literacy is an essential component of the education of Ontario students – one that can help ensure that Ontarians will continue to prosper in the future.

One of the elements of the vision for the social studies, history, geography, and Canadian and world studies programs is to enable students to become responsible, active citizens who are informed and critically thoughtful. Financial literacy is connected to this element. In the Canadian and world studies program, students have multiple opportunities to investigate and study financial literacy concepts related to the course expectations. For example, in Grade 9 geography, students can develop their financial literacy skills when investigating Canada's role in the trading of commodities, the use of resources, or their roles as consumers. In Grade 10 history, students investigate the impact of economic factors on the development of Canada, including how different communities responded to or were affected by these factors. In Civics and Citizenship in Grade 10, students develop their understanding of the importance of paying taxes. This course also provides students with opportunities to explore issues related to government expenditures and to analyse, in the context of issues of civic importance, how limited resources are allocated.

A resource document – *The Ontario Curriculum, Grades 9–12: Financial Literacy Scope and Sequence of Expectations, 2011* – has been prepared to assist teachers in bringing financial literacy into the classroom. This document identifies the curriculum expectations and related examples and prompts, in disciplines across the Ontario curriculum, through which students can acquire skills and knowledge related to financial literacy. The document can also be used to make curriculum connections to school-wide initiatives that support financial literacy. This publication is available on the Ministry of Education's website, at [www.edu.gov.on.ca/eng/document/policy/FinLitGr9to12.pdf](http://www.edu.gov.on.ca/eng/document/policy/FinLitGr9to12.pdf).

## LITERACY, MATHEMATICAL LITERACY, AND INQUIRY SKILLS IN CANADIAN AND WORLD STUDIES

*Literacy is defined as the ability to use language and images in rich and varied forms to read, write, listen, view, represent, and think critically about ideas. It involves the capacity to access, manage, and evaluate information; to think imaginatively and analytically; and to communicate thoughts and ideas effectively. Literacy includes critical thinking and reasoning to solve problems and make decisions related to issues of fairness, equity, and social justice. Literacy connects individuals and communities and is an essential tool for personal growth and active participation in a cohesive, democratic society.*

*Reach Every Student: Energizing Ontario Education, 2008, p. 6*

*Literacy instruction must be embedded across the curriculum. All teachers of all subjects ... are teachers of literacy.*

*Think Literacy Success, Grades 7–12: The Report of the Expert Panel on Students at Risk in Ontario, 2003, p. 10*

As these quotations suggest, literacy involves a range of critical-thinking skills and is essential for learning across the curriculum. Literacy instruction takes different forms of

emphasis in different subjects, but in all subjects, literacy needs to be explicitly taught. Literacy, mathematical literacy, and inquiry/research skills are critical to students' success in all subjects of the curriculum and in all areas of their lives.

Many of the activities and tasks that students undertake in the Canadian and world studies curriculum involve the literacy skills relating to oral, written, and visual communication. For example, they develop literacy skills by reading, interpreting, and analysing various texts, including diaries, letters, government legislation and policy documents, interviews, speeches, treaties, information from non-governmental organizations, news stories, and fiction and non-fiction books. In addition, they develop the skills needed to construct, extract information from, and analyse various types of maps and digital representations, including topographic, demographic, thematic, annotated, choropleth, and geographic information systems (GIS) maps. In all Canadian and world studies courses, students are required to use appropriate and correct terminology, including that related to the concepts of disciplinary thinking, and are encouraged to use language with care and precision in order to communicate effectively.

The Ministry of Education has facilitated the development of materials to support literacy instruction across the curriculum. Helpful advice for integrating literacy instruction in Canadian and world studies may be found in the following resource materials:

- *Me Read? And How! Ontario Teachers Report on How to Improve Boys' Literacy Skills, 2009*
- *Think Literacy: Cross-Curricular Approaches, Grades 7–12, 2003*

The Canadian and world studies program also builds on, reinforces, and enhances mathematical literacy. Many courses in Canadian and world studies provide students with opportunities to reinforce their mathematical literacy in areas involving computational strategies and data management and, in particular, the ability to read and construct graphs. For example, students exploring trends in geography might need to interpret population pyramids or climate graphs as well as data related to economic development and/or quality of life. Calculations and graphing are often used in field studies: students engaged in a field study focusing on traffic congestion, for example, may need to develop methods of gathering data on the vehicle count per minute for selected times of day and then might construct graphs to communicate their findings. In addition, student may use their mathematical literacy skills when interpreting data from various types of maps and when creating maps to communicate their findings.

Inquiry and research are at the heart of learning in all subject areas. In Canadian and world studies courses, students are encouraged to develop their ability to ask questions and to explore a variety of possible answers to those questions. As they advance through the grades, they acquire the skills to locate relevant information from a variety of print and electronic sources, such as books, periodicals, dictionaries, encyclopedias, interviews, videos, and relevant Internet sources. The questioning they practised in the early grades becomes more sophisticated as they learn that all sources of information have a particular point of view and that the recipient of the information has a responsibility to evaluate it, determine its validity and relevance, and use it in appropriate ways. The ability to locate, question, and validate information allows a student to become an independent, lifelong learner.



## CRITICAL THINKING AND CRITICAL LITERACY IN CANADIAN AND WORLD STUDIES

Critical thinking is the process of thinking about ideas or situations in order to understand them fully, identify their implications, make a judgement, and/or guide decision making. Critical thinking includes skills such as questioning, predicting, analysing, synthesizing, examining opinions, identifying values and issues, detecting bias, and distinguishing between alternatives. Students who are taught these skills become critical thinkers who can move beyond superficial conclusions to a deeper understanding of the issues they are examining. They are able to engage in an inquiry process in which they explore complex and multifaceted issues, and questions for which there may be no clear-cut answers.

Students use critical-thinking skills in Canadian and world studies when they assess, analyse, and/or evaluate the impact of something and when they form an opinion about something and support that opinion with a rationale. In order to think critically, students need to examine the opinions and values of others, detect bias, look for implied meaning, and use the information gathered to form a personal opinion or stance, or a personal plan of action with regard to making a difference.

Students approach critical thinking in various ways. Some students find it helpful to discuss their thinking, asking questions and exploring ideas. Other students, including many First Nations, Métis, and Inuit students, may take time to observe a situation or consider a text carefully before commenting; they may prefer not to ask questions or express their thoughts orally while they are thinking.

In developing critical-thinking skills in Canadian and world studies, students must ask themselves effective questions in order to interpret information, detect bias in their sources, determine why a source might express a particular bias, and consider the values and perspectives of a variety of groups and individuals.

The development of these critical-thinking skills is supported in every course in the Canadian and world studies curriculum by strand A on inquiry and skill development as well as by the concepts of disciplinary thinking that are identified as a focus for each overall expectation (for a description of the concepts of disciplinary thinking, see page 13). As they work to achieve the Canadian and world studies expectations, students frequently need to identify the possible implications of choices. As they gather information from a variety of sources, they need to be able to interpret what they are listening to, reading, or viewing; to look for instances of bias; and to determine why a source might express a particular bias.

Critical literacy is the capacity for a particular type of critical thinking that involves looking beyond the literal meaning of a text to determine what is present and what is missing, in order to analyse and evaluate the text's complete meaning and the author's intent. Critical literacy goes beyond conventional critical thinking by focusing on issues related to fairness, equity, and social justice. Critically literate students adopt a critical stance, asking what view of the world the text advances and whether they find this view acceptable, who benefits from the text, and how the reader is influenced.

Critically literate students understand that meaning is not found in texts in isolation. People make sense of a text, or determine what a text means, in a variety of ways. Students therefore need to be aware of points of view (e.g., those of people from various cultures), the context (e.g., the beliefs and practices of the time and place in which a text was created and those in which it is being read or viewed), the background of the person interacting with the text (e.g., upbringing, friends, communities, education, experiences), intertextuality (e.g., information that a reader or viewer brings to a text from other texts experienced previously), gaps in the text (e.g., information that is left out and that the reader or viewer must fill in), and silences in the text (e.g., voices of a person or group not heard).

In Canadian and world studies, students who are critically literate are able, for example, to actively analyse media messages and determine potential motives and underlying messages. They are able to determine what biases might be contained in texts, media, and resource material and why that might be, how the content of these materials might be determined and by whom, and whose perspectives might have been left out and why. Students would then be equipped to produce their own interpretation of the issue. Opportunities should be provided for students to engage in a critical discussion of “texts”, which can include books (including textbooks), television programs, movies, web pages, advertising, music, gestures, oral texts, visual art works, maps, graphs, graphic texts, and other means of expression. Such discussions empower students to understand the impact on members of society that was intended by the text’s creators. Language and communication are never neutral: they are used to inform, entertain, persuade, and manipulate.

Another aspect of critical thinking is metacognition, which involves developing one’s thinking skills by reflecting on one’s own thought processes. Metacognitive skills include the ability to monitor one’s own learning. Acquiring and using metacognitive skills has emerged as a powerful approach for promoting a focus on thinking skills in literacy and across all disciplines. In Canadian and world studies, metacognitive skills are developed in a number of ways. Throughout the inquiry process, students use metacognitive skills to reflect on their thinking, ensuring, for example, that their questions are appropriate, that they have logically interpreted the information they have generated, and that the appropriate concepts of disciplinary thinking are reflected in their analysis. Through the application of metacognitive skills, students constantly revisit and rethink their work, leading to a deepening of the inquiry process.

Outside of the inquiry and skill development strand, students are given many opportunities to reflect on and monitor their learning. As they develop hands-on practical skills related to daily life, as well as relationship skills, communication skills, and critical-thinking skills, students are given opportunities to reflect on their strengths and needs and to monitor their progress. In addition, they are encouraged to advocate for themselves to get the support they need in order to achieve their goals. In all areas of Canadian and world studies, students are expected to reflect on how they can apply the knowledge and skills they acquire in their courses to their lives, in meaningful, authentic ways – in the classroom, in the family, with peers, and within the various communities to which they belong. This process helps students move beyond the amassing of information to an appreciation of the relevance of Canadian and world studies to their lives.

## THE ROLE OF THE SCHOOL LIBRARY IN THE CANADIAN AND WORLD STUDIES PROGRAM

The school library program can help build and transform students' knowledge in order to support lifelong learning in our information- and knowledge-based society. The school library program supports student success across the Canadian and world studies curriculum by encouraging students to read widely, teaching them to examine and read many forms of text for understanding and enjoyment, and helping them improve their research skills and effectively use information gathered through research.

The school library program enables students to:

- develop a love of reading for learning and for pleasure;
- acquire an understanding of the richness and diversity of texts produced in Canada and around the world;
- obtain access to programs, resources, and integrated technologies that support all curriculum areas;
- understand and value the role of public library systems as a resource for lifelong learning.

The school library program plays a key role in the development of information literacy and research skills. Teacher-librarians, where available, collaborate with classroom or content-area teachers to design, teach, and provide students with authentic information and research tasks that foster learning, including the ability to:

- access, select, gather, process, critically evaluate, create, and communicate information;
- use the information obtained to explore and investigate issues, solve problems, make decisions, build knowledge, create personal meaning, and enrich their lives;
- communicate their findings to different audiences, using a variety of formats and technologies;
- use information and research with understanding, responsibility, and imagination.

In addition, teacher-librarians can work with teachers of Canadian and world studies to help students:

- develop literacy in using non-print forms, such as the Internet, CDs, DVDs, and videos, in order to access information, databases, and demonstrations relevant to Canadian and world studies;
- design questions for Canadian and world studies inquiries;
- create and produce single-medium or multimedia presentations.

Teachers of Canadian and world studies are also encouraged to collaborate with both local librarians and teacher-librarians on collecting digital, print, and visual resources for projects (e.g., biographies and/or autobiographies of people who have contributed to Canada; books with historical and geographic photographs and maps of Canada; culture-specific image collections; and informational videos). Librarians may also be able to assist in accessing a variety of online resources and collections (e.g., professional articles, image galleries, videos).

Teachers need to discuss with students the concept of ownership of work and the importance of copyright in all forms of media.

## THE ROLE OF INFORMATION AND COMMUNICATIONS TECHNOLOGY IN THE CANADIAN AND WORLD STUDIES PROGRAM

Information and communications technology (ICT) provides a range of tools that can significantly extend and enrich teachers' instructional strategies and support student learning. ICT can help students not only to collect, organize, and sort the data they gather and to write, edit, and present reports on their findings but also to make connections with other schools, at home and abroad, and to bring the global community into the local classroom.

The integration of information and communications technologies into the Canadian and world studies program represents a natural extension of the learning expectations. ICT tools can be used in a number of ways:

- *In the inquiry process:* ICT programs can help students throughout the inquiry process as they gather, organize, and analyse information, data, and evidence, and as they write, edit, and communicate their findings.
- *When developing spatial skills:* Students can extract and analyse information using on-line interactive mapping and graphing programs. Such programs can also help students organize and present information in maps and graphs. Students in geography develop their ability to use GIS to layer information when analysing and creating new maps. The “using spatial skills” suggestions that follow some specific expectations in the geography courses provide students with opportunities to use various ICT tools and programs.
- *As part of field studies:* When engaging in a field study, students can combine a number of ICT tools such as GPS, hand-held personal digital devices, and digital cameras.
- *As simulations:* Various simulation programs are available that provide hands-on visual engagement to support student learning.

Whenever appropriate, students should be encouraged to use ICT to support and communicate their learning. For example, students working individually or in groups can use computer technology to gain access to the websites of museums, galleries, archives, and heritage sites in Canada and around the world as well as to access digital atlases and other sources of information and data. They can also use cloud/online data storage and portable storage devices to store information, as well as technological devices, software, and online tools to organize and present the results of their investigations to their classmates and others.

Although the Internet is a powerful learning tool, there are potential risks attached to its use. All students must be made aware of issues related to Internet privacy, safety, and responsible use, as well as of the potential for abuse of this technology, particularly when it is used to promote hatred.

ICT tools are also useful for teachers in their teaching practice, both for whole-class instruction and for the design of curriculum units that contain varied approaches to learning in order to meet diverse student needs. A number of digital resources to support learning are licensed through the ministry; they are listed at <https://www.osapac.ca/dlr/>.

## THE ONTARIO SKILLS PASSPORT: MAKING LEARNING RELEVANT AND BUILDING SKILLS

The Ontario Skills Passport (OSP) is a free, bilingual, web-based resource that provides teachers and students with clear descriptions of the “Essential Skills” and work habits important in work, learning, and life. Teachers planning programs in Canadian and world studies can engage students by using OSP tools and resources to show how what they learn in class can be applied in the workplace and in everyday life.

The Essential Skills identified in the OSP are:

- Reading Text
- Writing
- Document Use
- Computer Use
- Oral Communication
- Numeracy: Money Math; Scheduling or Budgeting and Accounting; Measurement and Calculation; Data Analysis; and Numerical Estimation
- Thinking Skills: Job Task Planning and Organization; Decision Making; Problem Solving; and Finding Information

Work habits specified in the OSP are: working safely, teamwork, reliability, organization, working independently, initiative, self-advocacy, customer service, and entrepreneurship.

Essential Skills, such as Reading Text, Document Use, and Problem Solving, are used in virtually all occupations and are the foundation for learning other skills, including technical skills. OSP work habits such as organization, reliability, and working independently are reflected in the learning skills and work habits addressed in the provincial report card. Essential Skills and work habits are transferable from school to work, independent living, and further education or training, as well as from job to job and sector to sector.

Included in the OSP are videos and databases that focus on everyday tasks and occupation-specific workplace tasks and that teachers can use to connect classroom learning to life outside of school. Teachers can also consult *A Guide to Linking Essential Skills and the Curriculum, 2009*, which illustrates how to integrate explicit references to Essential Skills into classroom activities as well as how to give feedback to learners when they demonstrate these skills.

For further information on the Ontario Skills Passport, including the Essential Skills and work habits, visit <http://skills.edu.gov.on.ca>.

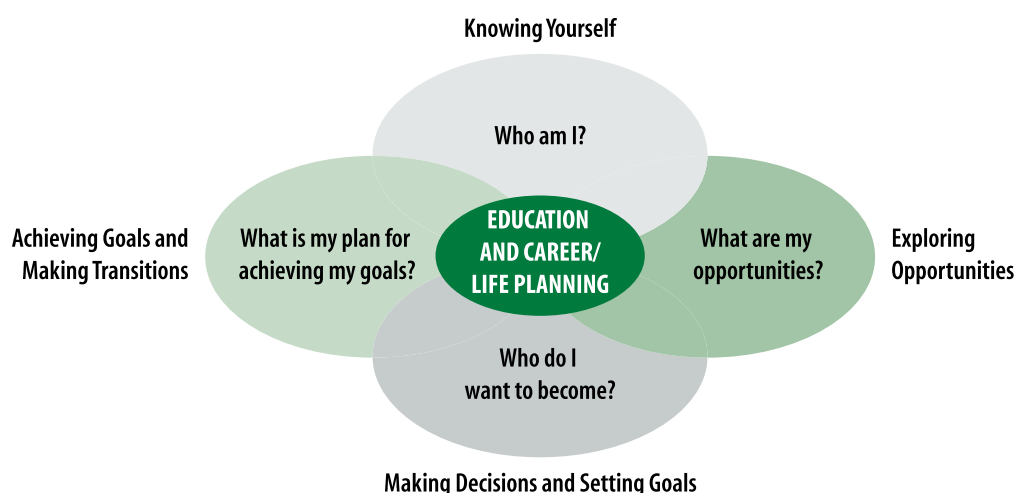
## EDUCATION AND CAREER/LIFE PLANNING THROUGH THE CANADIAN AND WORLD STUDIES CURRICULUM

The goals of the Kindergarten to Grade 12 education and career/life planning program are to:

- ensure that all students develop the knowledge and skills they need to make informed education and career/life choices;

- provide classroom and school-wide opportunities for this learning; and
- engage parents and the broader community in the development, implementation, and evaluation of the program, to support students in their learning.

The framework of the program is a four-step inquiry process based on four questions linked to four areas of learning: (1) knowing yourself – Who am I?; (2) exploring opportunities – What are my opportunities?; (3) making decisions and setting goals – Who do I want to become?; and, (4) achieving goals and making transitions – What is my plan for achieving my goals?.



Classroom teachers support students in education and career/life planning by providing them with learning opportunities, filtered through the lens of the four inquiry questions, that allow them to apply subject-specific knowledge and skills to work-related situations; explore subject-related education and career/life options; and become competent, self-directed planners. The curriculum expectations in Canadian and world studies provide opportunities to relate classroom learning to education and career/life planning that will prepare students for success in school, work, and life.

## COOPERATIVE EDUCATION AND OTHER FORMS OF EXPERIENTIAL LEARNING

Planned learning experiences in the community, including job shadowing and job twinning, work experience, and cooperative education, provide students with opportunities to see the relevance of their classroom learning in a work setting, make connections between school and work, and explore a career of interest as they plan their pathway through secondary school and on to their postsecondary destination. In addition, through experiential learning, students develop the skills and work habits required in the workplace and acquire a direct understanding of employer and workplace expectations.

Experiential learning opportunities associated with various aspects of the Canadian and world studies curriculum help broaden students' knowledge of employment opportunities in a wide range of fields, including parks and recreation; environmental industries such as water management; public institutions such as municipal offices, libraries, museums, and archives; the public service; local not-for-profit organizations; and the tourism industry.



Students may take the course Cooperative Education Linked to a Related Course (or Courses), with a Canadian and world studies course as the related course, to meet the Ontario Secondary School Diploma additional compulsory credit requirements for Groups 1, 2, and 3.

Policies and guidelines regarding cooperative education in Ontario schools, including workplace opportunities such as job twinning, job shadowing, and work experience, are outlined in the 2018 cooperative education curriculum policy document, available on the ministry website, at [www.edu.gov.on.ca/eng/curriculum/secondary/subjects.html](http://www.edu.gov.on.ca/eng/curriculum/secondary/subjects.html).

For guidelines to ensure the provision of Workplace Safety and Insurance Board (WSIB) coverage for students fourteen years of age or older participating in work education programs (also known as experiential learning programs) in which they are considered workers but are not earning wages, see Policy/Program Memorandum No. 76A, “Workplace Safety and Insurance Coverage for Students in Work Education Programs”. Teachers should also make sure that students in work education or experiential learning programs meet the minimum age requirements set out in the Occupational Health and Safety Act (OHSA).

## **PLANNING PROGRAM PATHWAYS AND PROGRAMS LEADING TO A SPECIALIST HIGH SKILLS MAJOR**

Canadian and world studies courses are well suited for inclusion in Specialist High Skills Majors (SHSMs) or in programs designed to provide pathways to particular apprenticeship, college, university, or workplace destinations. In some SHSM programs, courses in this curriculum can be bundled with other courses to provide the academic knowledge and skills important to particular economic sectors and required for success in the workplace and postsecondary education, including apprenticeship training. Canadian and world studies courses can also serve as the in-school link with cooperative education credits that provide the workplace experience required not only for some SHSM programs but also for various program pathways to postsecondary education, apprenticeship training, and workplace destinations.

## **HEALTH AND SAFETY IN THE CANADIAN AND WORLD STUDIES PROGRAM**

As part of every course, students must be made aware that health and safety are everyone’s responsibility – at home, at school, and in the workplace. Teachers must model safe practices at all times and communicate safety requirements to students in accordance with school board and Ministry of Education policies and Ministry of Labour regulations.

Health and safety issues not usually associated with Canadian and world studies education may be important when the learning involves field trips and field studies. Out-of-school field trips can provide an exciting and authentic dimension to students’ learning experiences, but they also take the teacher and students out of the predictable classroom environment and into unfamiliar settings. Teachers must preview and plan these activities carefully to protect students’ health and safety.

## ETHICS IN THE CANADIAN AND WORLD STUDIES PROGRAM

The Canadian and world studies curriculum provides varied opportunities for students to learn about ethical issues and to explore the role of ethics in both public and personal decision making. During the inquiry process, students may need to make ethical judgements when evaluating evidence and positions on various issues, and when drawing their own conclusions about issues, developments, and events. Teachers may need to help students in determining appropriate factors to consider when making such judgements. In addition, it is crucial that teachers provide support and supervision to students throughout the inquiry process, ensuring that students engaged in an inquiry are aware of potential ethical concerns and address them in acceptable ways. If students are conducting surveys and/or interviews, teachers must supervise their activities to ensure that they respect the dignity, privacy, and confidentiality of their participants.

Teachers should ensure that they thoroughly address the issue of plagiarism with students. In a digital world in which we have easy access to abundant information, it is very easy to copy the words of others and present them as one's own. Students need to be reminded, even at the secondary level, of the ethical issues surrounding plagiarism, and the consequences of plagiarism should be clearly discussed before students engage in an inquiry. It is important to discuss not only the more "blatant" forms of plagiarism, but also more nuanced instances that can occur. Students often struggle to find a balance between writing in their own voice and acknowledging the work of others in the field. Merely telling students not to plagiarize, and admonishing those who do, is not enough. The skill of writing in one's own voice, while appropriately acknowledging the work of others, must be explicitly taught to all students in Canadian and world studies classes. Using accepted forms of documentation to acknowledge sources is a specific expectation within the inquiry and skill development strand for each course in the Canadian and world studies curriculum.





# COURSES





# GEOGRAPHY

## INTRODUCTION

Geography is about determining the significance of “place” as it relates to the natural environment, the human environment, and interactions within and between them. To investigate geographic issues, students must analyse the influences and interrelationships that give a place its distinctive characteristics and thus its spatial importance. Geographic analysis also requires an investigation of the economic, environmental, social, and political perspectives that relate to an issue. The application of the concepts of geographic thinking, spatial skills, and the use of field studies are central to the geographic inquiry process and the learning of geography.

## Strands

Each of the Grade 9 geography courses is organized into the following five strands:

- A. Geographic Inquiry and Skill Development:** This strand highlights the geographic inquiry process and the spatial skills that students need in order to think critically about geographic issues relating to interactions within and between the natural environment and human communities in Canada. Throughout the course, students will apply the geographic inquiry process, the concepts of geographical thinking, and related skills and spatial technologies in a variety of contexts, from local to global. In so doing, they will develop their ability to think critically, solve problems, and work collaboratively with their fellow citizens to make their community and Canada a more sustainable place in which to live.
- B. Interactions in the Physical Environment:** This strand develops students’ understanding of how natural phenomena and events influence their daily lives. They will analyse the role of physical systems and processes in shaping the natural environment and the many ways in which the natural environment influences the types of human activity that take place in Canadian communities. Students will also analyse the effects that human activities, such as transportation, recreation, and industrial processes, have on the Earth’s physical systems and processes.
- C. Managing Canada’s Resources and Industries:** In this strand, students will analyse issues related to Canadian resources and industries, and assess the impacts of resource policy, resource management, and consumer choices on resource sustainability. They will also investigate the growing importance of knowledge-based industries and human capital in our economy and assess the contribution of different industrial sectors to Canada’s export trade and economic performance.

- D. Changing Populations:** In this strand, students will analyse trends in Canada’s population and assess the implications of these trends in local, national, and global contexts. Students will have the opportunity to analyse geographic issues associated with population demographics and settlement patterns and to assess strategies that could be used to address the economic, environmental, social, and political implications of an aging and increasingly diverse population.
- E. Liveable Communities:** This strand focuses on the need for students to recognize how the infrastructure of a community can affect its liveability and its environmental, economic, and social sustainability. Issues relating to land use, urban growth, and human systems are analysed. Students will have the opportunity to develop strategies for making their community a more sustainable place in which to live.

### Citizenship Education

The expectations in the Grade 9 geography courses provide opportunities for students to explore a number of concepts connected to the citizenship education framework (see page 10).

## The Concepts of Geographic Thinking

The four concepts of geographic thinking – spatial significance, patterns and trends, interrelationships, and geographic perspective – underpin thinking and learning in all geography courses in the Canadian and world studies program. At least one concept of geographic thinking is identified as the focus for each overall expectation in strands B–E of these courses. The following chart describes each concept and provides sample questions related to it. These questions highlight opportunities for students to apply a specific concept in their studies. (See page 13 for a fuller discussion of the concepts of disciplinary thinking.)

### Spatial Significance

This concept requires students to determine the importance of a place or region. They explore the connections that exist between the geographical location and physical characteristics of a site and analyse the unique relationships that exist in and between the natural and human environments in a particular place. Students come to understand that the significance of the same place may be different for humans, animals, and plants.

#### Related Questions\*

- What are wetlands? Why are they important? (Grade 7, A3.4)
- Why are there so many high-rise buildings in Hong Kong? (Grade 8, A1.1)
- What does a population settlement map tell us about the preferred range of latitude for settlement in Canada? (CGC1P, B2.2)
- How does the availability of fresh water in Canada compare with the availability of fresh water elsewhere in the world? (CGC1P, C3.2)
- How does the official plan for your community address urban sprawl? (CGC1D, E2.3)

*(continued)*

\* These “related questions” are drawn directly from the overview charts that precede the geography courses and from the sample questions that accompany many specific expectations. To highlight the continuity between the geography courses in Grade 9 and those in Grades 7 and 8, and to show possible progression in the use of the concepts of geographic thinking over those grades, the chart includes some questions from the elementary geography curriculum as well.

### Patterns and Trends

This concept requires students to recognize characteristics that are similar and that repeat themselves in a natural or human environment (patterns) and characteristics or traits that exhibit a consistent tendency in a particular setting over a period of time (trends). The characteristics may be spatial, social, economic, physical, or environmental. Students analyse connections between characteristics to determine patterns; they analyse connections between those characteristics over time to determine trends.

#### Related Questions

- Where are mountains located in the world? What are the characteristics of a mountain? Are there different types of mountains? What characteristics make each type unique? (Grade 7, A3.1)
- Why is there a global phenomenon of people moving to urban centres? (Grade 8, A3.4)
- Is there a pattern in the types of resources and products that Canada exports and imports? (CGC1P, C2.2)
- What trends do you see in the use of alternative energy in Ontario? (CGC1P, A1.5)
- What pattern or patterns do you see in the location of First Nations reserves across Canada?" (CGC1D, D3.1)

### Interrelationships

This concept requires students to explore connections within and between natural and human environments. The interconnected parts of an environment or environments work together to form a system. Students must understand the relationships that exist within a system and then critically analyse the relationships between systems in order to determine the impact they have on one another.

#### Related Questions

- Why does the process used to extract a natural resource depend on where the resource is located? (Grade 7, B1.1)
- What factors influence the quality of life in different countries? Why is it important to be aware of and to address global inequalities of wealth and in quality of life? (Grade 8, Overview)
- How does surrounding farmland support a community, and what stresses might the community place on the farmland? (CGC1P, E2.1)
- How might the breaking up of continental ice in Greenland and the Antarctic affect Canada's coastline? (CGC1D, B2.1)

### Geographic Perspective

This concept requires students to consider the environmental, economic, political, and/or social implications of the issues, events, developments, and/or phenomena that they are analysing. In order to solve problems, make decisions or judgements, or formulate plans of action effectively, students need to develop their ability to examine issues from multiple perspectives.

#### Related Questions

- What impact did this earthquake have on this city? How did it affect the people, their homes, schools, and businesses? ... Was the economic impact felt only within the city, or was its reach regional, national, or global? In what ways did the damage caused by the earthquake affect the natural environment? (Grade 7, A2.1)
- What do we know about how improved access to education for girls can affect a society? How might an increase in education spending affect the health of the people in a country? (Grade 8, B2.1)
- In what ways can cultural diversity enrich the life of a community? (CGC1P, D1.2)
- What factors need to be considered when analysing the impact of expanding a highway? (CGC1D, A1.1)
- Does the financial benefit of extracting natural resources justify related social and/or environmental impacts? (CGC1D, A1.6)

## The Geographic Inquiry Process

In each of the geography courses in the Canadian and world studies curriculum, strand A focuses explicitly on the geographic inquiry process, guiding students in their investigations of issues, events, developments, and/or various geographic phenomena. This process is *not* intended to be applied in a linear manner: students will use the applicable components of the process in the order most appropriate for them and for the task at hand. Although strand A covers all of the components of the inquiry process, it is important to note that students apply skills associated with the inquiry process throughout the content strands in each course. (See page 27 for a fuller discussion of the inquiry process in the Canadian and world studies program.)

The following chart identifies ways in which students may approach each of the components of the geographic inquiry process.

Formulate Questions
<p>Students formulate questions:</p> <ul style="list-style-type: none"> <li>– to explore various events, developments, issues, and/or phenomena that are related to the overall expectations in order to identify the focus of their inquiry</li> <li>– to help them determine which key concept or concepts of geographical thinking are relevant to their inquiry</li> <li>– that reflect the selected concept(s) of geographical thinking</li> <li>– to develop criteria that they will use in evaluating data, evidence, and/or information, making judgements, decisions, or predictions, and/or reaching conclusions</li> </ul>
Gather and Organize
<p>Students:</p> <ul style="list-style-type: none"> <li>– collect relevant qualitative and quantitative data, evidence, and information from field studies<sup>a</sup> and a variety of primary and secondary sources,<sup>b</sup> including visuals<sup>c</sup> and community resources<sup>d</sup></li> <li>– determine if their sources are accurate and reliable</li> <li>– identify the purpose and intent of each source</li> <li>– identify the points of view in the sources they have gathered</li> <li>– use a variety of methods to organize the data, evidence, and/or information they have gathered</li> <li>– record the sources of the data, evidence, and information they are using</li> <li>– decide whether they have collected enough data, evidence, and/or information for their inquiry</li> </ul>

(continued)

a. Field studies may include, but are not limited to, studies in local neighbourhoods, school grounds, and various sites that allow students to explore different land uses (e.g., recreational, commercial, industrial, and transportation uses).

b. Primary sources may include, but are not limited to, census data, land claims, letters, photographs, speeches, and works of art. Secondary sources may include, but are not limited to, documentaries and other films, news articles, reference books, and most websites.

c. Visuals may include, but are not limited to, satellite images, maps, globes, models, graphs, and diagrams.

d. Community resources may include, but are not limited to, local conservation areas, resources from community groups and associations, government resources, and local plans.

Interpret and Analyse
<p>Students:</p> <ul style="list-style-type: none"> <li>– analyse data, evidence, and information, applying the relevant concepts of geographic thinking (see preceding chart)</li> <li>– use different types of graphic organizers to help them interpret and/or analyse their data, evidence, and information</li> <li>– identify the key points or ideas in each source</li> <li>– analyse graphs, charts, diagrams, and maps</li> <li>– construct graphs, charts, diagrams, and maps to help them analyse the issue, event, development, or phenomenon they are investigating</li> <li>– analyse their sources to determine the importance of an issue, event, development, or phenomenon for individuals or groups</li> <li>– identify biases in individual sources</li> <li>– determine if all points of view are represented in the source materials as a whole, and which, if any, are missing</li> </ul>
Evaluate and Draw Conclusions
<p>Students:</p> <ul style="list-style-type: none"> <li>– synthesize data, evidence, and information, and make informed, critical judgements based on that data, evidence, and information</li> <li>– determine the short- and long-term impact of an event, development, issue, or phenomenon on people and/or places</li> <li>– reach conclusions about their inquiry, and support them with their data, evidence, and information</li> <li>– make predictions based on their data, evidence, and information</li> <li>– determine the ethical implications of an issue or action</li> <li>– determine the action required, where appropriate</li> </ul>
Communicate
<p>Students:</p> <ul style="list-style-type: none"> <li>– use appropriate forms (e.g., oral, visual, written, kinaesthetic) for different audiences and purposes</li> <li>– communicate their arguments, conclusions, predictions, and plans of action clearly and logically</li> <li>– use geographical terminology and concepts correctly and effectively</li> <li>– cite sources, using appropriate forms of documentation</li> </ul>





# Issues in Canadian Geography, Grade 9

Academic

CGC1D

This course examines interrelationships within and between Canada's natural and human systems and how these systems interconnect with those in other parts of the world. Students will explore environmental, economic, and social geographic issues relating to topics such as transportation options, energy choices, and urban development. Students will apply the concepts of geographic thinking and the geographic inquiry process, including spatial technologies, to investigate various geographic issues and to develop possible approaches for making Canada a more sustainable place in which to live.

**Prerequisite:** None

## OVERVIEW

The course has five strands. Instruction and learning related to the expectations in strand A are to be interwoven with instruction and learning related to expectations from the other four strands. Strand A must not be seen as independent of the other strands. Student achievement of the expectations in strand A is to be assessed and evaluated *throughout* the course.

### Strand A

A: Geographic Inquiry and Skill Development
Overall Expectations
<b>A1. Geographic Inquiry:</b> use the geographic inquiry process and the concepts of geographic thinking when investigating issues relating to Canadian geography
<b>A2. Developing Transferable Skills:</b> apply in everyday contexts skills, including spatial technology skills, developed through the investigation of Canadian geography, and identify some careers in which a background in geography might be an asset

(continued)

**Overview** *(continued)*

Throughout this course, when planning instruction, teachers should weave the expectations from strand A in with the expectations from strands B–E.

**Strands B–E**

Overall Expectations and Related Concepts of Geographic Thinking	Big Ideas*	Framing Questions*
<b>B: Interactions in the Physical Environment</b>		
<b>B1. The Physical Environment and Human Activities:</b> analyse various interactions between physical processes, phenomena, and events and human activities in Canada ( <b>FOCUS ON:</b> <i>Interrelationships; Geographic Perspective</i> )	Physical processes influence where and how people live, work, and play in Canada.  People have different beliefs about the impact of human actions on the natural environment and global systems.	How do the natural characteristics of Canada influence human activity, and how might human activity influence Canada's natural characteristics?  In what ways do Earth's natural processes, phenomena, and events influence Canada's natural characteristics?
<b>B2. Interrelationships between Physical Systems, Processes, and Events:</b> analyse characteristics of various physical processes, phenomena, and events affecting Canada and their interrelationship with global physical systems ( <b>FOCUS ON:</b> <i>Patterns and Trends; Interrelationships</i> )	Geological, climatic, and hydrological processes, phenomena, and events have shaped, and continue to shape, Canada's natural landscape.	In what ways is Canadian identity tied to our natural landscape?
<b>B3. The Characteristics of Canada's Natural Environment:</b> describe various characteristics of the natural environment and the spatial distribution of physical features in Canada, and explain the role of physical processes, phenomena, and events in shaping them ( <b>FOCUS ON:</b> <i>Spatial Significance; Patterns and Trends</i> )	Natural environmental characteristics, such as climate, geology, drainage patterns, and vegetation, define the physical regions of Canada.	
<b>C: Managing Canada's Resources and Industries</b>		
<b>C1. The Sustainability of Resources:</b> analyse impacts of resource policy, resource management, and consumer choices on resource sustainability in Canada ( <b>FOCUS ON:</b> <i>Interrelationships; Geographic Perspective</i> )	The way Canada's resources are used has a direct impact on the availability of resources for the future.	How do we balance our needs and wants with sustainable resource development?
<b>C2. The Development of Resources:</b> analyse issues related to the distribution, availability, and development of natural resources in Canada from a geographic perspective ( <b>FOCUS ON:</b> <i>Interrelationships; Geographic Perspective</i> )	People have different points of view about how Canada's natural resources should be developed.	What criteria should we set for the extraction and development of Canada's natural resources?
<b>C3. Industries and Economic Development:</b> assess the relative importance of different industrial sectors to the Canadian economy and Canada's place in the global economy, and analyse factors that influence the location of industries in these sectors ( <b>FOCUS ON:</b> <i>Spatial Significance; Patterns and Trends</i> )	Canada's economic well-being relies on the development of both natural and human resources.	Which resources and industries would you consider to be most valuable to Canada?

*(continued)*

Overall Expectations and Related Concepts of Geographic Thinking	Big Ideas*	Framing Questions*
<b>D. Changing Populations</b>		
<b>D1. Population Issues:</b> analyse selected national and global population issues and their implications for Canada ( <b>FOCUS ON:</b> <i>Interrelationships; Patterns and Trends</i> )	Global population trends and socio-economic issues can affect Canadian communities.	How might Canada's response to global population issues affect Canadian communities?
<b>D2. Immigration and Cultural Diversity:</b> describe the diversity of Canada's population, and assess some social, economic, political, and environmental implications of immigration and diversity for Canada ( <b>FOCUS ON:</b> <i>Spatial Significance; Geographic Perspective</i> )	Immigration and cultural diversity present both opportunities and challenges for Canadian communities.	What criteria should be used to determine Canadian immigration policy?
<b>D3. Demographic Patterns and Trends:</b> analyse patterns of population settlement and various demographic characteristics of the Canadian population ( <b>FOCUS ON:</b> <i>Spatial Significance; Patterns and Trends</i> )	The distribution and characteristics of human settlement in Canada are determined by many factors and may change over time.	In what ways do demographic characteristics affect communities in Canada?
<b>E. Liveable Communities</b>		
<b>E1. The Sustainability of Human Systems:</b> analyse issues relating to the sustainability of human systems in Canada ( <b>FOCUS ON:</b> <i>Interrelationships; Geographic Perspective</i> )	People have a role in determining the sustainability of human systems, such as food production and transportation, within Canadian communities.	What criteria should we use when determining future development plans for communities?
<b>E2. Impacts of Urban Growth:</b> analyse impacts of urban growth in Canada ( <b>FOCUS ON:</b> <i>Spatial Significance; Geographic Perspective</i> )	The growth of urban settlements has an impact on the economy, the natural environment, society, and politics.	How does one choose between conflicting land-use options for the same space?
<b>E3. Characteristics of Land Use in Canada:</b> analyse characteristics of land use in various Canadian communities, and explain how some factors influence land-use patterns ( <b>FOCUS ON:</b> <i>Spatial Significance; Patterns and Trends</i> )	Land is used in a variety of ways, and the way it is used depends upon the needs of a community and the physical features of the site.	In what ways does urban growth affect the quality of life of a place?
		What are some similarities and differences in land use in different Canadian communities?

\* See page 14 for a discussion of the purpose of big ideas and framing questions.

# A. GEOGRAPHIC INQUIRY AND SKILL DEVELOPMENT

## OVERALL EXPECTATIONS

Throughout this course, students will:

- A1. Geographic Inquiry:** use the geographic inquiry process and the concepts of geographic thinking when investigating issues relating to Canadian geography;
- A2. Developing Transferable Skills:** apply in everyday contexts skills, including spatial technology skills, developed through the investigation of Canadian geography, and identify some careers in which a background in geography might be an asset.

## SPECIFIC EXPECTATIONS

### A1. Geographic Inquiry

Throughout this course, students will:

- A1.1** formulate different types of questions to guide investigations into issues in Canadian geography (e.g., factual questions: *What factors need to be considered when analysing the impact of expanding a highway?*; comparative questions: *What are the differences in energy resource availability between Ontario and Alberta?*; causal questions: *How does the infrastructure of this community support environmental sustainability?*)

- A1.2** select and organize relevant data and information on geographic issues from a variety of primary and secondary sources (e.g., primary: *raw data from field work, both quantitative and qualitative; statistics; photographs; satellite images*; secondary: *newspaper columns, books, atlases, geographic magazines, websites, graphs, charts, digital and print maps*), ensuring that their sources represent a diverse range of perspectives

**Sample questions:** “How might you use a variety of statistical indicators to analyse patterns and trends in regional economic differences?” “Where might you find this data and information?” “Why is it important to collect accurate locational data? What problems might arise from using inaccurate locational data?”

- A1.3** assess the credibility of sources and information relevant to their investigations (e.g., *by considering how the data are constructed to support the author’s point of view, the possible*

*bias of the author, the expertise of the author, the accuracy of the text and supporting data, the intended audience, the purpose of the messaging, the context in which the information was presented*)

**Sample questions:** “Whose point of view does this source represent?” “Do other sources support the interpretation offered by this source?” “Does this source present a single viewpoint or does it consider other points of view?” “How credible are the sources that the author has used?”

- A1.4** interpret and analyse data and information relevant to their investigations, using various tools, strategies, and approaches appropriate for geographic inquiry (e.g., *interpret graphs and charts of various statistical indicators to analyse quality of life in Canada and compare it with that in other countries; use graphic organizers, such as cross-classification tables or ranking ladders, to interpret potential economic, political, social, and environmental impacts of a development project*)

**Sample question:** “Why would it be important to use qualitative data, such as descriptions of people’s experiences, as well as quantitative data when analysing an event or phenomenon?”

- A1.5** use the concepts of geographic thinking (i.e., *spatial significance, patterns and trends, interrelationships, geographic perspective*) when analysing and evaluating data and information, formulating conclusions, and making judgements about geographic issues relating to Canada (e.g., *use the concept of spatial significance to evaluate competing land-use options, such as*

*fruit farming and urban development; apply the concept of patterns and trends to temperature and precipitation data to assess how the climate of a region has changed over time; use the concept of interrelationships to assess how changes in technology affect industry, employment, and the consumption of natural resources; use the concept of geographic perspective to analyse the environmental, social, political, and economic impacts of globalization on various First Nations, Métis, and Inuit communities)*

**Sample questions:** “How does the concept of spatial significance support our understanding of a place’s distinctive characteristics?” “What criteria could be used to determine if the characteristics of a place form a pattern?” “Which concept or concepts of geographic thinking could be used to evaluate how a change in the natural environment will affect people?” “How can using the concept of geographic perspective improve our understanding of a complex issue?”

- A1.6** evaluate and synthesize their findings to formulate conclusions and/or make judgements or predictions about the issues they are investigating

**Sample questions:** “What geographic criteria could be used when considering possible changes to Canadian immigration policy?” “Does the financial benefit of extracting natural resources justify related social and/or environmental impacts?”

- A1.7** communicate their ideas, arguments, and conclusions using various formats and styles, as appropriate for the audience and purpose (e.g., a debate for classmates on the criteria that Canada should use to judge the merits of a trade agreement; a video for the local community showing the impact of a natural phenomenon or event in Canada; a written submission to municipal or band councillors recommending or opposing a land-use proposal, using an analysis based on geographic perspective)

**Sample questions:** “Who is your intended audience and why do you want to communicate with them? How much do they know about your topic? Do they need information summarized in a way that is easy to understand? Do they need more detailed information and arguments or just an overview?” “What format presents the results of your investigation most effectively?” “Do the symbols or shading used on a map present the intended message accurately and clearly?” “What scale interval should be used

on the map or graph to convey the intended message most effectively?”

- A1.8** use accepted forms of documentation (e.g., footnotes, author/date citations, reference lists, bibliographies, credits) to acknowledge different types of sources (e.g., websites, blogs, books, articles, films, data)

- A1.9** use appropriate terminology when communicating the results of their investigations (e.g., vocabulary specific to their inquiry; terminology related to geography and to the concepts of geographic thinking)

## A2. Developing Transferable Skills

Throughout this course, students will:

- A2.1** describe ways in which geographic investigation can help them develop skills, including spatial technology skills and the essential skills in the Ontario Skills Passport (e.g., reading text, including graphic text; writing; oral communication; using maps, graphs, charts, and tables; computer use; use of geographic information systems [GIS], satellite imagery; measurement and calculation; data analysis; decision making; planning; organizing; finding information; problem solving), that can be transferred to the world of work and to everyday life

**Sample questions:** “How could GIS help you decide where you would like to locate a business involving entertainment?” “Why is the incorporation of a global positioning system (GPS) in everyday electronic devices both useful and a concern?”

- A2.2** apply in everyday contexts skills and work habits developed through geographic investigation (e.g., asking questions to deepen their understanding of an issue; listening to and considering multiple perspectives when discussing an issue; collaborating with a team to determine the criteria that need to be considered when making a decision; using quantitative data to support an idea; using spatial skills to determine best routes of travel)

- A2.3** apply the concepts of geographic thinking when analysing current events involving geographic issues (e.g., to identify locational factors that affect the importance of an issue; to identify patterns and trends that provide context for an issue; to identify interrelationships that clarify the factors involved in an issue; to understand the

*implications of different aspects of an issue and/or different points of view about the issue) in order to enhance their understanding of these issues and their role as informed citizens*

**Sample questions:** “How does the Canadian government use issues related to the spatial significance of global oil reserves to promote the Alberta oil sands? How might you use geographic perspective to assess the strength of the government’s arguments?” “What kinds of patterns and trends might you want to consider if you were analysing a news story about climate change?” “What is the relationship between the availability of inexpensive products in Canada and labour or environmental standards in developing countries?” “What concepts of geographic thinking might help you assess the strengths and weaknesses of arguments supporting different approaches to the expansion of public transit?”

**A2.4** identify careers in which a geography background might be an asset (*e.g., urban planner, emergency preparedness coordinator, land surveyor, GIS technician, transportation logistics coordinator, forester, politician, community events organizer*)



# B. INTERACTIONS IN THE PHYSICAL ENVIRONMENT

## OVERALL EXPECTATIONS

By the end of this course, students will:

- B1. The Physical Environment and Human Activities:** analyse various interactions between physical processes, phenomena, and events and human activities in Canada (**FOCUS ON:** *Interrelationships; Geographic Perspective*)
- B2. Interrelationships between Physical Systems, Processes, and Events:** analyse characteristics of various physical processes, phenomena, and events affecting Canada and their interrelationship with global physical systems (**FOCUS ON:** *Patterns and Trends; Interrelationships*)
- B3. The Characteristics of Canada's Natural Environment:** describe various characteristics of the natural environment and the spatial distribution of physical features in Canada, and explain the role of physical processes, phenomena, and events in shaping them (**FOCUS ON:** *Spatial Significance; Patterns and Trends*)

## SPECIFIC EXPECTATIONS

### B1. The Physical Environment and Human Activities

**FOCUS ON:** *Interrelationships; Geographic Perspective*

By the end of this course, students will:

- B1.1** analyse environmental, economic, social, and/or political implications of different ideas and beliefs about the value of Canada's natural environment, and explain how these ideas/beliefs affect the use and protection of Canada's natural assets

**Sample questions:** "How does the traditional ecological knowledge of the First Nations, Métis, and Inuit peoples influence their beliefs about the natural environment and its importance to them?" "Is there a current issue that highlights conflicting beliefs about the value of Canada's natural environment and how it should be used or protected? What actions and processes are occurring in order to resolve the conflict?" "What is the difference between a preservation or conservation park system?" "How might the opening of the Northwest Passage affect Canada's claim to Arctic sovereignty?" "How does the protection of wildlife relate to one's beliefs about the value of wildlife?"

- B1.2** analyse interrelationships between Canada's physical characteristics and various human activities that they support (e.g., mountainous

landforms support recreation; water bodies and flat land facilitate urban development and transportation)

**Sample questions:** "How do the physical characteristics of different regions influence tourism in Canada?" "How would a graph showing seismic activity help planners make decisions relating to urban settlement?" "How would you use GIS to determine the best place to locate a wind farm?" "How do soil, climate, and landscape influence agricultural practices (e.g., contour ploughing, ranching, intensive agriculture)?" "How will the effect of warmer temperatures on caribou migration affect Inuit and First Nations communities in Canada's North?"

**Using spatial skills:** GIS is a valuable tool for identifying relationships between physical features or events and human activities. For example, students can identify risks to various populations from natural hazards by layering a population density map with maps showing plate boundaries, hurricane paths, and flood lines.

- B1.3** assess environmental, economic, social, and/or political consequences for Canada of changes in some of the Earth's physical processes (e.g., warming in the North is leading to a shorter, less reliable ice season and changes in plant and animal populations [environmental], threatening



*traditional Inuit culture [social], expanding opportunities for resource exploitation [economic], and creating conflict between nation states over territorial claims [political])*

**Sample questions:** “How might a warmer climate affect the skiing industry or the maple syrup industry in southern Ontario or grain farming on the Prairies?” “How do environmental changes affect plants and animals? What are some plants and animals that are now at risk or may become so because of environmental changes?” “How does a change in permafrost affect transportation and infrastructure?” “What influence might warmer temperatures and more frequent severe storms have on high-density urban centres in Canada?” “How can communities respond to shoreline erosion?”

- B1.4** explain how human activities can alter physical processes and contribute to occurrences of natural events and phenomena (*e.g., paving over land can alter drainage patterns and cause sink holes; some agricultural practices can contribute to soil erosion; deforestation can make slopes vulnerable to landslides*)

**Sample question:** “What impact do exhaust emissions from vehicles have on our climate? Why?”

- B1.5** analyse the risks that various physical processes and natural events, including disasters, present to Canadian communities, and assess ways of responding to these risks

**Sample questions:** “Why would people live in an area that is prone to natural disasters?” “What criteria should be used to determine whether rebuilding or relocating is the more sustainable choice after a community has been severely damaged by a natural disaster?” “What can be done to reduce the risk of earthquake damage in tectonically active regions like British Columbia, or flood damage in flood-prone areas along the Red River?” “How do governments and agencies use spatial technologies to monitor natural hazards and predict their occurrence (*e.g., violent weather, floods, avalanches, earthquakes, icebergs*)?” “How might a community respond to long-term changes in its environment, such as rising sea levels, coastal erosion, or lower lake levels, that threaten its economy or

survival?” “How does your personal emergency preparedness plan address natural risks, and what does it look like?”

**Using spatial skills:** Students can create a choropleth map, using intensity of shading to illustrate areas of Canada that are more at risk from disasters or more exposed to damage from natural processes than others. The shaded areas can then be annotated with comments summarizing the type of risks associated with the area.

## B2. Interrelationships between Physical Systems, Processes, and Events

**FOCUS ON:** *Patterns and Trends; Interrelationships*

By the end of this course, students will:

- B2.1** analyse interrelationships between physical processes, phenomena, and events in Canada and their interaction with global physical systems

**Sample questions:** “What impact might a volcanic eruption or earthquake in Japan have on Canada? Why?” “How does a hurricane that hits New York influence weather in Canada?” “How might the breaking up of continental ice in Greenland and the Antarctic affect Canada’s coastline?”

**Using spatial skills:** Thematic maps of the world can be used to show how plate boundaries and mountain ranges on Canada’s West Coast connect to a global Pacific Rim system, how the jet stream in Canada is part of a global northern wind belt system, or how an ocean current from the Caribbean influences Canada’s Atlantic coast.

- B2.2** describe patterns (*e.g., spatial distribution of earthquakes, floods, ice storms*) and trends (*e.g., increased frequency of forest fires in British Columbia and northern Ontario, increased rainfall in most parts of Canada*) in the occurrence of a variety of natural phenomena and events in Canada

**Using spatial skills:** Students can use statistical data to map where tornadoes have touched down or earthquakes have occurred in Canada over the past few decades. This will help them identify areas where these events occur most frequently.

### B3. The Characteristics of Canada's Natural Environment

**FOCUS ON:** *Spatial Significance; Patterns and Trends*

By the end of this course, students will:

**B3.1** explain how various characteristics of Canada's natural environment (*e.g., landforms, such as mountains and hills; drainage basins; bodies of water*) can be used to divide the country into different physical regions

**Sample question:** "What determines whether a certain area can be considered a physical region?"

**Using spatial skills:** Students can identify regional boundaries and develop their understanding of regional characteristics by using overlays of various thematic maps, such as those showing physical features, types of vegetation, and climate patterns. Features on large-scale maps of a community can be related to regional features by using successively smaller-scale maps. A waterway flowing through a municipality, for example, can be identified in this way as part of a watershed within a larger drainage basin. Cross-sectional profiles can be used to illustrate differences in elevation between regions. Climate graphs can be used to compare temperature and precipitation differences between regions.

**B3.2** explain how geological, hydrological, and climatic processes formed and continue to shape Canada's landscape (*e.g., folding and faulting formed and continue to shape Canada's western mountains; glacial recession left scoured landscape in Ontario's north and fertile landscape in the south and shaped the Great Lakes drainage system; winds continue to change landform features in the badlands of Alberta*)

**Sample questions:** "How have climatic processes influenced the physical features of the area in which you live? What evidence illustrates that climatic processes are continuing to affect the landscape?" "How do the climatic characteristics of Canada's prairie region influence the types of vegetation within the region?" "How do the rock types in different regions of Canada affect the topography of the Canadian landscape?" "How did glaciation affect drainage, soil quality, and vegetation in the Canadian Shield as compared to in the Great Lakes–St. Lawrence Lowlands and/or the Hudson Bay Lowlands?"

**Using spatial skills:** Students can identify areas of potential erosion by layering maps showing the location of waterways with maps showing elevation. A tectonic boundary map can be used to determine where a potential for mountain building or other tectonic activity exists.

# C. MANAGING CANADA'S RESOURCES AND INDUSTRIES

## OVERALL EXPECTATIONS

By the end of this course, students will:

- C1. The Sustainability of Resources:** analyse impacts of resource policy, resource management, and consumer choices on resource sustainability in Canada (**FOCUS ON:** *Interrelationships; Geographic Perspective*)
- C2. The Development of Resources:** analyse issues related to the distribution, availability, and development of natural resources in Canada from a geographic perspective (**FOCUS ON:** *Interrelationships; Geographic Perspective*)
- C3. Industries and Economic Development:** assess the relative importance of different industrial sectors to the Canadian economy and Canada's place in the global economy, and analyse factors that influence the location of industries in these sectors (**FOCUS ON:** *Spatial Significance; Patterns and Trends*)

## SPECIFIC EXPECTATIONS

### C1. The Sustainability of Resources

**FOCUS ON:** *Interrelationships; Geographic Perspective*

By the end of this course, students will:

- C1.1** describe strategies that industries and governments have implemented to increase the sustainability of Canada's natural resources (e.g., *green belts, tourism restrictions in environmentally fragile regions, wildlife culling, rehabilitation of aggregate quarries, sustainable yield management of forests and fisheries, recovery of minerals from mine tailings, community composting, recycling and recovery*), and evaluate their effectiveness

**Sample questions:** "How effective are the waste management practices in your community in supporting sustainability? What happens to material that is recycled in your community? Is the recycling program reducing the amount of waste people produce?" "How have various mine sites (open pit, quarry, and/or shaft mines) been rehabilitated?" "How have cod stocks responded since the federal government closed the cod fishery in 1992? What problems continue to prevent the recovery of the cod population?"

**Using spatial skills:** Graphs can help students visualize statistical data about the type and quantity of waste or emissions produced by a given community or industry. Local data on the

quantity of material being recycled compared to that going to landfill and on the amount and type of contaminants in that material could also be gathered, graphed, and analysed.

- C1.2** assess the impact of Canada's participation in international trade agreements and of globalization on the development and management of human and natural resources in Canada (e.g., *participation in international organizations and accords related to deforestation, pesticide use, cross-border pollution, species protection, free trade, labour standards, intellectual property*)

**Sample questions:** "What, in your opinion, are the three most important criteria that a trade agreement with another country should meet in order for it to be acceptable to Canada? How important is it that a trade agreement expand the market for Canadian resources? How important is it to address labour and environmental standards in such an agreement?" "How might water or oil shortages in other parts of the world influence Canada's resource development strategies?" "How might foreign ownership of companies extracting resources within Canada affect long-term employment prospects or sustainability policies?" "What impact might the enforcement of international embargoes on oil and gas or conflict diamonds and minerals have

on Canadian resource extraction operations?" "What responsibility does Canada have for ensuring that export commodities such as uranium and potash are used in an ethical manner?"

- C1.3** analyse the influence of governments, advocacy groups, and industries on the sustainable development and use of selected Canadian resources (*e.g., International Joint Commission; Niagara Escarpment Commission; Ministry of Natural Resources; First Nations, Métis, Inuit organizations; individual industries; transnational corporations; trade unions; advocacy groups, such as the Forest Stewardship Council, Greenpeace, engineering non-governmental organizations*)

**Sample questions:** "How has the Forest Products Association of Canada influenced how Canadian forests are used?" "In what ways can the Niagara Escarpment be considered a natural resource? What are some groups that work on sustainability issues relating to the escarpment, and what are their concerns?" "How do government subsidies influence the development and use of Canadian resources?" "What impacts do different kinds of industries have on the environment, and what can they do to operate more sustainably?"

**Using spatial skills:** Creating thematic maps showing energy production and consumption by political region can help students interpret different regional, economic, and environmental perspectives on the use of various energy sources. The alteration of waterways can be analysed by overlaying a map of rivers and water bodies with a map showing the location of hydroelectric stations. Potential water pollution problems (*e.g., thermal, bacterial, chemical, and heavy metal contamination*) can be identified by overlaying a map of rivers and water bodies with a map of industrial sites.

- C1.4** analyse the roles and responsibilities of individuals in promoting the sustainable use of resources (*e.g., managing one's own ecological footprint, making responsible consumer choices, recycling, advocating sustainable resource-use policies and practices*)

**Sample questions:** "What does your ecological footprint indicate about your personal impact on the sustainability of Canada's natural resources?" "How can we balance our individual needs and wants against the need for sustainable resource use?" "How might a company's environmental record influence a consumer's decision about buying their products?"

## C2. The Development of Resources

### FOCUS ON: *Interrelationships; Geographic Perspective*

By the end of this course, students will:

- C2.1** explain how the availability and spatial distribution of key natural resources, including water, in Canada are related to the physical geography of the country, and assess the significance of their availability and distribution, nationally and globally (*e.g., the amount of bright sunshine in a region determines the potential viability of solar energy development; a region's rock type determines which mineral resources are available and the way they are mined; a region's precipitation, temperature, and soil type determine the type of agriculture that is practised there*)

**Sample questions:** "Which Canadian resources do you predict other countries in the world will want to include in trade agreements?" "What are some political issues that are related to the location of rivers and lakes in Canada?" "Is there a relationship between resource availability and economic value?" "How might the distribution of arable land in Canada influence future land-use planning?" "What kinds of political issues (*e.g., Aboriginal rights and concerns, boundary disputes, stakeholder concerns*) may be related to the location of a resource and its development?"

- C2.2** analyse, from a geographic perspective, issues relating to the development, extraction, and management of various natural resources found in Canada (*e.g., export of icebergs for fresh water and potential political controversies relating to ownership of the resource; development of oil and gas pipelines and related economic pressures and social and environmental concerns; management of wild fish stocks and related economic, environmental, social, and political concerns*)

**Sample questions:** "Who do you think owns a resource, such as water or air, that crosses political borders? What view do First Nations people take of the ownership of such resources?" "What implications would the development of the rich mineral resources of northern Ontario's ring of fire region have for Ontario's economy? For the environment? For First Nations communities in the area?"

**Using spatial skills:** Examining appropriate thematic maps can help students visualize the lengths of pipelines and the landforms, waterways, boundaries, and other natural and built features that they cross. This will help students identify what is affected by the pipeline and determine whose interests need to



be considered when development of a pipeline is proposed. A polar projection of the Arctic can be used to highlight relationships between geopolitical boundary issues and the management of water bodies.

- C2.3** assess the renewability and non-renewability of various natural resources in Canada

**Sample questions:** “How does time affect whether a natural resource is renewable or not?” “Choose two or three flow resources. How sustainable are they in the long term?”

**Using spatial skills:** Students can create maps illustrating the location of various natural resources, using appropriate symbols to indicate whether a resource is renewable or non-renewable.

- C2.4** assess the feasibility of using selected renewable and alternative energy sources (e.g., solar, wind, tidal, hydro) to augment or replace existing power sources in various parts of Canada

**Sample questions:** “What would the costs and benefits of developing a wind and/or solar farm be for your community, a community in southern Alberta, or another location of your choice?” “In what areas of Canada might it be feasible to use tides as an energy source?”

### C3. Industries and Economic Development

**FOCUS ON:** Spatial Significance; Patterns and Trends

By the end of this course, students will:

- C3.1** compare the economic importance (e.g., in terms of contribution to gross domestic product [GDP], employment) of different sectors of the Canadian economy (i.e., primary, secondary, tertiary, quaternary)

**Sample questions:** “How does the contribution of resource-based industries to Canada’s GDP compare with that of manufacturing industries and service and knowledge-based industries?” “Does the sector that employs the most people also contribute the most to Canada’s GDP?” “Which sectors have grown the most over the past ten years? Have any declined?”

- C3.2** identify patterns and trends in imports and exports for various sectors of the Canadian economy

**Sample questions:** “Which industry sectors does Canada rely on for most of its export income?” “With which countries does Canada do most of its trade?”

**Using spatial skills:** Students can create proportional flow maps of Canadian imports and exports to help them visualize trade data and analyse the volume and direction of trade flows. Using graphs to depict the value of exports and imports can help students measure and understand trade balances.

- C3.3** assess the national and global importance of Canada’s service and knowledge-based industries and other industries based on human capital (e.g., banking, culture and entertainment, education, information technology, scientific research)

**Sample questions:** “What are the costs and benefits of hosting an international event such as the Olympics or Pan Am Games?” “How is the Canadian Space Agency involved in international space research? How is its work related to the space industry and the study of geography?” “What are some technological developments that Canada is currently playing a leading role in, exploring, or contributing to?” “How might Canada’s involvement in the movie and/or music industry influence the perception of Canada in other countries?”

**Using spatial skills:** Students can explore satellite images to gain an understanding of the different types of information that can be gathered by satellites. Satellite imagery can also help students develop a sense of spatial orientation.

- C3.4** analyse the main factors (e.g., availability of resources, distance to market, transportation costs, government incentives, labour force) that need to be considered when determining the location of sites for different types of industries (e.g., resource extraction industries, manufacturing industries, service industries, knowledge-based industries, cultural industries)

**Sample questions:** “How might the key location factors differ for different kinds of farming (e.g., corn, dairy, fruit)?” “What industrial location factors make Sault Ste. Marie an attractive site for alternative energy development?” “What, in order of importance, are the most significant location factors for an entertainment business?”

**Using spatial skills:** GIS is a useful tool for integrating the many factors that determine the best location for a business or industry. Students can use a base map of Canadian towns and cities and overlay it with maps showing a variety of key location factors to identify the best locations for businesses that they are interested in.

# D. CHANGING POPULATIONS

## OVERALL EXPECTATIONS

By the end of this course, students will:

- D1. Population Issues:** analyse selected national and global population issues and their implications for Canada (**FOCUS ON:** *Interrelationships; Patterns and Trends*)
- D2. Immigration and Cultural Diversity:** describe the diversity of Canada's population, and assess some social, economic, political, and environmental implications of immigration and diversity for Canada (**FOCUS ON:** *Spatial Significance; Geographic Perspective*)
- D3. Demographic Patterns and Trends:** analyse patterns of population settlement and various demographic characteristics of the Canadian population (**FOCUS ON:** *Spatial Significance; Patterns and Trends*)

## SPECIFIC EXPECTATIONS

### D1. Population Issues

**FOCUS ON:** *Interrelationships; Patterns and Trends*

By the end of this course, students will:

- D1.1** analyse the impact of selected population trends on people living in Canadian communities (e.g., *aging population increases demand for health care and institutional support; increasing population density affects housing, job, and transportation needs; increased number of working parents with responsibilities for both child and elder care affects family life and housing needs; neighbourhoods that consist largely of a single ethnic or cultural group pose challenges to social integration; growth of First Nations, Métis, and Inuit populations increases need for education, housing, health care, infrastructure, and resolution of land claims and rights disputes*) and their implications for the future (e.g., *aging population will further increase demand for health care, retirement housing, and transit support; increased diversity of newcomers will increase demand for language training*)

**Sample questions:** "Are most communities in Canada being affected by the same major population trends, or do the trends and impacts vary from one community to another?" "As the number of elderly people increases, what changes will communities have to make to their infrastructure?" "Will today's major population trends remain important in the future? Why or why not?"

**Using spatial skills:** Students can use population pyramids and graphs to help them analyse the age and sex composition of the Canadian population, make projections of future trends,

and predict related social and economic needs. Proportional arrow flow maps can help them identify trends in the countries of origin of immigrants and their Canadian settlement destinations. This information can be used to predict different kinds of socio-economic needs in different parts of Canada and the kinds of supports required to meet these needs.

- D1.2** identify global demographic disparities that are of concern to people living in Canada, and assess the roles of individuals, organizations, and governments in Canada in addressing them (e.g., *role of individuals in contributing to charities that provide relief and support to developing countries or in volunteering to assist with aid programs; role of non-governmental organizations in providing relief and supporting development in developing countries; role of federal government in setting immigration and refugee policies and practices, providing aid to developing countries, and contributing to work of UN agencies such as the World Food Programme and UNESCO*)

**Sample questions:** "How has Canada's spending on foreign aid changed over the past two decades?" "Why should disparities in health care be of concern to everyone? What role does the World Health Organization (WHO) play in monitoring the spread of disease? What other types of aid are associated with health care?" "What role does the Canadian military play in building international relationships?" "How is Canada involved with the work of the World Bank and the International Monetary Fund?"

**Using spatial skills:** Students can use a Peters projection map, in which the size of land areas is proportional to the magnitude of the variable

being mapped, to help them visualize global disparities with respect to such matters as access to food, water, health care, and education, vulnerability to disease, and freedom from political unrest, consumption of resources, and emissions of carbon dioxide. By comparing differences between the way that a Peters projection shows data and the way that other projections, such as Mercator, do, students can improve their understanding of the purposes for which different projections are best suited. Students can also use scatter graphs to plot statistical data and identify correlations between various socio-economic indicators.

- D1.3** determine criteria (*e.g., number of people affected, type of political leadership in region of need, degree and type of support required from Canada, ability to make a difference for the long term*) that should be used to assess Canada's responses to global population issues (*e.g., food and water shortages, lack of health care, illiteracy, displacement, poverty, overcrowding*)

**Sample questions:** "What would you consider to be the three most important global population issues?" "Has Canada responded to these issues? If so, has its response been effective?" "How might a selected global population issue affect Canada now and in the future?"

## D2. Immigration and Cultural Diversity

**FOCUS ON:** *Spatial Significance; Geographic Perspective*

By the end of this course, students will:

- D2.1** identify factors that influence where immigrants settle in Canada, and assess the opportunities and challenges presented by immigration and cultural diversity in Canada (*e.g., expansion of business opportunities, cultural enrichment, global engagement and citizenship; neighbourhood segregation and lack of social integration, hate crimes*)

**Sample questions:** "Why do immigrants settle in a particular location?" "Should governments attempt to control where immigrants settle in Canada?" "Why are workers from other countries sometimes brought into Canada on a temporary basis instead of being allowed to enter as immigrants?" "What types of incentives might companies and/or governments offer to encourage people to settle in a particular location?"

**Using spatial skills:** Students can use thematic maps and/or circle graphs to analyse factors

that influence where particular ethnic groups settle, and use it to determine possible needs for that community.

- D2.2** evaluate strategies used to address the needs of various immigrant groups within communities (*e.g., provision of language training, celebration of traditions from various cultures, provision of cultural and social support services in several languages, addressing hate crimes through community policing and education*)

**Sample questions:** "What support may newcomers need to settle comfortably into a community (*e.g., assistance with jobs and housing, language training*)?" "What are the advantages and disadvantages of providing supports for immigrant groups within a community?"

- D2.3** analyse social, political, and economic impacts of Canada's immigration and refugee policies

**Sample questions:** "What are the costs and benefits, for refugees and for Canada, of admitting refugees?" "What criteria should be considered to determine the number of refugees Canada accepts?" "How do you think Canada's immigration needs and refugee obligations may change in the future, and how might those changes affect the categories under which immigrants are admitted?" "In what ways can a community's ethnic and cultural composition influence the way it looks and the way it functions?"

## D3. Demographic Patterns and Trends

**FOCUS ON:** *Spatial Significance; Patterns and Trends*

By the end of this course, students will:

- D3.1** describe patterns of population settlement in Canada (*e.g., linear, scattered, clustered*), and assess the importance of various factors in determining population size, distribution, and density (*e.g., landforms; climate; proximity to food and water sources; connections to transportation, communications, energy, and economic networks*)

**Sample questions:** "Where do people live in Canada and why?" "What pattern or patterns do you see in the location of First Nations reserves across Canada? What are some factors that account for the location of reserves?" "What are some physical factors that may influence the location of a settlement?" "How might access to various forms of transportation

influence the development and density of communities? How would a settlement pattern influenced by highway routes differ from one influenced by flight routes?" "What's the difference between a town, a city, and a census metropolitan area (CMA)? Why might a city prefer to be called a town?" "Why do some settlements grow into large metropolitan areas and others stay as small towns?"

**Using spatial skills:** Students can use GIS to compare the relative sizes of communities across Canada. Students will need to determine the scale intervals that best facilitate comparisons of community size and enable them to describe related characteristics and patterns of settlement. The comparisons will enable them to identify areas of the country that are congested and areas that could support future growth.

**D3.2** identify factors (*e.g., job opportunities, accessibility of transportation and communication networks, availability of social services, availability of natural resources, cultural attitudes*) that influence the demographic characteristics of settlements across Canada (*e.g., ethnic composition, age-sex distribution, types of employment, levels of education*)

**Sample questions:** "Why do people live where they do? What would you do to attract people to a particular location?" "How can an industry influence the demographics of a community?"

**D3.3** analyse the major demographic characteristics of the Canadian population (*e.g., rate of natural increase, growth rate, age-sex distribution, dependency load, doubling time, cultural background*)

**Sample questions:** "How do the demographic characteristics of your community compare with more general national characteristics?" "How is the percentage of working-age people (20–65) in the total population changing? What are the implications of this change?" "What is

the age distribution in your community, and how does it affect your community now?"

**Using spatial skills:** Students can develop their graphic communication skills by using a variety of graphs (*e.g., line, bar, circle*) to illustrate statistics relating to Canadian demographics.

**D3.4** compare settlement and population characteristics of selected communities in Canada with those in other parts of the country and the world

**Sample questions:** "Choose two communities other than your own, one with a large population and one with a small population. How do the population characteristics of your community compare with the population characteristics of these communities?" "How do the population characteristics of the three largest cities in Canada compare with each other?" "How do Canada's general population characteristics compare with those of other countries around the world?"

**D3.5** analyse trends in the migration of people within Canada (*e.g., increase in First Nations, Métis, and Inuit peoples moving into urban centres, rural residents moving to urban centres, people from central and eastern provinces moving to northern Alberta and the Northwest Territories*)

**Sample questions:** "Why would people choose to leave a rural life and move to an urban settlement? Why would people choose to move to another province or territory? What are the impacts of these trends on society?"

**Using spatial skills:** Proportional arrows of varying size and thickness are a useful graphic device for illustrating population flows. They can help students visualize where migrants are coming from, where they are going, and how many people are included in each migration stream.



# E. LIVEABLE COMMUNITIES

## OVERALL EXPECTATIONS

By the end of this course, students will:

- E1. The Sustainability of Human Systems:** analyse issues relating to the sustainability of human systems in Canada (**FOCUS ON:** *Interrelationships; Geographic Perspective*)
- E2. Impacts of Urban Growth:** analyse impacts of urban growth in Canada (**FOCUS ON:** *Spatial Significance; Geographic Perspective*)
- E3. Characteristics of Land Use in Canada:** analyse characteristics of land use in various Canadian communities, and explain how some factors influence land-use patterns (**FOCUS ON:** *Spatial Significance; Patterns and Trends*)

## SPECIFIC EXPECTATIONS

### E1. The Sustainability of Human Systems

**FOCUS ON:** *Interrelationships; Geographic Perspective*

By the end of this course, students will:

- E1.1** analyse the effects of food production practices, distribution methods, and consumer choices on the sustainability of Canada's food system

**Sample questions:** "Do present food production practices support the sustainability of the food system?" "Why would it be important to have dairy farming close to urban centres?" "What role does the availability of local food play in making communities more sustainable?" "What options are available to consumers if they wish to make more sustainable food choices?"

- E1.2** analyse the sustainability of existing and proposed transportation systems, locally, provincially, nationally, and internationally, and assess options for their future development (e.g., *widening highways, creating high occupancy vehicle lanes, creating bike lanes, improving mass transit infrastructure, upgrading train corridors, opening the Northwest Passage to international shipping*)

**Sample questions:** "What are the costs and benefits of air travel? How do carbon offset programs mitigate the environmental impact of air travel? Are they enough?" "How can changes in transportation systems help to control urban sprawl?" "Why might some communities

consider creating a bike lane as an alternative to widening a roadway? Why might this option be better in some communities than others?"

- E1.3** analyse the effects of individual lifestyle choices on energy consumption and production, and assess the implications for sustainability in Canada

**Sample questions:** "What do we, as consumers, use the largest amounts of energy for?" "How might a community meet the energy needs and wants of its residents with the least environmental impact?" "What is the role of stewardship in supporting a sustainable community?"

- E1.4** analyse factors that affect the social and economic sustainability of communities (e.g., *diversified economy; investment in public services and infrastructure, such as transportation networks, health and social services, recreational and cultural facilities; educational opportunities; recognition of heritage; diverse neighbourhoods*)

**Sample questions:** "What is the multiplier effect? How does the establishment or loss of a major industry affect other businesses in a community?" "How have towns that have lost their major industry been able to survive (e.g., Stratford, Elliot Lake)? Why have some other communities become ghost towns?" "What kinds of public services and infrastructure does a community need to remain socially stable and economically viable?" "What role do taxes have in sustaining a community?" "What are the economic and social characteristics of a diverse neighbourhood, and how do they support sustainability?"

**E1.5** propose courses of action that would make a community more sustainable (e.g., *improving community/neighbourhood amenities, establishing local markets, replacing individual ownership of equipment with cooperative ownership, sharing cars, introducing a rental bike network, expanding the amount of green space*)

**Sample questions:** “What criteria could be used to evaluate a community’s progress in achieving environmental sustainability? What economic criteria would a plan to improve environmental sustainability have to meet in order to be practical to adopt and viable in the long term?” “Does your course of action support the cultural needs of the people living in the community?”

## E2. Impacts of Urban Growth

**FOCUS ON:** *Spatial Significance; Geographic Perspective*

By the end of this course, students will:

**E2.1** assess the impact of urban growth on natural systems (e.g., *impact of urban sprawl, vehicle use, and waste disposal on water and air quality*)

**Sample questions:** “How might the draining of marshland for urban development affect drainage patterns, the microclimate, and/or wildlife?” “What impact might an increase in population density have on sewage treatment processes and on nearby bodies of water?” “What effects have increases in the amount of paved land had on groundwater? How have water bodies been affected by increased runoff from paved areas, and how might communities that use that water be affected?” “How do paved areas affect air temperature?”

**Using spatial skills:** Students can use aerial images to analyse changes in urban size and determine how much the area of urban sprawl has increased over time. Remote sensing images can be used to analyse the amount of vegetation growth in urban locations.

**E2.2** analyse various economic, social, and political impacts of urban growth (e.g., *cost of expanding infrastructure and public services; health impacts, such as faster spread of disease in densely populated communities, increases in asthma attacks as a result of poor air quality, and stress related to crowding; traffic congestion and related economic costs; conflict over development priorities*)

**Sample questions:** “In what ways might urban growth influence the type of policing in a community?” “What types of health care services might be needed in a large urban community? Why might they be different from those needed in a small town?” “How might the increased

migration of First Nations people from reserves to urban centres have an impact on both communities?”

**E2.3** describe strategies that urban planners use to control urban sprawl (e.g., *green belts, high density residential infill, gentrification*), and analyse examples of their implementation

**Sample questions:** “How does the official plan for your community address urban sprawl?” “Should there be maximum size limits for cities?” “Should there be restrictions on the use of farmland for development or on other land uses near urban centres?”

**Using spatial skills:** Official plans provide abundant opportunities for examining planning strategies within a local context. For example, students can assess the extent to which features, such as green belts, park areas, and bike lanes, that reduce the impact of urban sprawl on natural systems have been incorporated in the plan. They can analyse infrastructure needs and capacity (e.g., the number of access roads, water mains, gas lines, or sewage facilities) to determine whether existing infrastructure is sufficient to meet the needs of a locality, or whether infrastructure should be expanded or population growth capped. They can also create their own maps to determine where water and waste management sites should be located or transportation access provided.

## E3. Characteristics of Land Use in Canada

**FOCUS ON:** *Spatial Significance; Patterns and Trends*

By the end of this course, students will:

**E3.1** analyse the characteristics of different land uses in a community (e.g., *size and distribution of transportation corridors, differences in residential types, location of industrial land*), and explain how these characteristics and their spatial distribution affect the community

**Sample questions:** “What services does a city’s central business district or downtown provide? Why is a thriving central business district important to a city?” “How do the commercial land uses within a community help to unite the community or divide it?” “What benefits do recreational spaces and facilities provide for this community? Are all age groups supported by the recreational spaces available?” “Do all neighbourhoods have equal access to parks and green space?” “Why is industrial land often located on the perimeter of the city?” “Why might the location of a specific kind of land use within a community change over time?” “How

do municipal taxes both influence and reflect the characteristics of land use in the community?”

**Using spatial skills:** Students can gain useful insights into land use and land-use planning by analysing the official plans of various communities to identify features such as low-, middle-, and high-density residential neighbourhoods and relate their location to commercial areas, institutions, recreational spaces, and industrial areas. They may also use these maps to identify specialized areas within communities (e.g., entertainment districts, ethnic neighbourhoods). There is an opportunity as well for students to create their own maps, using the appropriate colour conventions for different types of land use, to show patterns of land use or to use for land-use analyses.

- E3.2** explain how the natural environment may influence land-use patterns within the built environment (*e.g., roads tend to be on flatter land; parks are often near water*)

**Sample questions:** “How has the physical site of a community influenced land use within it?”  
“Are there any physical features within the

community that might have been built (e.g., hills, lakes, waterfront land)? If so, why were they built?”

**Using spatial skills:** Students can use topographic maps or official plans to analyse relationships between built features and physical features (e.g., waterways and coastal features can influence settlement location and industrial usage; hillsides may be an obstacle to building or an asset for recreational uses; wetlands may be used as flood control reservoirs, recreational areas, wildlife habitat, or, if drained, as building sites).

- E3.3** analyse a land-use map or official plan for a specific community, and describe the spatial significance of the community’s land-use pattern

**Sample questions:** “Which type of land use takes up the most space in the community?”  
“Where is most of the commercial space?” “What reasons support having that type of land use in that particular location and not somewhere else?”

# Issues in Canadian Geography, Grade 9

Applied

CGC1P

This course focuses on current geographic issues that affect Canadians. Students will draw on their personal and everyday experiences as they explore issues relating to food and water supplies, competing land uses, interactions with the natural environment, and other topics relevant to sustainable living in Canada. They will also develop an awareness that issues that affect their lives in Canada are interconnected with issues in other parts of the world. Throughout the course, students will use the concepts of geographic thinking, the geographic inquiry process, and spatial technologies to guide and support their investigations.

**Prerequisite:** None

## OVERVIEW

The course has five strands. Instruction and learning related to the expectations in strand A are to be interwoven with instruction and learning related to expectations from the other four strands. Strand A must not be seen as independent of the other strands. Student achievement of the expectations in strand A is to be assessed and evaluated *throughout* the course.

### Strand A

A: Geographic Inquiry and Skill Development
Overall Expectations
<b>A1. Geographic Inquiry:</b> use the geographic inquiry process and the concepts of geographic thinking when investigating issues relating to Canadian geography
<b>A2. Developing Transferable Skills:</b> apply in everyday contexts skills, including spatial technology skills, developed through the investigation of Canadian geography, and identify some careers in which a background in geography might be an asset

(continued)

**Overview** *(continued)*

Throughout this course, when planning instruction, teachers should weave the expectations from strand A in with the other expectations from strands B–E.

**Strands B–E**

Overall Expectations and Related Concepts of Geographic Thinking	Big Ideas*	Framing Questions*
<b>B: Interactions in the Physical Environment</b>		
<b>B1. Natural Processes and Human Activity:</b> analyse some interactions between physical processes, events, and phenomena and human activities in Canada ( <b>FOCUS ON:</b> <i>Interrelationships; Geographic Perspective</i> )	Natural phenomena and events have an impact on people. Likewise, people's actions can also influence natural processes and phenomena.	What are the most significant effects of natural processes and events, including natural disasters, on Canadian communities?
<b>B2. Influence of the Natural Environment on Human Activity:</b> explain how physical processes and the natural environment influence human activity in Canada ( <b>FOCUS ON:</b> <i>Spatial Significance; Interrelationships</i> )	Natural processes and the surrounding natural environment can influence where people live and what they do.	How does human activity affect the natural environment in your local community?
<b>B3. Characteristics of Canada's Natural Environment:</b> describe some natural processes and key characteristics of the natural environment in Canada ( <b>FOCUS ON:</b> <i>Spatial Significance; Patterns and Trends</i> )	Physical regions are areas with similar natural characteristics. Canada has diverse physical regions.	In what ways does the natural environment influence the way you live and what people do in your community?  How do you think the natural environment would influence the way you live if you moved to another part of Canada?  What are the significant characteristics of Canada's natural identity?
<b>C: Managing Canada's Resources and Industries</b>		
<b>C1. Managing Resources:</b> assess the influence of personal choices and community actions on the use of natural resources in Canada ( <b>FOCUS ON:</b> <i>Interrelationships; Geographic Perspective</i> )	Individuals can influence how natural resources are used.	How can you change your way of living to reduce your consumption of resources?
<b>C2. Canadian Industries:</b> describe the economic, environmental, social, and political significance of selected aspects of Canada's resources and industries ( <b>FOCUS ON:</b> <i>Patterns and Trends; Geographic Perspective</i> )	People have different points of view about the value of different industries and their use of resources.	What roles do various industries play in your community?  Which of Canada's natural resources do you think has the most important uses?
<b>C3. The Use of Natural Resources:</b> describe the distribution and use of selected natural resources in Canada ( <b>FOCUS ON:</b> <i>Spatial Significance; Interrelationships</i> )	Canada has a wide variety of natural resources, and they are used in many different ways.	

*(continued)*

Overall Expectations and Related Concepts of Geographic Thinking	Big Ideas*	Framing Questions*
<b>D. Changing Populations</b>		
<b>D1. Population Trends and Their Impacts:</b> assess the impact on Canadian communities of changes in the characteristics of Canada's population, and describe ways of responding to these changes ( <b>FOCUS ON:</b> <i>Pattern and Trends; Geographic Perspective</i> )	Canadian communities respond to the aging and diversity of their populations in a variety of ways.	How can communities meet the needs of the people who live there?  Why is immigration important to Canada?
<b>D2. Immigration Trends:</b> analyse recent immigration trends in Canada ( <b>FOCUS ON:</b> <i>Interrelationships; Patterns and Trends</i> )	Canada's population is becoming more culturally diverse in response to both national and global needs.	In what ways are the patterns and trends in Canada's population reflected in your community?
<b>D3. Population Characteristics:</b> describe key characteristics of population settlements in Canada and the major demographic characteristics of the Canadian population ( <b>FOCUS ON:</b> <i>Spatial Significance; Patterns and Trends</i> )	Communities in Canada vary in terms of characteristics such as population size, age breakdown, and cultural diversity.	
<b>E. Liveable Communities</b>		
<b>E1. Sustainable Communities:</b> identify factors that affect the sustainability of communities, and describe strategies for improving their sustainability ( <b>FOCUS ON:</b> <i>Interrelationships; Geographic Perspective</i> )	Individual actions can make a community more sustainable.	What can you do to make your community more sustainable?  What factors should be considered in order to determine the impacts that a development project or a change in land use would have on your community?
<b>E2. Impacts of Land Use:</b> analyse impacts of land use in Canada on communities and the natural environment ( <b>FOCUS ON:</b> <i>Spatial Significance; Interrelationships</i> )	A community's built environment can have an impact on both the natural environment and the people who live in the community.	
<b>E3. Patterns of Land Use:</b> describe patterns of land use in their local community ( <b>FOCUS ON:</b> <i>Spatial Significance; Patterns and Trends</i> )	Land is used in various ways within their community, and many land uses are connected to broader, external networks.	What are the characteristics of land use within your community, and how do land uses in the community connect with provincial, national, and global networks?

\* See page 14 for a discussion of the purpose of big ideas and framing questions.



# A. GEOGRAPHIC INQUIRY AND SKILL DEVELOPMENT

## OVERALL EXPECTATIONS

Throughout this course, students will:

- A1. Geographic Inquiry:** use the geographic inquiry process and the concepts of geographic thinking when investigating issues relating to Canadian geography;
- A2. Developing Transferable Skills:** apply in everyday contexts skills, including spatial technology skills, developed through the investigation of Canadian geography, and identify some careers in which a background in geography might be an asset.

## SPECIFIC EXPECTATIONS

### A1. Geographic Inquiry

Throughout this course, students will:

- A1.1** formulate different types of questions to guide investigations into issues in Canadian geography (e.g., factual questions: *What are the cultural backgrounds of people living in your community?*; comparative questions: *Which uses of energy have the highest consumption?*; causal questions: *How can increasing the use of public transit contribute to better air quality in your community?*)
- A1.2** select and organize relevant data and information on geographic issues from a variety of primary and secondary sources (e.g., primary: *raw data from field work, both quantitative and qualitative; statistics; photographs; satellite images*; secondary: *newspaper columns, books, atlases, geographic magazines, websites, graphs, charts, published maps*), ensuring that their sources represent a diverse range of views  
*Sample questions:* “How might you use statistics relating to temperature and precipitation for a specific location? Where might you find these data?”
- A1.3** assess the credibility of sources and information relevant to their investigations (e.g., *by considering how the data are constructed to support the author’s point of view, the possible bias of the author, the expertise of the author, the accuracy of the text and supporting data, the intended audience, the purpose of the messaging, the context in which the information was presented*)  
*Sample questions:* “Whose point of view does this source represent? Why would it be important to determine whether there are other points of view? How will you decide which points of view to include in your investigation?”
- A1.4** interpret and analyse data and information relevant to their investigations, using various tools, strategies, and approaches appropriate for geographic inquiry (e.g., *use data about their way of living and use of resources to calculate their ecological footprint and compare it to the ecological footprints of people in Canada and other parts of the world; use graphic organizers, such as cross-classification tables or ranking ladders, to interpret the potential economic, political, social, and/or environmental impacts of an industry that wants to establish itself in their community*)  
*Sample questions:* “What kinds of tools, including organizers, can you use to analyse data and information? How are they helpful?” “What graphic organizer could you use to compare data and information on different communities in order to make a decision on where to live?”
- A1.5** use the concepts of geographic thinking (i.e., *spatial significance, patterns and trends, interrelationships, geographic perspective*) when analysing and evaluating data and information, formulating conclusions, and making judgements about geographic issues relating to Canada (e.g., *use the concept of spatial significance to assess the characteristics of locations for different types of land use when planning city spaces; use the concept of patterns and trends to analyse the impact of earthquakes on urban structures; use the concept of interrelationships to guide personal behaviours that may affect the natural environment; use the concept of geographic perspective to analyse the*

*environmental, social, political, and/or economic impacts of building a highway or energy pipeline through the lands of a First Nation, Métis, and/or Inuit community)*

**Sample questions:** “What would be the advantages and disadvantages of building high-rise apartments in a particular place?” “What trends do you see in the use of alternative energy in Ontario?” “How might consumer choices relate to social justice and environmental sustainability?” “What is the relationship between a particular resource and the economy?” “How will warmer winter temperatures affect businesses that rely on cooler temperatures (e.g., skiing resorts, wineries that make ice wine)?” “When considering an issue, how does using geographic perspective enable you to analyse its complexity?”

- A1.6** evaluate and synthesize their findings to formulate conclusions and/or make judgements or predictions about the issues they are investigating

**Sample questions:** “What criteria could be used to choose the best place to live in Canada?” “Given your community’s current population trends, what will its land-use needs will be in the near future?”

- A1.7** communicate their ideas, arguments, and conclusions using various formats and styles, as appropriate for the audience and purpose (e.g., a debate for classmates on the ideal population size for their local community; a video for a Grade 7 geography class showing the impact of a severe thunderstorm or tornado near their local community; a webcast or podcast for parents and other community members, using an analysis based on geographic perspective to recommend guidelines for the use of water on hot summer days; a blog for the school on proper disposal and recycling of electronic waste)

**Sample questions:** “Who is your intended audience? How much do they know about your topic? Do they need information presented to them in a way that is easy to understand? Do they need more detailed information and arguments? What format and level of difficulty will meet your audience’s needs and present your ideas most effectively?” “How can symbols, shading, and colour be used on a map to convey your intended message more clearly?”

- A1.8** use accepted forms of documentation (e.g., footnotes, author/date citations, reference lists, bibliographies, credits) to acknowledge different types of sources (e.g., websites, blogs, books, articles, films, data)

- A1.9** use appropriate terminology when communicating the results of their investigations (e.g., vocabulary specific to their inquiry, terminology related to geography and to the concepts of geographic thinking)

## A2. Developing Transferable Skills

Throughout this course, students will:

- A2.1** describe ways in which geographic investigation can help them develop skills, including spatial technology skills and the essential skills in the Ontario Skills Passport (e.g., reading text, including graphic text; writing; oral communication; using graphs, charts, and tables; computer use; use of a geographic information system [GIS], satellite imagery; measurement and calculation; data analysis; decision making; planning; organizing; finding information; problem solving), that can be transferred to the world of work and to everyday life

**Sample questions:** “How useful is GIS in helping you determine where you would like to live within a community?” “Why is it important to plan ahead and understand the route you are following when you are relying on a global positioning system (GPS) for directions?”

- A2.2** apply in everyday contexts skills and work habits developed through geographic investigation (e.g., asking questions to deepen their understanding of an issue; listening to and considering other people’s points of view when discussing an issue; collaborating with a team to determine the criteria that need to be considered when making a decision; using spatial skills to determine best routes of travel)

- A2.3** apply the concepts of geographic thinking when analysing current events involving geographic issues (e.g., to identify locational factors that affect the importance of an issue; to identify patterns and trends that provide context for an issue; to identify interrelationships that clarify factors involved in an issue; to understand the implications of different aspects of an issue and/or different points of view about the issue) in order to enhance their understanding of these issues and their role as informed citizens

**Sample questions:** “Why would understanding the spatial significance of the global distribution of fresh water help you analyse a controversy over foreign access to Canada’s fresh water?” “What kinds of patterns and trends might you want to consider if you were discussing a news story about climate change?” “What



is the interrelationship between resource use, the environment, and current debates about expanding public transit? How does this issue affect you or your personal choices?”

“How will an analysis based on geographic perspective help you achieve a more balanced understanding of a controversial issue, such as a proposal to build a large industrial facility near a residential area?”

**A2.4** identify careers in which a geography background might be an asset (*e.g., GIS technician, park ranger, municipal parks or recreation worker, forester, land surveyor*)

# B. INTERACTIONS IN THE PHYSICAL ENVIRONMENT

## OVERALL EXPECTATIONS

By the end of this course, students will:

- B1. Natural Processes and Human Activity:** analyse some interactions between physical processes, events, and phenomena and human activities in Canada (**FOCUS ON:** *Interrelationships; Geographic Perspective*)
- B2. Influence of the Natural Environment on Human Activity:** explain how physical processes and the natural environment influence human activity in Canada (**FOCUS ON:** *Spatial Significance; Interrelationships*)
- B3. Characteristics of Canada's Natural Environment:** describe some natural processes and key characteristics of the natural environment in Canada (**FOCUS ON:** *Spatial Significance; Patterns and Trends*)

## SPECIFIC EXPECTATIONS

### B1. Natural Processes and Human Activity

**FOCUS ON:** *Interrelationships; Geographic Perspective*

By the end of this course, students will:

- B1.1** describe the types of natural disasters that can occur in Canada, and analyse the impacts of selected events  
*Sample questions:* "What were some of the social, political, environmental, and economic impacts of the tornado that hit Goderich in 2011?" "What are some typical impacts of ice storms on communities in southern Ontario and Quebec?" "How does heavy flooding, like that along the Red River in 2011, affect communities?" "How does the risk of an earthquake in southern Ontario compare with that in British Columbia?" "Can a natural disaster have positive impacts? Can you give examples?"
- B1.2** assess ways of minimizing the impacts of different kinds of natural disasters, events, and phenomena  
*Sample questions:* "What can the owners of houses on a river bank do to protect their homes from flooding?" "What can individuals and public officials in tornado-prone areas do to reduce the risk of injury and damage from tornadoes?" "What is the role of the media in

warning people of natural disasters?" "How can spatial technologies (e.g., cartography, GIS, GPS, remote sensing) help monitor or predict violent weather, floods, avalanches, earthquakes, or coastal erosion?"

*Using spatial skills:* Examples of GIS maps can be used to illustrate the types of information about disasters, events, and phenomena that can be captured and monitored through mapping.

- B1.3** analyse some environmental, economic, and social impacts of changes in Canada's climate (e.g., *effects of drought on crop production in the Prairies; effects of less sea ice on Inuit communities, Arctic shipping routes, and wildlife habitat; effects of more extreme weather on public safety, personal comfort, and the economy*)

*Sample questions:* "How might more snow in winter be related to a warming climate?" "Why would coastlines be more prone to flooding as temperatures rise?" "What effects might milder winters have on insect pests, and how, in turn, would people be affected by changes in insect populations?"

- B1.4** explain how human activities in their local region can have an impact on natural processes (e.g., *vehicle use, chimney emissions, and barbecue and lawn mower usage contribute to smog and*

can change the acidity of lake water; blasting and drilling may trigger land instability; removing trees and paving over land change the amount of water going into the soil and back into the air; expansion of highways can lead to more animals being struck by vehicles and can also disrupt animal migration patterns and separate animals from their food supplies, thus endangering their populations)

**Sample questions:** “How do human activities contribute to changes in Canada’s climate?” “What are some of the environmental costs that may occur when humans adapt the natural landscape to their needs (e.g., by building irrigation systems, clearing land, draining marshes)?” “Consider a proposal for adapting a natural feature in your area for human use (e.g., filling in a swamp and building a shopping mall on it). What are the environmental, economic, social, and political implications of the proposal? How would the costs and benefits of this proposal compare with those of leaving the natural feature untouched or modifying it in a way that preserved most of its natural characteristics but allowed some human use?”

## B2. Influence of the Natural Environment on Human Activity

**FOCUS ON:** *Spatial Significance; Interrelationships*

By the end of this course, students will:

**B2.1** explain how the natural characteristics of an area in Canada influence human activities

**Sample questions:** “What natural criteria would you use to identify the best place in Canada for downhill skiing? For cross-country skiing?” “What are the possibilities for growing food in the Arctic?” “How does the maple syrup industry or the peach-growing industry depend on the natural environment?”

**B2.2** explain the influence of Canada’s natural characteristics (e.g., climate, soils, topography, proximity to water, natural resources) on the spatial distribution of its population

**Sample questions:** “What does a population settlement map tell us about the preferred range of latitude for settlement in Canada?” “Where will people resettle if coastal areas are flooded?” “How have people adapted to areas where natural characteristics are not conducive to settlement?”

## B3. Characteristics of Canada’s Natural Environment

**FOCUS ON:** *Spatial Significance; Patterns and Trends*

By the end of this course, students will:

**B3.1** describe the natural characteristics (e.g., landscape, weather, drainage, vegetation, wildlife) of their local area or region, and explain their significance for the region

**Sample questions:** “What would you consider to be the three most important natural features in your community? What makes them important to the community? Should the community ensure that they are preserved?”

**Using spatial skills:** This expectation provides an excellent opportunity to develop skills in using topographic maps. Students will be able to relate mapping conventions, such as the use of symbols, colour, and lines, to physical features in their area.

**B3.2** compare the natural characteristics of their local community with the natural characteristics of other communities across Canada

**Sample questions:** “Which community would be the hardest to adjust to if you were to move to it? Why?” “Which communities are in the best food-growing areas?” “Which of the communities you have looked at has the landscape and climate conditions best suited to your favourite outdoor activities?”

**Using spatial skills:** Climate graphs are a useful tool for visualizing and comparing temperature and precipitation patterns. Students can use them to compare the climate characteristics of different cities across Canada. Understanding contour lines on topographic maps can help students compare differences in landscape relief.

**B3.3** describe the spatial distribution of different types of natural regions in Canada (e.g., landform regions, vegetation regions, climate regions)

**Sample questions:** “Which would be more representative of Canada’s natural landscape, a picture of the Western Cordillera or one of the Canadian Shield?” “Which landform regions attract the most tourists to Canada?” “What are the ten natural features in Canada that you would most like to see?” “Which communities

would you include in a tour for people who want to experience the variety of natural regions found in Canada?”

**Using spatial skills:** Students can consolidate their knowledge of natural regions by annotating a thematic map of Canadian landforms with photographs and descriptions of a tour they designed to highlight the diversity of Canadian natural regions.

**B3.4** describe how natural processes relating to hydrology, geology, and climate continue to shape Canada’s landscape (*e.g., precipitation, waves, and shoreline currents continue to erode the land in some places and build up silt elsewhere; earthquakes caused by faulting continue to occur and move the land*)

**Sample questions:** “In your region, what evidence can you find that shows natural processes at work?” “What natural processes formed the Great Lakes–St. Lawrence Lowlands? What impact have these same processes had on most of northern Ontario and the Canadian Shield?”

**B3.5** identify ways in which natural events in Canada and other parts of the world are linked by Earth’s physical processes (*e.g., a large volcano can put sunlight-reflecting particles into the air and cause a general cooling of the global climate for a year or more; a large earthquake under the Pacific Ocean near Japan can cause a tsunami in British Columbia; hot humid air masses from the Gulf of Mexico can cause high humidity and severe thunderstorms in southern Ontario in the summer*)

**Sample question:** “What are some of Earth’s natural processes that can result in different types of natural disasters in Canada?”

# C. MANAGING CANADA'S RESOURCES AND INDUSTRIES

## OVERALL EXPECTATIONS

By the end of this course, students will:

- C1. Managing Resources:** assess the influence of personal choices and community actions on the use of natural resources in Canada (**FOCUS ON:** *Interrelationships; Geographic Perspective*)
- C2. Canadian Industries:** describe the economic, environmental, social, and political significance of selected aspects of Canada's resources and industries (**FOCUS ON:** *Patterns and Trends; Geographic Perspective*)
- C3. The Use of Natural Resources:** describe the distribution and use of selected natural resources in Canada (**FOCUS ON:** *Spatial Significance; Interrelationships*)

## SPECIFIC EXPECTATIONS

### C1. Managing Resources

**FOCUS ON:** *Interrelationships; Geographic Perspective*

By the end of this course, students will:

- C1.1** identify major sources of energy used in Canada (*e.g., fossil fuels, nuclear, hydro*), and assess the viability of alternative energy options for various communities across Canada

**Sample questions:** "Where in Canada would wind energy be a good option for a community?" "How are individuals, businesses, and communities in Canada using solar energy?" "Which alternative energy option(s) would be best for your community or local area?"

- C1.2** assess the impact of different types of food production on resource use and the environment in Canada

**Sample questions:** "Are there certain food products that consume fewer or smaller amounts of natural resources than others or whose production has less of an impact on the environment?" "Are there actions you could take or choices you could make that would reduce the resources needed to produce the food you eat?"

- C1.3** analyse their personal use of natural resources

**Using spatial skills:** Calculating their ecological footprint, using one of many available online

tools, gives students an opportunity to recognize the nature and extent of their personal impact on resource use and the environment. Students can also measure their personal consumption of various resources directly, recording such variables as the length of time they run water or the type of vehicle they use and the distance they travel in it.

- C1.4** develop a personal plan of action that supports the idea of stewardship of resources

**Sample questions:** "How might one's personal beliefs influence one's use of resources?" "What can you as an individual do to make better use of our natural resources? How can calculating your ecological footprint help you do this?"

### C2. Canadian Industries

**FOCUS ON:** *Patterns and Trends; Geographic Perspective*

By the end of this course, students will:

- C2.1** assess the value (*e.g., in terms of gross national product and other measures, such as numbers employed, contribution to culture and national identity*) of various industrial sectors in Canada (*e.g., energy, aerospace, automotive, food, agricultural, medical, software, financial*)

**Sample questions:** "What is the value of tourism to Canada?" "Which industrial sector employs the most people?" "How would you decide the value of an industry, such as Alberta's oil sands

industry, that has large economic benefits but also high environmental and social costs?" "Why would people hold different points of view about the value of an industry?" "In which service and knowledge-based industries is Canada known as a global leader? Why might this be important?" "What other industries does the forestry industry supply or support?"

**C2.2** describe Canada's major exports and imports, and assess some of the environmental, economic, social, and political implications of Canada's current export and import patterns

**Sample questions:** "Is there a pattern in the types of resources and products that Canada exports and imports?" "Are most of our exports natural resources, items that have been manufactured, or goods and services?" "Would people living in Canada be able to produce the commodities that Canada imports?" "How do your choices as a consumer affect Canadian imports?"

**Using spatial skills:** Having students read different types of graphs can help them visualize statistical data. Bar or pie graphs, for example, can be used to show the value of exports by different economic sectors. Line graphs can be used to show changes over time in our trade balance.

**C2.3** assess the economic, environmental, social, and political significance of a specific industry for their local area or another area of their choice

**Sample questions:** "What are the social, economic, and environmental costs and benefits of having this industry in the area?" "How would other businesses in our area be affected if this industry were to collapse? How might this affect you?" "How would a new sports attraction (e.g., a hockey team, a major sporting event) affect a community? What other businesses might it attract?" "How might the development of the rich mineral resources of northern Ontario's ring of fire region affect First Nations communities in the area?"

### C3. The Use of Natural Resources

**FOCUS ON:** *Spatial Significance; Interrelationships*

By the end of this course, students will:

**C3.1** identify the natural resources needed to produce and distribute a product that is used

in the everyday lives of people living in Canada (e.g., *raw materials, resources used in production and transportation*)

**Sample questions:** "What are some of the natural resources that are used in making bread, a car, a cellphone, or other product, and where do they come from?" "Why might you want to know what natural resources a product contains and where they come from before purchasing it?"

**Using spatial skills:** Students can create a flow map showing where the resources, including parts, come from for a local industry. This will help them visualize the economic relationships the local area has with other parts of the country and/or world.

**C3.2** describe the location, use, and importance of selected natural resources, including water resources, that are found in Canada, and compare the availability of these resources with their availability in the rest of the world

**Sample questions:** "How does the availability of fresh water in Canada compare with the availability of fresh water elsewhere in the world?" "What are some of the more valuable resources found in Canada, and why are they valuable?" "How does the accessibility of a resource influence its use?"

**C3.3** describe the characteristics (e.g., *distribution, accessibility, abundance, sustainability, cost of developing*) of various renewable, non-renewable, and flow resources that are found in Canada

**Sample question:** "How might understanding the renewability of different types of resources make a difference in how people use the resources?"

**C3.4** describe how energy is used in Canada (e.g., *transportation, residential use, industrial use*)

**Sample questions:** "How do different types of transportation vary in their usage of energy?" "What types of energy do you use in your day-to-day living, and for what purposes?"

**Using spatial skills:** Students can use statistics and graphs to compare the amount of fuel different vehicles use per 100 kilometres or the amount of electricity needed to operate various appliances.



# D. CHANGING POPULATIONS

## OVERALL EXPECTATIONS

By the end of this course, students will:

- D1. Population Trends and Their Impacts:** assess the impact on Canadian communities of changes in the characteristics of Canada's population, and describe ways of responding to these changes (**FOCUS ON:** *Patterns and Trends; Geographic Perspective*)
- D2. Immigration Trends:** analyse recent immigration trends in Canada (**FOCUS ON:** *Interrelationships; Patterns and Trends*)
- D3. Population Characteristics:** describe key characteristics of population settlements in Canada and the major demographic characteristics of the Canadian population (**FOCUS ON:** *Spatial Significance; Patterns and Trends*)

## SPECIFIC EXPECTATIONS

### D1. Population Trends and Their Impacts

**FOCUS ON:** *Patterns and Trends; Geographic Perspective*

By the end of this course, students will:

- D1.1** assess economic, social, and environmental impacts of major population trends in Canada today (*e.g., aging of the population; increasing cultural, linguistic, and social diversity; changes in family structure*)

**Sample questions:** "How will people's needs change as they get older?" "How will an aging population affect the types of goods and services available in their community?" "What do immigrants need to establish themselves in a new country?" "How are Canadian families changing?"

**Using spatial skills:** Students can read population pyramids, graphs, and thematic maps to help them identify patterns and trends related to the aging of the population and assess their consequences. They can also use statistical data to analyse changes in family structures and thematic maps to highlight aspects of cultural diversity in various communities.

- D1.2** describe some opportunities (*e.g., cultural enrichment, new economic opportunities*) and challenges (*e.g., communication barriers,*

*ghettoization*) that may arise for communities whose populations come from a diversity of cultural backgrounds

**Sample questions:** "In what ways can cultural diversity enrich the life of a community?" "Why might tensions develop between people from different ethnic backgrounds? What strategies might prevent or reduce these tensions?"

- D1.3** describe ways in which Canadian society can respond to the needs of a changing population

**Sample questions:** "Is it better to invest in more nursing homes for the elderly or more home-care support?" "What kinds of support services are available for immigrants? Who provides them?" "How can schools help newcomers?" "What can employers do to help single parents balance work and childcare responsibilities?"

- D1.4** analyse population trends in their local community or area, assess related needs, and recommend appropriate responses to those needs

**Sample questions:** "Are the population trends in your community similar to the trends in Canada as a whole?" "What do you anticipate will be the biggest area of concern in your community as a result of these trends?" "What kinds of business opportunities do you see emerging as a result of the changes taking place in the population of your community?"

## D2. Immigration Trends

**FOCUS ON:** *Interrelationships; Patterns and Trends*

By the end of this course, students will:

**D2.1** analyse current immigration trends in Canada (*e.g., trends in overall numbers, numbers in different immigrant categories, countries of origin*)

**Sample questions:** “What are the different categories in which immigrants can apply for entry into Canada? What factors affect the number of people applying in each category? Which category do you think most future immigrants will apply for and why?”

**Using spatial skills:** Students can read flow maps or country-of-origin statistics to help them analyse trends in immigrant origins.

**D2.2** explain the role of push factors (*e.g., unemployment, political unrest, war, high crime rate*) and pull factors (*e.g., job opportunities, political stability, democratic society, low crime rate*) in shaping current Canadian immigration patterns

**Sample questions:** “What issues or circumstances might make people want to leave their home countries? Why might they choose Canada instead of some other country as their preferred destination?”

**Using spatial skills:** Comparing quality-of-life statistical indicators for Canada and other countries (*e.g., infant mortality rate, literacy rate, gross domestic product per capita, percentage of population with access to potable water, number of doctors per 1000 people*) can help students understand why people might want to come to Canada.

## D3. Population Characteristics

**FOCUS ON:** *Spatial Significance; Patterns and Trends*

By the end of this course, students will:

**D3.1** describe key characteristics of different types of population settlements in Canada (*e.g., towns, cities, census metropolitan areas, megalopolises,*

*First Nations reserves*), and explain their distribution (*e.g., near rivers, highways, natural resources*)

**Sample questions:** “What are the advantages and disadvantages of living in a suburb of a large city? Which would you prefer to live in, the suburb or the city?” “Why might a First Nation student prefer to live on a reserve rather than in a nearby city?” “Is there a pattern to where people live in Canada?” “What role does the Trans-Canada Highway play in the distribution of population settlement in Canada?”

**Using spatial skills:** Students can use GIS to identify correlations between population settlements and characteristics such as transportation routes, physical features, industries, and resources. A different size of symbol, based on various statistical intervals, can be used to illustrate the relative size of different populations. Students can also create an annotated thematic map to highlight characteristics associated with different sizes of settlements across Canada.

**D3.2** describe the major demographic characteristics of present-day Canada (*e.g., population density, growth rate, age-sex distribution, cultural diversity*), and compare them to those of your community or local area

**Sample questions:** “What three languages are most commonly spoken in Canada?” “How does the number of people under 25 compare to the number of people over 65? Why is this important to know?” “How do the population density and other population characteristics of your community or local area compare with those of other Canadian communities?”

**Using spatial skills:** Students can use different types of graphs to compare demographic statistics. Students may also create graphs to compare demographic statistics for their own community with national statistics. Reading population pyramids for different communities or areas can help them recognize differences in their age structures.



# E. LIVEABLE COMMUNITIES

## OVERALL EXPECTATIONS

By the end of this course, students will:

- E1. Sustainable Communities:** identify factors that affect the sustainability of communities, and describe strategies for improving their sustainability (**FOCUS ON:** *Interrelationships; Geographic Perspective*)
- E2. Impacts of Land Use:** analyse impacts of land use in Canada on communities and the natural environment (**FOCUS ON:** *Spatial Significance; Interrelationships*)
- E3. Patterns of Land Use:** describe patterns of land use in their local community (**FOCUS ON:** *Spatial Significance; Patterns and Trends*)

## SPECIFIC EXPECTATIONS

### E1. Sustainable Communities

**FOCUS ON:** *Interrelationships; Geographic Perspective*

By the end of this course, students will:

- E1.1** use a variety of measurements (*e.g., ecological footprint, carbon footprint, water footprint*) to compare the impact on the natural environment of people in Canada and people in other countries

**Sample question:** “How does your ecological footprint compare to that of the average Canadian and those of people in other countries?”

- E1.2** identify various ways in which communities in Canada dispose of their waste material (*e.g., landfilling, composting, incineration, primary and secondary sewage treatment*), and describe potential environmental impacts of these methods

**Sample questions:** “Can all waste materials be disposed of in the same manner? Why or why not?” “How does your community dispose of unwanted electronics?” “What happens to your garbage if your community does not have a landfill site?” “What could communities and individuals do to minimize the amount of material that has to be landfilled or incinerated?”

**Using spatial skills:** Students can create an annotated thematic map to highlight where waste materials (hazardous, solid, and liquid) end up. Field trips to local sewage treatment plants and landfill sites can help students better understand the challenges involved in waste management.

- E1.3** describe ways in which communities can improve their environmental sustainability (*e.g., expansion of recycling programs, promotion of infill development, expansion of mass transit systems, addition of bike lanes to major roadways, support of local market gardens, preservation or addition of green space, promotion of programs to make houses and industries more energy efficient*)

**Sample questions:** “What actions could businesses such as grocery and clothing stores take to be more environmentally sustainable?” “What kind of programs are available in your area that support energy conservation? Is your school part of an energy monitoring program?” “Does your community have water usage guidelines for particular situations, such as dry spells or extremely cold weather?”

**Using spatial skills:** Students may create maps and diagrams to illustrate the changes they would make to a community in order to make it more environmentally sustainable (*e.g., changes in transportation, land use, buildings*).

- E1.4** identify actions that individuals can take to live more sustainably, and explain the benefits for their local community

**Sample questions:** “What can you do to make a difference in your community?” “How does the community benefit if you take your own bag when you shop for groceries?” “How does eating local foods, cleaning up a local river, installing a green roof on the school, or using alternative energy support sustainability?” “How might the community benefit economically, socially, and environmentally from the preservation or restoration of a heritage

building?" "What changes can you make to your home that would help make the community more environmentally sustainable?"

## E2. Impacts of Land Use

**FOCUS ON:** *Spatial Significance; Interrelationships*

By the end of this course, students will:

- E2.1** analyse interrelationships between the built and natural environments

**Sample questions:** "Why are many communities built on the shoreline of a body of water? What are the benefits for these communities? What are the risks?" "How does surrounding farmland support a community, and what stresses might the community place on the farmland? How might the loss of nearby farmland affect a community?" "What are some of the ways in which activities within communities affect air and water quality locally and further afield?" "Which type of environment best suits the way you would like to live: urban, suburban, or rural?" "Which natural and built characteristics (e.g., climate, resources, landscape, water bodies; transportation networks, industries, social and cultural amenities, architecture, recreational areas) would you include in a list of criteria for selecting an ideal place to live?"

**Using spatial skills:** Students can compare maps of urban areas from different time periods to assess the direction and scope of urban growth. The class could create a shared annotated map illustrating their preferred places to live in Canada.

- E2.2** assess the compatibility of different types of land uses with each other within their local community (e.g., *land uses that conflict with each other, land uses that make other land uses more efficient or less efficient*)

**Sample questions:** "Are recreational areas close to the residential areas?" "Do public transportation routes provide easy access to commercial areas?" "Is residential land located near industrial spaces?" "Are sewage treatment plants next to recreational land?" "If you were to redesign your community, would you change the patterns of land use in any way?"

- E2.3** explain how changes in land use can affect the growth or decline of different parts of a community (e.g., *new suburban malls can drain business from downtown stores and lead to the decline of a community's central core; replacing an old industrial district with retail or recreational development, adding additional transportation*

*capacity, new cultural institutions, amenities, industrial parks can stimulate growth*)

**Sample questions:** "How might the closure of a pulp and paper mill lead to the decline of a community?" "Why would people choose to move to the suburbs? Why is the resulting urban sprawl a problem?" "Why is it beneficial to have housing near a downtown commercial area?" "What types of social issues may arise from changes in land use in an urban community?"

- E2.4** analyse the impact of a selected project on a community (e.g., *residential or resort development, urban renewal, installation of water and waste management systems, creation of a park or recreational site, addition of bike lanes on major streets, opening of a mine near a reserve community*)

**Sample questions:** "If you were planning on moving to a new community, why would it be important for you to check on future plans for the community?" "Why might it be worthwhile to attend a planning meeting about a proposed project in your community? What could you do to voice your ideas?"

## E3. Patterns of Land Use

**FOCUS ON:** *Spatial Significance; Patterns and Trends*

By the end of this course, students will:

- E3.1** describe different types of land use within their community (e.g., *commercial, transportation, industrial, residential, institutional, recreational, agricultural, open space*), and explain reasons for their location

**Sample questions:** "How can aerial photographs of the community help us identify different land uses? How could you use the photographs to see changes in land use and plan for future land-use needs?"

**Using spatial skills:** Students can deepen their understanding of land use by carrying out a land-use field study in a selected area of their community. They can then compare their land-use descriptions with those in the municipality's official plan and propose ways of modifying the official plan.

- E3.2** describe spatial distribution patterns for human systems and services in their community (e.g., *infrastructure components, such as transportation and energy networks, communication towers, water and waste facilities*)

**Using spatial skills:** Official plans are useful for identifying how transportation routes,

hydro lines, and other infrastructure corridors are distributed and relating their location to other land uses.

**E3.3** identify spatial connections between human systems and services in their community and the broader regional, national, and/or global networks to which they belong (*e.g., food distribution, communications, transportation, and energy networks*)

**Using spatial skills:** Students can create maps to illustrate connections between various communities and other regions and networks, such as farming regions and transportation and energy networks.

# HISTORY

## INTRODUCTION

The study of history fulfils a fundamental human desire to understand the past. It also appeals to our love of stories. Through the narrative of history, we learn about the people, events, emotions, struggles, and challenges that produced the present and that will shape the future. The study of history enables students to become critically thoughtful and informed citizens who are able to interpret and analyse historical, as well as current, issues, events, and developments, both in Canada and the world.

## Strands

Each course in Grade 10 history has five strands. Strand A, Historical Inquiry and Skill Development, is followed by four content strands, which are divided chronologically. The five strands are as follows:

- A:** Historical Inquiry and Skill Development
- B:** Canada, 1914–1929
- C:** Canada, 1929–1945
- D:** Canada, 1945–1982
- E:** Canada, 1982 to the Present

### Citizenship Education

The expectations in the Grade 10 history courses provide opportunities for students to explore a number of concepts connected to the citizenship education framework (see page 10).

## The Concepts of Historical Thinking

The four concepts of historical thinking – historical significance, cause and consequence, continuity and change, and historical perspective – underpin thinking and learning in all history courses in the Canadian and world studies program. At least one concept of historical thinking is identified as the focus for each overall expectation in strands B–E of these courses. The following chart describes each concept and provides sample questions related to it. These questions highlight opportunities for students to apply a specific concept in their studies. (See page 13 for a fuller discussion of the concepts of disciplinary thinking.)

### Historical Significance

This concept requires students to determine the importance of something (e.g., an issue, event, development, person, place, interaction, etc.) in the past. Historical importance is determined generally by the impact of something on a group of people and whether its effects are long lasting. Students develop their understanding that something that is historically significant for one group may not be significant for another. Significance may also be determined by the relevance of something from the past and how it connects to a current issue or event.

#### Related Questions\*

- Why was the Battle of Saint-Eustache significant to French Canadians? (Grade 7, B3.1)
- How did the colonialist policies of the new Canadian government have an impact on First Nations, Métis, and Inuit individuals and communities? (Grade 8, Overview)
- Why do you think that certain people or events become national symbols? (CHC2P, D3.1)
- What criteria would you use to assess the significance of wartime legislation? Who felt the greatest impact from such legislation? (CHC2D, B1.4)

### Cause and Consequence

This concept requires students to determine the factors that affected or led to something (e.g., an event, situation, action, interaction, etc.) and its impact/effects. Students develop an understanding of the complexity of causes and consequences, learning that something may be caused by more than one factor and may have many consequences, both intended and unintended.

#### Related Questions

- Who were the parties to the Treaty of Niagara or the 1760 Treaty of Peace and Friendship? What were the key short-term and long-term consequences of the selected treaty for the different parties? (Grade 7, A3.2)
- What order of importance would you assign to the various factors that led to Confederation? What criteria would you use to determine the ranking of these factors? (Grade 8, A1.1)
- What impact did medical advances such as the development of penicillin and improvements in blood transfusions have on Canadian forces during World War II? (CHC2P, C1.2)
- What impact did Canada's responses to the Second Gulf War and the military mission in Afghanistan have on our relationship with the United States? (CHC2D, E3.4)

### Continuity and Change

This concept requires students to determine what has stayed the same and what has changed over a period of time. Continuity and change can be explored with reference to ways of life, political policies, economic practices, relationship with the environment, social values and beliefs, and so on. Students make judgements about continuity and change by making comparisons between some point in the past and the present, or between two points in the past.

#### Related Questions

- What can we learn from the ways in which people met challenges in the past? (Grade 7, Overview)
- What challenges would Ukrainian immigrants have faced on the Prairies at the end of the nineteenth century? ... What do these climate and landform maps tell you about the environmental challenges Prairie settlers faced at the beginning of the twentieth century? Do similar challenges still exist today? (Grade 8, B1.2)
- What was new about the teen subcultures that developed after World War II? In what ways were the lives of youth in the 1950s and 1960s different from those who lived in the 1920s? (CHC2P D1.1)
- To what extent do First Nation, Inuit, and Métis individuals and communities have a say in the development of resources within their home territories and/or communities? Is their involvement a change in or continuation of their historical role in resource development on their territory and/or community? (CHC2D, E2.2)

(continued)

\* These "related questions" are drawn directly from the overview charts that precede the history courses and from the sample questions that accompany many specific expectations. To highlight the continuity between the history courses in Grade 10 and those in Grades 7 and 8, and to show possible progression in the use of the concepts of historical thinking over those grades, the chart includes some questions from the elementary history curriculum as well.

### Historical Perspective

This concept requires students to analyse past actions, events, developments, and issues within the context of the time in which they occurred. This means understanding the social, cultural, political, economic, and intellectual context, and the personal values and beliefs, that shaped people's lives and actions. Students need to be conscious of not imposing today's values and ethical standards on the past. Students also learn that, in any given historical period, people may have diverse perspectives on the same event, development, or issue.

#### Related Questions

- What social attitudes were reflected in the forced removal of First Nations and Métis communities on the arrival of Loyalists or European immigrants? (Grade 7, B1.1)
- What were the major concerns of women's rights groups at the turn of the century? Which women did women's rights groups at this time represent? Who was included and who was excluded? (Grade 8, B1.3)
- What impact have Hollywood portrayals of Indigenous individuals and communities during this period had on Canadians' understanding of First Nations, Métis, and Inuit cultures? (CHC2P, E1.1)
- What were the positions of Africville residents, municipal politicians in Halifax, and other groups on the expropriation of Africville? How might you explain differences in these points of view? (CHC2D, D2.1)

## The Historical Inquiry Process

In each history course in the Canadian and world studies curriculum, strand A focuses explicitly on the historical inquiry process, guiding students in their investigations of events, developments, issues, and ideas. This process is *not* intended to be applied in a linear manner: students will use the applicable components of the process in the order most appropriate for them and for the task at hand. Although strand A covers all of the components of the inquiry process, it is important to note that students apply skills associated with the inquiry process throughout the content strands in each course. (See page 27 for a fuller discussion of the inquiry process in the Canadian and world studies program.)

The following chart identifies ways in which students may approach each of the components of the historical inquiry process.

### Formulate Questions

Students formulate questions:

- to explore various events, developments, and/or issues that are related to the overall expectations in order to identify the focus of their inquiry
- to help them determine which key concept or concepts of historical thinking are relevant to their inquiry
- that reflect the selected concept(s) of historical thinking
- to develop criteria that they will use in evaluating evidence and information, making judgements or decisions, and/or reaching conclusions

(continued)

### Gather and Organize

Students:

- collect relevant evidence and information from a variety of primary sources<sup>a</sup> and secondary sources,<sup>b</sup> including community sources<sup>c</sup>
- determine if the sources are credible, accurate, and reliable
- identify the purpose and intent of each source
- identify the points of view in the sources they have gathered
- use a variety of methods to organize the evidence and information from their sources
- record the sources of the evidence and information they are using
- decide whether they have collected enough evidence and information for their investigation

### Interpret and Analyse

Students:

- analyse evidence and information, applying the relevant concepts of historical thinking (see preceding chart)
- use different types of graphic organizers to help them interpret and/or analyse their evidence and information
- identify the key points or ideas in each source
- interpret maps to help them analyse events, developments, and/or issues
- analyse their sources to determine the importance of the event, development, or issue for individuals and/or groups
- identify biases in individual sources
- determine if all points of view are represented in the source materials as a whole, and which, if any, are missing

### Evaluate and Draw Conclusions

Students:

- synthesize evidence and information, and make informed, critical judgements based on that evidence, information, and/or data
- make connections between the past and present
- determine short- and long-term consequences of events, developments, and/or issues for different individuals, groups, and/or regions
- assess whether an event or action was ethically justifiable, given the context of the time
- reach conclusions about events, developments, and/or issues, and support them with their evidence

### Communicate

Students:

- use appropriate forms (e.g., oral, visual, written, kinaesthetic) for different audiences and purposes
- communicate their arguments, conclusions, and judgements clearly and logically
- use historical terminology and concepts correctly and effectively
- cite sources, using appropriate forms of documentation

a. Primary sources may include, but are not limited to, artefacts, art works, census data and other statistics, diaries, letters, legislation and policy documents, oral histories, period newspapers, photographs, speeches, treaties, and some maps.

b. Secondary sources may include, but are not limited to, current news and scholarly articles, documentaries and other films, reference books, textbooks, and most websites.

c. Community sources may include, but are not limited to, local museums and heritage sites, and resources from community groups and associations.



# Canadian History since World War I, Grade 10

Academic

CHC2D

This course explores social, economic, and political developments and events and their impact on the lives of different individuals, groups, and communities, including First Nations, Métis, and Inuit individuals and communities, in Canada since 1914. Students will examine the role of conflict and cooperation in Canadian society, Canada's evolving role within the global community, and the impact of various individuals, organizations, and events on identities, citizenship, and heritage in Canada. Students will develop an understanding of some of the political developments and government policies that have had a lasting impact on First Nations, Métis, and Inuit individuals and communities. They will develop their ability to apply the concepts of historical thinking and the historical inquiry process, including the interpretation and analysis of evidence, when investigating key issues and events in Canadian history since 1914.

**Prerequisite:** None

## OVERVIEW

The course has five strands. Instruction and learning related to the expectations in strand A are to be interwoven with instruction and learning related to expectations from the other four strands. Strand A must not be seen as independent of the other strands. Student achievement of the expectations in strand A is to be assessed and evaluated *throughout* the course.

### Strand A

A: Historical Inquiry and Skill Development
Overall Expectations
<b>A1. Historical Inquiry:</b> use the historical inquiry process and the concepts of historical thinking when investigating aspects of Canadian history since 1914
<b>A2. Developing Transferable Skills:</b> apply in everyday contexts skills developed through historical investigation, and identify some careers in which these skills might be useful

(continued)



**Overview** *(continued)*

Throughout this course, when planning instruction, teachers should weave the expectations from strand A in with the expectations from strands B–E.

**Strands B–E**

Overall Expectations and Related Concepts of Historical Thinking	Big Ideas*	Framing Questions*
<b>B: Canada, 1914–1929</b>		
<b>B1. Social, Economic, and Political Context:</b> describe some key social, economic, and political events, trends, and developments between 1914 and 1929, and assess their significance for different groups and communities in Canada, including First Nations, Métis, and Inuit communities ( <b>FOCUS ON:</b> <i>Historical Significance; Historical Perspective</i> )	National and international events, trends, and developments during this period affected various groups and communities in Canada in different ways.	Why might different individuals and communities in Canada view the same event, trend, or development in different ways? Why might we view it differently now?
<b>B2. Communities, Conflict, and Cooperation:</b> analyse some key interactions within and between different communities in Canada, including First Nations, Métis, and Inuit communities, and between Canada and the international community, from 1914 to 1929, and how these interactions affected Canadian society and politics ( <b>FOCUS ON:</b> <i>Historical Significance; Cause and Consequence</i> )	This was a period of major conflict and change in Canada and abroad.	In what ways did government policy during this period create or contribute to divisions in Canadian society?  Was this period a turning point for women in Canada?
<b>B3. Identity, Citizenship, and Heritage:</b> explain how various individuals, organizations, and specific social changes between 1914 and 1929 contributed to the development of identities, citizenship, and heritage in Canada ( <b>FOCUS ON:</b> <i>Continuity and Change; Historical Perspective</i> )	During this period, pre-dominant attitudes towards women, immigrants, First Nations, Métis, Inuit, and racialized groups and communities affected the development of identities and citizenship in Canada.	In what ways did the lives and struggles of different individuals, groups, and communities help shape Canada during this period? What lasting impact did they have on Canada?
<b>C: Canada, 1929–1945</b>		
<b>C1. Social, Economic, and Political Context:</b> describe some key social, economic, and political events, trends, and developments between 1929 and 1945, and assess their impact on different groups and communities in Canada, including First Nations, Métis, and Inuit communities ( <b>FOCUS ON:</b> <i>Cause and Consequence; Historical Perspective</i> )	Major events during this period, including the Great Depression and World War II, resulted from a variety of social, economic, and political factors, and affected various groups and communities in Canada in different ways.	Why is it important to consider a variety of perspectives when analysing events, trends, or developments from this period?  How did colonialism continue to have an impact on Indigenous individuals and communities in Canada during this period?
<b>C2. Communities, Conflict, and Cooperation:</b> analyse some key interactions within and between communities in Canada, including First Nations, Métis, and Inuit communities, and between Canada and the international community, from 1929 to 1945, with a focus on key issues that affected these interactions and changes that resulted from them ( <b>FOCUS ON:</b> <i>Cause and Consequence; Continuity and Change</i> )	This was a period of strained and shifting relationships between different communities in Canada as well as between Canada and other countries.	In what ways did events during this period reflect Canadians' views on human rights? Did the Canadian government respect the human rights of all people during this period? What impact did events during this period have on Canada's response to later human rights issues?
<b>C3. Identity, Citizenship, and Heritage:</b> explain how various individuals, groups, and events, including some major international events, contributed to the development of identities, citizenship, and heritage in Canada between 1929 and 1945 ( <b>FOCUS ON:</b> <i>Historical Significance; Historical Perspective</i> )	The actions of various individuals and communities had a major impact on the continuing development of Canada during this period.	

*(continued)*

Overall Expectations and Related Concepts of Historical Thinking	Big Ideas*	Framing Questions*
<b>D: Canada, 1945–1982</b>		
<b>D1. Social, Economic, and Political Context:</b> describe some key social, economic, and political events, trends, and developments in Canada between 1945 and 1982, and assess their significance for different individuals, groups, and/or communities in Canada, including First Nations, Métis, and Inuit individuals and communities ( <b>FOCUS ON:</b> <i>Historical Significance; Continuity and Change</i> )	Canadian society experienced major changes during this period, as a result of a variety of national and international social, cultural, and political factors.	What impact did international politics and movements during this period have on the quality of life of people in Canada?  Why do times of change lead to both conflict and cooperation?
<b>D2. Communities, Conflict, and Cooperation:</b> analyse some key experiences of and interactions between different communities in Canada, including First Nations, Métis, and Inuit communities, as well as interactions between Canada and the international community, from 1945 to 1982 and the changes that resulted from them ( <b>FOCUS ON:</b> <i>Continuity and Change; Historical Perspective</i> )	Although this period was marked by conflict and tensions, both nationally and internationally, Canada also participated in cooperative ways in the international community.	What factors contributed to the development of social movements in Canada during this period?  In what ways did colonialist government policies continue to have an impact on First Nations, Métis, and Inuit individuals and communities during this time?
<b>D3. Identity, Citizenship, and Heritage:</b> analyse how significant events, individuals, and groups, including Indigenous peoples, Québécois, and immigrants, contributed to the development of identities, citizenship, and heritage in Canada between 1945 and 1982 ( <b>FOCUS ON:</b> <i>Historical Significance; Cause and Consequence</i> )	This was a time of major transformation in identities in Canada.	Which event or development during this period made the most significant contribution to the development of identities in Canada? What criteria can we use to make that judgement?
<b>E: Canada, 1982 to the Present</b>		
<b>E1. Social, Economic, and Political Context:</b> describe some key social, economic, and political events, trends, and developments in Canada from 1982 to the present, and assess their significance for different groups and communities in Canada, including First Nations, Métis, and Inuit communities ( <b>FOCUS ON:</b> <i>Historical Significance; Continuity and Change</i> )	National and international cultural, social, economic, political, and technological changes since 1982 have had a major impact on people in Canada.	What impact have changing demographics had on different groups in Canada since 1982?  What impact has regionalism had on Canada and on identities in Canada?
<b>E2. Communities, Conflict, and Cooperation:</b> analyse some significant interactions within and between various communities in Canada, including First Nations, Métis, and Inuit communities, and between Canada and the international community, from 1982 to the present, and how key issues and developments have affected these interactions ( <b>FOCUS ON:</b> <i>Continuity and Change; Historical Perspective</i> )	Historical factors continue to influence interactions and relationships between different groups, communities, and governments in Canada.	Why have people in Canada become more aware of the impact of hundreds of years of colonialist policy on Indigenous individuals and communities? What actions have individuals and communities been taking to change this colonial relationship?
<b>E3. Identity, Citizenship, and Heritage:</b> analyse how various significant individuals, groups, organizations, and events, both national and international, have contributed to the development of identities, citizenship, and heritage in Canada from 1982 to the present ( <b>FOCUS ON:</b> <i>Historical Significance; Cause and Consequence</i> )	Various social and political developments and events, as well as cultural icons, have had an impact on the development of heritage in Canada in these years.	Which individuals or groups made the greatest contribution to heritage in Canada during this period? How can we measure that contribution?

\* See page 14 for a discussion of the purpose of big ideas and framing questions.

# A. HISTORICAL INQUIRY AND SKILL DEVELOPMENT

## OVERALL EXPECTATIONS

Throughout this course, students will:

- A1. Historical Inquiry:** use the historical inquiry process and the concepts of historical thinking when investigating aspects of Canadian history since 1914;
- A2. Developing Transferable Skills:** apply in everyday contexts skills developed through historical investigation, and identify some careers in which these skills might be useful.

## SPECIFIC EXPECTATIONS

### A1. Historical Inquiry

Throughout this course, students will:

**A1.1** formulate different types of questions to guide investigations into issues, events, and/or developments in Canadian history since 1914 (e.g., factual questions: *What were the provisions of the Chinese Immigration Act of 1923?*; comparative questions: *In what ways was the impact of the Great Depression different for people living on the Prairies than for people living in Ontario?*; causal questions: *What were the key causes of the Quiet Revolution?*)

**A1.2** select and organize relevant evidence and information on aspects of Canadian history since 1914 from a variety of primary and secondary sources (e.g., primary sources: *art works from the time, diaries, legislation, letters, maps, period newspapers, photographs, political cartoons, statistics, treaties*; secondary sources: *books and/or articles from the library, current newspaper or magazine articles, documentary and/or feature films or videos, information from websites, textbooks*), ensuring that their sources reflect multiple perspectives

**Sample questions:** “Why is it important to gather evidence from primary sources when investigating past developments and events?” “What are some sources you might consult to try to identify voices that may be missing from the official version of an event?” “If you are trying to determine the position of various groups on the issue of the Canada-U.S. Free Trade Agreement, why might you consult newspaper editorials and editorial cartoons?”

What other sources might you consult?” “Why would it be useful to consult photographs and news reports from the time in your investigation of Canada’s military contribution to the Korean War?”

**A1.3** assess the credibility of sources and information relevant to their investigations (e.g., *by considering the perspective, bias, accuracy, purpose, and context of the source and the values and expertise of its author*)

**Sample question:** “If you were consulting various websites for information on the First Nations protests in Caledonia, how would you determine which sites were the most reliable and credible?”

**A1.4** interpret and analyse evidence and information relevant to their investigations, using various tools, strategies, and approaches appropriate for historical inquiry (e.g., *develop criteria for evaluating the relative importance of consequences of the Great Depression; compare the points of view in two or more primary sources on prohibition; assess the effectiveness of the argument in a secondary source on Canadian-American relations under Prime Minister Diefenbaker; use a concept map to help them assess the short- and long-term consequences of residential schools for First Nations, Métis, and Inuit individuals and communities*)

**Sample questions:** “What type of graphic organizer do you think would be most useful in helping you compare World War I and World War II – a T-chart, a Venn diagram, or a cross-classification table? Why?” “What criteria might you use to rank the causes of the Regina Riot?”

**A1.5** use the concepts of historical thinking (*i.e., historical significance, cause and consequence, continuity and change, and historical perspective*) when analysing, evaluating evidence about, and formulating conclusions and/or judgements regarding historical issues, events, and/or developments in Canada since 1914 (*e.g., use the concept of historical significance to assess the impact of Vimy Ridge on the evolution of Canadian identity; use the concept of cause and consequence when assessing the social, economic, and political context of the Winnipeg General Strike; use the concept of continuity and change when analysing the evolution of the relationship between Canada and Great Britain; use the concept of historical perspective when assessing the motives of the Woman's Christian Temperance Union*)

**Sample questions:** "What is 'presentism'? How can using the concept of historical perspective help you avoid the trap of presentism?" "What criteria can you use to determine the historical significance of this event? Was the event significant to everyone at the time? Is it significant to you and/or your community now?" "Which concept or concepts of historical thinking might help you analyse the Canadian government's decision to forcibly relocate Inuit people in the 1950s?"

**A1.6** evaluate and synthesize their findings to formulate conclusions and/or make informed judgements or predictions about the issues, events, and/or developments they are investigating

**Sample questions:** "Was the federal government justified in invoking the War Measures Act during the October Crisis? How convincing is the evidence in your sources?" "Based on your study of its development, as well as changes in Canadian society and politics, what do you think is the future of the Canadian welfare state? Why?"

**A1.7** communicate their ideas, arguments, and conclusions using various formats and styles, as appropriate for the audience and purpose (*e.g., a seminar on Canadian-U.S. relations; an essay on turning points for Indigenous people since 1960; a debate on whether Prime Minister Trudeau's policies contributed to a "Just Society"; a presentation on the changing roles of women in Canada; a video on social conditions during the Great Depression; a role play on negotiations to patriate the constitution; a project to write the text for a wiki on developments in Canadian culture in the second half of the twentieth century; a blog from the perspective of a soldier in Afghanistan*)

**A1.8** use accepted forms of documentation (*e.g., footnotes or endnotes, author/date citations, reference lists, bibliographies, credits*) to acknowledge different types of sources (*e.g., archival sources, articles, art works, blogs, books, films or videos, oral evidence, websites*)

**A1.9** use appropriate terminology when communicating the results of their investigations (*e.g., vocabulary specific to their topics; terminology related to history and to the concepts of historical thinking*)

## A2. Developing Transferable Skills

Throughout this course, students will:

**A2.1** describe several ways in which historical investigation can help them develop skills, including the essential skills in the Ontario Skills Passport (*e.g., skills related to reading text, writing, document use, computer use, oral communication, numeracy*), that can be transferred to the world of work and to everyday life

**A2.2** apply in everyday contexts skills and work habits developed through historical investigation (*e.g., use skills to assess the credibility of sources, understand and appreciate multiple perspectives and engage in informed discussions, detect bias, understand historical context; apply work habits such as collaborating with peers or taking initiative*)

**A2.3** apply the knowledge and skills developed in the study of Canadian history when analysing current social, economic, and/or political issues (*e.g., to determine perspectives or bias in media reports on a current event; to analyse key causes and/or predict possible consequences of a current political policy; to determine ways in which the current responses of Canadians to a specific social issue are similar to or different from their responses in the past*), in order to enhance their understanding of these events and their role as informed citizens

**Sample question:** "Which historical events might help you more fully understand the issues involved in current debates over resource development projects in Canada and First Nations treaty rights?"

**A2.4** identify some careers in which the skills learned in history might be useful (*e.g., editor, journalist, lawyer, mediator, museum curator, politician, teacher*)



## B. CANADA, 1914–1929

### OVERALL EXPECTATIONS

By the end of this course, students will:

- B1. Social, Economic, and Political Context:** describe some key social, economic, and political events, trends, and developments between 1914 and 1929, and assess their significance for different groups and communities in Canada, including First Nations, Métis, and Inuit communities (**FOCUS ON:** *Historical Significance; Historical Perspective*)
- B2. Communities, Conflict, and Cooperation:** analyse some key interactions within and between different communities in Canada, including First Nations, Métis, and Inuit communities, and between Canada and the international community, from 1914 to 1929, and how these interactions affected Canadian society and politics (**FOCUS ON:** *Historical Significance; Cause and Consequence*)
- B3. Identity, Citizenship, and Heritage:** explain how various individuals, organizations, and specific social changes between 1914 and 1929 contributed to the development of identities, citizenship, and heritage in Canada (**FOCUS ON:** *Continuity and Change; Historical Perspective*)

### SPECIFIC EXPECTATIONS

#### B1. Social, Economic, and Political Context

**FOCUS ON:** *Historical Significance; Historical Perspective*

By the end of this course, students will:

- B1.1** analyse historical statistics and other primary sources, including oral traditional knowledge, to identify major demographic trends in Canada between 1914 and 1929 (*e.g., trends related to immigration to Canada; First Nations, Métis, and Inuit populations; migration between provinces and to urban centres; the number of women in the labour force and the type of work they performed; birth rates or life expectancy*), and assess the significance of these trends for different groups and communities in Canada, including First Nations, Métis, and Inuit communities

**Sample questions:** “When you analyse census data, what do you think is the most significant trend in the Canadian population between 1914 and 1929? Why? Did this trend affect all people in Canada?” “What trends do you see with respect to birth rates among different groups in Canada?” “Is statistical information on Indigenous communities and individuals during this period reliable and valid? Why or why not?” “From the perspective of First Nations, Métis, and Inuit, why is the 1921 census flawed?” “Why did many Métis people choose not to publicly identify as Métis during this period? What was the significance of this decision?”

- B1.2** identify some major developments in science and/or technology and applications of scientific/technological knowledge during this period, and assess their significance for different individuals, groups, and/or communities in Canada, including First Nations, Métis, and/or Inuit individuals and/or communities (*e.g., the impact of: new military technologies on Canadian soldiers; developments in mechanization on Canadian farmers; developments in transportation and communication, such as those related to cars, radios, or motion pictures, on the recreational activities of some Canadians; insulin and/or other medical developments on the health of people in Canada*)

**Sample questions:** “What criteria might you use to determine the significance of a scientific or technological development? Using these criteria, which development during this time period do you think was the most significant? Why?” “How did the application of advances in film and photography during this period influence the ways in which Indigenous people were perceived, both within Canada and elsewhere in the world? How did the film *Nanook of the North* affect the way Inuit were perceived? Whose perspective did the film reflect?” “How did the Canadian Arctic Expedition of 1913–18 benefit from Inuit scientific and technological knowledge?”

**B1.3** describe some key economic trends and developments in Canada during this period (e.g., with reference to the wartime economy, new manufacturing sectors, postwar recession, consumerism, buying on credit, unions, rising prices, trends in the whaling and fur industry in the Canadian North), and assess their impact on various individuals, groups, and/or communities in Canada, including First Nations, Métis, and Inuit individuals and/or communities

**Sample questions:** “Which regions or groups in Canada benefited the most from the prosperity of the 1920s? Why? Which communities did not benefit from this prosperity? Why?” “When you look at economic conditions in the Maritimes during the 1920s, which development do you think is the most significant in terms of its impact on people’s lives? Why? Who was affected by this development?” “How significant was the collapse of the bowhead whale and/or fur industry for Inuit individuals and communities?” “How did political policies affect the price of goods traded by Inuit and First Nations people in the North? What impact did these policies have on the income and lives of Indigenous traders and on Indigenous economic and social structures?”

**B1.4** explain the impact on Canadian society and politics of some key events and/or developments during World War I (e.g., with reference to shortages on the home front; the internment of “enemy aliens”; an increase in the number of women in the workforce; the Union government; new laws such as the Military Voters Act, the Wartime Elections Act, the Income Tax Act, and/or the War Measures Act; the enlistment, military, and post-military experiences of First Nations, Métis, and Inuit men; the Halifax Explosion; the role of veterans in postwar labour unrest)

**Sample questions:** “What does the term ‘enemy alien’ mean? Which groups did the Canadian government consider to be enemy aliens during World War I? What was the significance of Canada’s treatment of these groups?” “What was the impact of the conscription crisis on politics in Canada?” “Why did First Nations, Métis, and Inuit men choose to fight for a country in which they experienced oppression and mistreatment?” “What impact did military enlistment have on the status of First Nations men and their families?” “What criteria would you use to assess the significance of wartime legislation? Who felt the greatest impact from such legislation?” “Who gained the franchise under the Military Voters Act and the Wartime Elections Act? Who did not? Why were Indigenous women excluded from these acts?”

## B2. Communities, Conflict, and Cooperation

**FOCUS ON:** Historical Significance; Cause and Consequence

By the end of this course, students will:

**B2.1** explain the main causes of World War I (e.g., European alliances, rivalries, militarism, and nationalist movements) and of Canada’s participation in the war (e.g., imperialist sentiments in English Canada; Canada’s status within the British Empire), and analyse some of the consequences of Canada’s military participation in the war (e.g., with reference to enlistment; the conscription bill; enfranchisement; the development of war industries; the military consequences and the human costs of battles involving Canadian forces; issues facing veterans; the Soldier Settlement Board; Remembrance Day)

**Sample questions:** “When recruitment drives were held, were all young people welcome to join the armed forces?” “What were some of the short- and long-term consequences of Canadians’ participation in battles such as the Somme, Ypres, Passchendaele, and Vimy Ridge?” “In what ways were the issues facing First Nations, Métis, and Inuit veterans similar to and/or different from those facing other veterans?”

**B2.2** analyse, with reference to specific events or issues, the significance of and perspectives on Canada’s participation in international relations between 1914 and 1929 (e.g., with reference to Canada’s position within the British Empire, Canada’s military participation in World War I, Canada’s separate signing of the Treaty of Versailles, the Halibut Treaty, the Chanak Crisis, the Imperial Conferences)

**Sample questions:** “How did First Nations, Métis, and Inuit tend to view Canada’s participation in World War I? How did they view Canada’s status as part of the British Empire?” “What criteria would you use to determine the significance for Canada of the country’s contributions to World War I?” “What was the significance of the Halibut Treaty in the history of Canada’s relationship with Great Britain?”

**B2.3** describe some major instances of social and/or political conflict in Canada during this period, including conflict between French and English Canada (e.g., differing views on the need for conscription; the Ontario Schools Question and the response to Regulation 17; Henri Bourassa’s French-Canadian nationalism versus the imperialist perspectives of some English Canadians; labour unrest, including the Winnipeg General Strike;

*the King-Byng affair; the activities of the Ku Klux Klan and/or the Orange Order of Canada), and analyse some of their causes and consequences*

**Sample questions:** “What were the intended and unintended consequences of Regulation 17?” “What were the most significant causes of the Winnipeg General Strike? What were its short- and long-term consequences?” “What prompted the federal government to amend the Criminal Code to prevent ‘unlawful associations’? For what purposes was this law used?”

- B2.4** explain the goals and accomplishments of some groups, organizations, and/or movements in Canada, including First Nations, Métis, and Inuit organizations and/or movements, that contributed to social and/or political cooperation during this period (*e.g., the Union government, the One Big Union or other labour unions, the Maritime Rights movement, the League of Indians, the Métis Nation of Alberta, temperance organizations, the United Farmers of Ontario, women’s suffrage organizations, the Famous Five, the Black Cross nurses*)

**Sample questions:** “How did the federal government react to F. O. Loft and the creation of the League of Indians of Canada? What does this reaction tell you about the relationship between the federal government and First Nations people at this time? What impact did the League of Indians have on the lives of Indigenous peoples in Canada?” “What social and economic conditions motivated the social gospel movement? What impact did the movement have on people’s lives? How much political influence did it have?” “What Inuit political organizations existed during this period? What were their goals? What impact did they have?”

- B2.5** describe how the residential school system and other government policies and legislation, as well as the attitudes that underpinned them, affected First Nations, Métis, and Inuit individuals and communities during this period (*e.g., with reference to mandatory attendance at residential schools; provincial day schools, training schools; amendments to the Indian Act to prohibit First Nations from hiring legal counsel to pursue land claims; limitations on voting rights; the pass system; racist attitudes underlying government policies*), and explain some of their long-term consequences

**Sample questions:** “What were the educational experiences of First Nations and Métis children during this period? How did the experiences of children in residential schools differ from the experiences of children in training schools and in public schools?” “Why was the Indian Act amended in 1924 to transfer federal government

responsibility for Inuit to the Department of Indian Affairs? Why was this amendment short lived? What do these changes reveal about the government’s attitudes towards Inuit?” “In what ways were the Indian Act amendments during this time a reflection of attitudes towards First Nations, Métis, and Inuit individuals and communities?”

- B2.6** describe attitudes towards as well as discrimination against and other significant actions affecting non-Indigenous ethnocultural groups in Canada during this period (*e.g., with reference to racism and antisemitism, segregation, discrimination in jobs and housing, restrictions imposed by the Chinese Immigration Act of 1923, groups helping new immigrants*), and explain their impact

**Sample questions:** “What attitudes are reflected in the treatment of British Home Children in Canada during this period? Why did former Home Children later seek an apology from the Canadian government?” “In what ways was the No. 2 Construction Battalion a reflection of attitudes towards African Canadians?”

### B3. Identity, Citizenship, and Heritage

**FOCUS ON:** *Continuity and Change; Historical Perspective*

By the end of this course, students will:

- B3.1** explain how some individuals, groups, and/or organizations contributed to Canadian society and politics during this period and to the development of identities, citizenship, and/or heritage in Canada (*e.g., with reference to Frederick Banting, Napoléon Belcourt, Billy Bishop, Robert Borden, Samuel Bronfman, Arthur Currie, Marie Lacoste Gérin-Lajoie, F. O. Loft, Agnes Macphail, Masumi Mitsui, J. S. Woodsworth; the League of Indians, rum runners, the Trades and Labour Congress of Canada, the Vandoos, the Woman’s Christian Temperance Union*)

**Sample questions:** “What prompted Peter Henderson Bryce to write *The Story of a National Crime: An Appeal for Justice to the Indians of Canada*? What contribution did this volume make? Why?” “In what ways did the Royal Canadian Mounted Police (RCMP) contribute to the development of Canadian heritage and identities? In what ways did the RCMP impact the development of First Nations, Métis, and Inuit heritage and identities?” “What impact did Henri Bourassa have on the development of French-Canadian identity?” “In what ways did the work of Nellie McClung and other women’s rights activists challenge notions of citizenship in Canada?”



**B3.2** describe some significant changes in the arts and popular culture in Canada during this period (e.g., *changes in fashion and popular music; changes in Canadian art, as reflected in the work of the Group of Seven; the increasing popularity of movies; the increasing influence of American culture; the international reputation of Canadians in sports; the introduction of the poppy as a symbol of war and remembrance; prohibition*), and explain the contributions of some individuals and/or events to these changes (e.g., *Mazo de la Roche, Stephen Leacock, Tom Longboat, John McCrae, Howie Morenz, Mary Pickford; the racing career of the Bluenose; the founding of the National Hockey League and the Ladies Ontario Hockey Association*)

**Sample questions:** “What were some of the cultural changes that characterized the ‘roaring twenties’ in Canada?” “What impact did the work of Tom Thomson have on Canadian art?” “What impact did the work of the Group of Seven, particularly Lawren Harris’s paintings of the Arctic, have on notions of the Canadian North? Whose perspective is represented in the work of the Group of Seven? Whose perspectives are absent?” “How did the fact that many Métis people at this time were hiding their heritage affect Métis arts, culture, and language?”

**B3.3** describe some significant developments in the rights and lives of women in Canada, including First Nations, Métis, and Inuit women, during this period (e.g., *women’s contribution to the war effort, their expanding role in the workplace, and the impact of these on their role in the family and in society; the role of Inuit women in the whaling and sealskin industry; women’s role in suffrage, temperance, and other social movements; repercussions of the loss of status for First Nations women whose husbands were enfranchised because of wartime service; new political rights for some women; changing social mores in the 1920s and their impact on women; the participation of women in organized sports*), and explain the impact of these developments on Canadian citizenship and/or heritage

**Sample questions:** “What role did World War I play in changing the lives of some Canadian women? How did the war affect the lives of First Nations, Metis, and/or Inuit women?” “Do you think the Persons Case was a turning point for women in Canada? Why or why not? What impact did the final decision in that case have on Canadian citizenship?”

**B3.4** describe Canadian immigration policy during this period (e.g., *with reference to the 1919 Immigration Act, the Chinese Immigration Act of 1923*), and analyse immigration to Canada, with a focus on the different groups that came here and how they contributed to identities and heritage in Canada (e.g., *the origin of immigrants, why they came, where they settled, the degree to which they integrated into the dominant culture of the time in Canadian society and/or remained distinct; their cultural contributions*)

**Sample questions:** “What were some of the push/pull factors that influenced different groups of immigrants coming to Canada during this period? Did emigrating change the lives of all these people for the better? Do you think that these people’s lives in Canada were what they had expected them to be?” “What are some ways in which groups that came to Canada during this period contributed to Canadian heritage?”

# C. CANADA, 1929–1945

## OVERALL EXPECTATIONS

By the end of this course, students will:

- C1. Social, Economic, and Political Context:** describe some key social, economic, and political events, trends, and developments between 1929 and 1945, and assess their impact on different groups and communities in Canada, including First Nations Métis, and Inuit communities (**FOCUS ON:** *Cause and Consequence; Historical Perspective*)
- C2. Communities, Conflict, and Cooperation:** analyse some key interactions within and between different communities in Canada, including First Nations, Métis, and Inuit communities, and between Canada and the international community, from 1929 to 1945, with a focus on key issues that affected these interactions and changes that resulted from them (**FOCUS ON:** *Cause and Consequence; Continuity and Change*)
- C3. Identity, Citizenship, and Heritage:** explain how various individuals, groups, and events, including some major international events, contributed to the development of identities, citizenship, and heritage in Canada between 1929 and 1945 (**FOCUS ON:** *Historical Significance; Historical Perspective*)

## SPECIFIC EXPECTATIONS

### C1. Social, Economic, and Political Context

**FOCUS ON:** *Cause and Consequence; Historical Perspective*

By the end of this course, students will:

- C1.1** describe some key social changes in Canada during this period (e.g., *social changes brought about by unemployment or the dustbowl during the Depression; new left- and right-wing social movements; the increasing influence of American culture; northern Indigenous people becoming more reliant on European material goods*), and explain their main causes as well as their impact on different groups and communities in Canada, including First Nations, Métis, and Inuit communities  
*Sample questions:* “What were the main social changes that occurred during the Great Depression? How did they affect Canadians in different parts of the country? In urban and rural areas?” “How did the growth of Canadian settlement in the North during this period affect Inuit?” “What changes do you notice in the birth and mortality rates in First Nations, Métis, and Inuit communities during this period? How might you account for these changes?”

- C1.2** identify some major developments in science and/or technology and applications of scientific/ technological knowledge during this period (e.g., *inventions such as Pabulum, penicillin, Massey-Harris’s self-propelled combine harvester; military technologies such as sonar, radar, walkie-talkies, or the atomic bomb; mining of resources such as radium/uranium crucial to new technologies*), and assess their significance for different individuals, groups, and communities in Canada, including First Nations, Métis, and/or Inuit individuals and/or communities  
*Sample questions:* “What criteria would you use to determine the significance for Canadians of the development of penicillin?” “What impact did technological developments have on the lives of farm families during this period?”

- C1.3** describe some key economic trends and developments in Canada during this period (e.g., *the stock market crash of 1929, pensions for veterans, the impact of the dustbowl on agriculture, the expansion of American branch plants, buying on margin, high unemployment rates, government relief, public works projects, the establishment of the Bank of Canada, the wartime economy, the 1945 Ford strike*), and assess their impact on different groups and communities in Canada, including First Nations, Métis, and Inuit communities

**Sample questions:** “Did the Great Depression affect all communities in Canada to the same extent? Who faced the greatest challenges?” “What was the economic impact of the dust-bowl? How did it contribute to the creation of the Canadian Wheat Board?” “What were the consequences of the growth of the pulp and paper industry in the 1930s for First Nations and Métis communities in Canada? Who benefited financially from this industry? Who did not?” “What were the consequences of the boom and bust of the white fox fur trade for Inuit individuals and communities?” “What was the significance of the name ‘Royal Twenty Centers’? How were these public work camps viewed at the time? In what ways, if any, do you think they have influenced attitudes towards the unemployed today?” “How were people in First Nations, Métis, and Inuit communities affected by the growth of companies extracting natural resources during this period? In what ways was the treaty relationship between First Nations and the Crown not honoured as these companies grew?” “What were some ways in which economic progress for some Canadians during this period came at the expense of First Nations, Métis, and Inuit individuals and communities?”

- C1.4** describe the main causes of some key political developments and/or government policies that affected Indigenous peoples in Canada during this period (e.g., *amendments to the Indian Act; the continuing operation of residential schools; the Dominion Franchise Act, 1934; the Ewing Commission, 1934–36; provincial Sexual Sterilization Acts; the creation of the Newfoundland Rangers; the Métis Population Betterment Act, 1938; the beginning of the federal government’s use of “Eskimo” identification tags*), and assess their impact on First Nations, Métis, and Inuit communities

**Sample questions:** “What amendments were made to the Indian Act in the 1930s? What was their impact?” “What impact did the 1939 Supreme Court decision regarding the constitutional status of ‘Eskimos’ have on policy developments affecting Inuit?” “What were the consequences of the Sexual Sterilization Act in Alberta and/or British Columbia for First Nations, Inuit, and Métis in those provinces?” “Why were the powers of Indian agents expanded in the 1930s? What was the impact of these changes? What do these powers reveal about government attitudes and beliefs about First Nations, Métis, and Inuit during this time?” “Why did governments in Canada develop ‘Indian’ hospitals in the 1920s and 1930s? What were the short- and long-term consequences of these institutions for Indigenous peoples in

Canada?” “What impact did the struggle for Arctic sovereignty between Canada and the United States during this period have on Inuit communities?” “What were the consequences of voting restrictions for First Nations men and women? How did this impact the political influence of First Nations communities?”

- C1.5** describe the main causes of some key political developments and/or government policies in Canada during this period (e.g., *Mackenzie King’s Five Cent speech; the formation of the Cooperative Commonwealth Federation or Social Credit; the establishment of the Canadian Broadcasting Corporation [CBC] or the National Film Board [NFB]; provincial Sexual Sterilization Acts; social welfare policies; the Dominion Elections Act, 1938; Quebec women receiving the vote; wartime propaganda; the decision to intern Japanese Canadians; the 1944 Racial Discrimination Act*), and assess their impact on non-Indigenous groups in Canada

**Sample questions:** “What are some factors that contributed to the development of new political parties during the Great Depression? What social and political values were reflected in these new parties?” “What was the historical context for Maurice Duplessis’s Padlock Act? What impact did the act have on the civil liberties of various groups in Quebec during this period?”

## C2. Communities, Conflict, and Cooperation

**FOCUS ON:** Cause and Consequence; Continuity and Change

By the end of this course, students will:

- C2.1** analyse some significant ways in which people in Canada, including First Nations, Métis, and Inuit individuals and communities, cooperated and/or came into conflict with each other during this period (e.g., *the Antigonish movement; the League for Social Reconstruction; the riot at Christie Pits; internment camps for “enemy aliens”; Christie v. York, 1940; participation of First Nations, Métis, and Inuit soldiers in World War II; the founding of the Canadian Brotherhood of Sleeping Car Porters*), with a focus on explaining key issues that led to those interactions and/or changes that resulted from them

**Sample questions:** “What were the goals of the eugenics movement? How effective was the movement in pursuing these goals?” “What were some of the intended and unintended consequences of the On-to-Ottawa Trek?” “Was the Métis Population Betterment Act (1938) an example of continuity or change in

the relationship between the Métis and the Canadian government? What evidence supports your position?" "Why was there an increase in race-based tensions and violence during this time period? What were some of the consequences of these conflicts?"

- C2.2** analyse how some key issues and/or developments affected Canada's relationships with Great Britain and the United States during this period (e.g., with reference to trade, tariffs, and investments; the founding of the Commonwealth; the Imperial Conferences; the Lend-Lease Agreement; military involvement in World War II; Arctic sovereignty)

**Sample questions:** "What changes to Canada's relationship with Great Britain resulted from the Statute of Westminster?" "What impact did American prohibition have on relations between Canada and the United States?"

- C2.3** explain the main causes of World War II (e.g., economic hardship in Germany produced by the Treaty of Versailles and economic depression; invasions by fascist Italy, Nazi Germany, and imperial Japan; the inadequacy of the League of Nations to address international crises), and analyse Canada's contribution to the war effort (e.g., with reference to the Battle of the Atlantic, the Battle of Hong Kong, the Italian campaign, D-Day, the liberation of the Netherlands, the liberation of concentration camps, the British Commonwealth Air Training Plan, Camp X; the contribution of individuals such as Paul Triquet and Charles Tompkins; the contributions of women and of Indigenous soldiers)

**Sample questions:** "What was the merchant navy? What contribution did it make to the Allied war effort?" "What was Camp X? Why was it given that name?" "In what ways was Canada's contribution to World War II different from its contribution to World War I? In what ways was it similar?" "What are some ways in which Cree Code Talkers contributed to the war effort?"

- C2.4** explain some ways in which World War II affected First Nations, Métis, and Inuit individuals and communities in Canada (e.g., with reference to enlistment, military, and post-military experiences; experiences on the home front; the War Measures Act), including how the war changed their lives (e.g., with reference to Indigenous communities that supported the war effort and those that did not; women on the home front; appropriation of reserve lands by the

Department of National Defence; the Veterans' Land Act, 1942; loss of Indian status for enlisted men and their families)

**Sample questions:** "What was the impact of the war on the Kettle and Stoney Point Nation in Ipperwash, Ontario?" "How was the treatment of First Nations, Métis, and Inuit veterans after World War II similar to and/or different from their treatment after World War I?" "What were some of the consequences for First Nations, Métis, and Inuit of their participation in World War II?"

- C2.5** explain some ways in which World War II affected non-Indigenous Canadians (e.g., with reference to economic recovery, enlistment, censorship, rationing), including how the war changed the lives of various groups in this country (e.g., young men who fought and those who did not; farmers; women in the workforce and at home; "enemy aliens"; veterans, including men who were in the merchant navy)

**Sample questions:** "Who is the 'Bren Gun Girl'? What does her image tell you about the role of some Canadian women during the war? In what ways was their role similar to or different from the role of women in World War I?" "How did the lives of some Japanese Canadians change as a result of the war?"

### C3. Identity, Citizenship, and Heritage

**FOCUS ON:** Historical Significance; Historical Perspective

By the end of this course, students will:

- C3.1** describe contributions of various individuals, groups, and/or organizations to Canadian society, politics, and/or culture during this period (e.g., R. B. Bennett, Norman Bethune, Thérèse Casgrain, Moses Coady, Lionel Conacher, the Dionne quintuplets, Maurice Duplessis, Foster Hewitt, Mackenzie King, Dorothy Livesay, Elsie MacGill, Francis Pegahmagabow, Tommy Prince, Sinclair Ross, Kam Len Douglas Sam, Portia May White; the Antigonish movement, the CBC, the Edmonton Grads), and assess the significance of these contributions for the development of identities, citizenship, and/or heritage in Canada

**Sample questions:** "What criteria might you use to assess the importance of the NFB to Canadian heritage?" "Why is there controversy around the contribution of Emily Carr to identities in Canada?" "What impact did the Hudson's Bay Company have on First Nations, Métis, and Inuit culture during this period?"



**C3.2** analyse how Canada and people in Canada, including First Nations, Métis, and/or Inuit individuals and communities, responded or were connected to some major international events and/or developments that occurred during this period (*e.g., the Red Scare; the Holodomor; the Spanish Civil War; the Nanking Massacre; aggression by fascist Italy, Nazi Germany, and/or imperial Japan; the Holocaust; the Manhattan Project*), and assess the significance of the responses/connections, including their significance for identities and heritage in Canada

**Sample questions:** “Why did the Canadian government refuse to allow the SS *St Louis* entry into Canada? How did Canadians view this decision at the time? Why? How do Canadians view it now?” “What is the connection between Canada’s policies with respect to First Nations people and the development of racial policies in Nazi Germany?” “Why would Métis volunteer in large numbers to fight for a country that didn’t recognize them?”

**C3.3** analyse the impact of the Holocaust on Canadian society and on the attitudes of people in Canada towards human rights (*e.g., with reference to changes in Canadians’ responses to minority groups; more open refugee policies, including those affecting Holocaust survivors and other displaced persons; Canada’s signing of the United Nations Universal Declaration of Human Rights; the evolution of laws against hate crimes*)

**Sample questions:** “Do you think the Holocaust affected Canadians’ views about Canada’s treatment of First Nations, Métis, and Inuit? Why, or why not?”

# D. CANADA, 1945–1982

## OVERALL EXPECTATIONS

By the end of this course, students will:

- D1. Social, Economic, and Political Context:** describe some key social, economic, and political events, trends, and developments in Canada between 1945 and 1982, and assess their significance for different individuals, groups, and/or communities in Canada, including First Nations, Métis, and Inuit individuals and communities (**FOCUS ON:** *Historical Significance; Continuity and Change*)
- D2. Communities, Conflict, and Cooperation:** analyse some key experiences of and interactions between different communities in Canada, including First Nations, Métis, and Inuit communities, as well as interactions between Canada and the international community, from 1945 to 1982, and the changes that resulted from them (**FOCUS ON:** *Continuity and Change; Historical Perspective*)
- D3. Identity, Citizenship, and Heritage:** analyse how significant events, individuals, and groups, including Indigenous peoples, Québécois, and immigrants, contributed to the development of identities, citizenship, and heritage in Canada between 1945 and 1982 (**FOCUS ON:** *Historical Significance; Cause and Consequence*)

## SPECIFIC EXPECTATIONS

### D1. Social, Economic, and Political Context

**FOCUS ON:** *Historical Significance; Continuity and Change*

By the end of this course, students will:

- D1.1** analyse historical statistics and other primary sources, including oral traditional knowledge, to identify some key demographic trends and developments in Canada during this period (e.g., with reference to the sources and numbers of postwar immigrants and/or refugees, the arrival of war brides, continued urbanization and the growth of suburbs, changes in birth rates and life expectancy, patterns in interprovincial migration, the development of teen subcultures, the changing status of established ethnocultural groups, the growth of settlement in the High Arctic), and assess the consequences of these trends and developments for people in Canada, including First Nations, Métis, and Inuit communities

**Sample questions:** “What types of sources might you consult to analyse the extent of suburban development during this period?” “What were the short-term effects of the baby boom? In what ways is the baby boom still affecting Canada and Canadians today?” “What factors affected the reliability and validity of statistics on First Nations, Métis, and Inuit populations at this time?”

- D1.2** identify some major developments in science and technology and applications of scientific/ technological knowledge during this period (e.g., developments in aeronautics, including the Auro Arrow; automatic postal sorters; goalie masks; developments in contraception, nuclear energy, plastics; medical developments such as thalidomide and pacemakers; television; radio communication in the Far North; developments in space technology such as satellites and the Canadarm), and assess their significance for different individuals, groups, and/or communities in Canada, including First Nations, Métis, and/or Inuit individuals and/or communities

**Sample questions:** “What criteria might you use to determine the significance of the invention of safety paint?” “What was the purpose of thalidomide? What was its unintended effect?” “What types of societal changes arose from developments in television and other communications technologies during this time period?” “What new technological developments led to the creation of the DEW Line? Was the creation of the DEW Line a turning point for Inuit in Canada? Why or why not?” “What impact did innovations in snowmobiles have on different groups during this period?” “What impact did insecticide use have on different groups during this period?” “What was the impact of satellite communication on peoples in northern Canada?”

**D1.3** describe some key trends and developments in the Canadian economy during this period (e.g., the Rand decision and the growth of unions; the rise of consumerism and the popularization of credit cards; the continuing expansion of branch plants, particularly of American corporations, in Canada and the formation of the Foreign Investment Review Agency; the Hudson's Bay Company's becoming the primary supplier of Inuit art; the development of mining in northern Canada; the energy crises of the 1970s; stagflation; recession), and explain their impact on different individuals, groups, and/or communities in Canada, including First Nations, Métis, and Inuit individuals and communities

**Sample questions:** "In what ways did the Auto Pact change the Canadian auto industry?" "What were some instances of labour unrest in this period? Why might unions in this period have been more successful in pursuing their goals than they had been earlier in the century?" "Why were some communities in northern Ontario dependent on the mining industry during this period? What was the impact of such dependence?" "What impact did the development of the James Bay Project have on the lives of First Nations and Inuit individuals and communities?" "How did the opening of mines during the Rankin Inlet boom in 1953 affect Inuit individuals and/or communities?"

**D1.4** describe some key political developments and/or government policies that affected Indigenous peoples in Canada during this period (e.g., the continuing use of numbered identification tags for Inuit; Inuit and status Indians gain the right to vote; the 1969 White Paper; the inclusion of Métis and Inuit as "Aboriginal people" in section 35 of the Constitution Act, 1982), and assess their significance for First Nations, Métis, and Inuit individuals and communities

**Sample questions:** "How was the Indian Act amended in 1951? Do you think these amendments were an example of progress for First Nations peoples? Why or why not?" "How did Inuit sled dog killings by the RCMP during this period affect Inuit culture and ways of life? What do the slayings reveal about the Canadian government's attitude towards Inuit?" "Did the 1972 federal policy paper 'Indian Control of Indian Education' improve education for First Nations, Métis, and Inuit children? Why, or why not?"

**D1.5** describe some key political developments and/or government policies in Canada during this period (e.g., government responses to the Red Scare/Cold War; Newfoundland's joining Confederation; social welfare legislation; the

establishment of the Massey Commission or the Royal Commission on the Status of Women; the founding of the New Democratic Party; revisions to the Immigration Act; the decision to invoke the War Measures Act in 1970; the Canadian Charter of Rights and Freedoms; the establishment of Environment Canada), and assess their significance for different non-Indigenous groups in Canada

**Sample questions:** "What, if anything, changed in Newfoundland after it became a province of Canada?" "What factors contributed to the decision to adopt a new flag for Canada? What was the significance of adopting a new flag? What was the significance of its design?"

**D1.6** analyse the impact on the lives of Canadians of key social welfare programs that were created or expanded during this period (e.g., unemployment insurance, family allowance, medicare, the Canada and Quebec Pension Plans, old age security, social assistance)

## D2. Communities, Conflict, and Cooperation

**FOCUS ON:** Continuity and Change; Historical Perspective

By the end of this course, students will:

**D2.1** describe some significant instances of social conflict and/or inequality in Canada during this period, with reference to various groups and communities, including First Nations, Métis, and Inuit communities (e.g., the Asbestos Strike in Quebec; the Richard Riot; racial segregation; the Sixties Scoop; the October Crisis and the imposition of the War Measures Act; protests against the war in Vietnam or the James Bay Project; conflict over the National Energy Program, Aboriginal title and land rights, or the patriation of the constitution; the Coppermine Tent Hostel), and analyse them from multiple perspectives

**Sample questions:** "What were the positions of Africville residents, municipal politicians in Halifax, and other groups on the expropriation of Africville? How might you explain differences in these points of view?" "What was the Sixties Scoop? What was the goal of this policy? How did Indigenous people view this policy? How were Indigenous people affected by this policy? Do you think this policy was a continuation of earlier government policies targeting First Nations, Métis, and/or Inuit children? Why or why not?" "What do you think were the most fundamental points of disagreement between federalists and Quebec nationalists in this period? Why?"



**D2.2** describe some significant social movements and other examples of social and/or political cooperation among various individuals, groups, and/or communities in Canada, including First Nations, Métis, and Inuit individuals and/or communities, during this period (e.g., *the civil rights movement; the second-wave women's movement; cultural nationalist and countercultural movements; environmental movements; Indigenous activism; labour unions; centennial year celebrations, including Expo '67; multicultural policies and organizations*), and analyse them from multiple perspectives

**Sample questions:** “What do you think was a major turning point for First Nations’ activism during this period? Why?” “Why were many women’s groups dissatisfied with the initial wording of the Charter of Rights and Freedoms? What action did they take in response?” “Whose voices were most pronounced in the women’s movement during this period? Whose were missing?” “What were some ways in which First Nations people demonstrated their resistance to the 1969 White Paper?”

**D2.3** analyse key aspects of life for women in Canada, including First Nations, Métis, and Inuit women, with a focus on what changed during this period and what remained the same (e.g., *with reference to the participation of women in the labour force; challenges to the ways in which women’s unpaid work was valued; changes in the family and family structures, including birth and divorce rates; political participation and representation; the impact of Bill C-150 (1968–69); challenges facing Indigenous and other racialized women; the domestic worker scheme and immigration of women to Canada*)

**Sample questions:** “What types of challenges did women in the labour force face in this period? Were those challenges the same for all women? In what ways were the challenges similar to those facing earlier generations of women? In what ways were they different? How might you explain the differences, with reference to historical context?” “What was the *Murdoch* case? Why was it a catalyst for change in the way women’s work was perceived?” “Why was the Supreme Court of Canada’s ruling against Jeannette Corbiere Lavell in 1973 significant for the rights of First Nations women and children in Canada?” “What was the significance for First Nations, Métis, and Inuit women of the Royal Commission on the Status of Women?”

**D2.4** describe some key developments related to Canada’s participation in the international community during this period, with a particular focus on the context of the Cold War (e.g., *with reference to the Korean War; the Gouzenko affair; the establishment of the North American Air Defense Command [NORAD] or the North Atlantic Treaty Organization [NATO]; the Suez Crisis; the Non-proliferation of Nuclear Weapons Treaty; peacekeeping; membership in La Francophonie; the creation of the Canadian International Development Agency [CIDA]; Canada’s response to famine in Biafra or the genocide in East Timor*), and assess whether these developments marked a change in Canada’s approach to or role in international relations

**Sample questions:** “Do you think Canada’s involvement in the Korean War is an example of continuity or change in Canadian military history?” “Do you think Prime Minister Pierre Trudeau’s visit to China in 1973 marked a change in international relations? Why or why not?”

**D2.5** describe some key developments in Canada’s relationship with the United States during this period (e.g., *with reference to NORAD, the DEW Line, the St. Lawrence Seaway, the development of the Avro Arrow program and its subsequent cancellation, the Auto Pact, the Cuban Missile Crisis, the Vietnam War and the International Commission of Control and Supervision, environmental concerns such as acid rain*), and explain how they challenged or reinforced the nature of that relationship

**Sample questions:** “What impact did the Cold War have on the relationship between Canada and the United States?” “What role did the United States play in the Canadian economy during these years? In what ways was it similar to and/or different from the role it had played in earlier years?” “What was the purpose of the DEW Line? How did the construction and maintenance of the DEW Line stations affect relations between Canada and the United States? Were Inuit communities consulted before these stations were established? What did the establishment of these stations reveal about governments’ attitudes towards Inuit in the region?” “Why did Ottawa implement the Arctic Waters Pollution Prevention Act in 1970? Do you think the act marked a change in the relationship between Canada and the United States? What was the federal government’s perspective on the act? What was the perspective of Inuit? Of Americans?”

### D3. Identity, Citizenship, and Heritage

**FOCUS ON:** *Historical Significance; Cause and Consequence*

By the end of this course, students will:

**D3.1** describe contributions of various individuals, groups, and/or organizations to Canadian society and politics during this period (e.g., *Doris Anderson, Rosemary Brown, Frank Arthur Calder, Harold Cardinal, Matthew Coon Come, Tommy Douglas, Terry Fox, Peter Ittinuar, René Lévesque, George Manuel, Madeleine Parent, Lester B. Pearson, Joey Smallwood, Pierre Trudeau, Jean Vanier; Greenpeace, the National Action Committee on the Status of Women, the National Indian Brotherhood, the Nova Scotia Association for the Advancement of Coloured People*), and explain the significance of these contributions for the development of identities, citizenship, and/or heritage in Canada

**Sample questions:** “What was the significance for people with disabilities of the formation of L’Arche? What was its significance for heritage and identities in Canada?” “Why does Viola Desmond appear on a Canadian postage stamp? What criteria do you think were used in her selection?” “What impact did the Union of Ontario Indians have on Indigenous individuals, communities, and organizations during this period?” “What was the significance of the creation of the Inuit Tapirisat (now Inuit Tapiriit Kanatami) in 1971? What contributions did this organization make during this period?”

**D3.2** explain ways in which various individuals, events, groups, and/or organizations contributed to the arts and popular culture in Canada during this period (e.g., *Kenojuak Ashevak, Alex Colville, Chief Dan George, Joy Kogawa, Margaret Laurence, Gordon Lightfoot, Marshall McLuhan, Norval Morriseau, Daphne Odjig, Oscar Peterson, Bill Reid, Maurice Richard, Gabrielle Roy, Mordecai Richler, Buffy Sainte-Marie, Gilles Vigneault; the Canada Council, the CBC, the Canadian Radio-Television Commission, Cape Dorset artists, the Guess Who, the Stratford and/or Shaw Festivals, Expo ’67, the 1970 Arctic Winter Games, the 1972 Hockey Summit Series*), and assess the significance of these contributions for the development of identities and/or heritage in Canada

**Sample questions:** “What were the causes and consequences of the Massey Commission? How significant was the commission’s contribution to Canada’s cultural heritage?” “What was the

message of the Indigenous Group of Seven? What contribution did this group of artists make to culture in Canada?” “Why was Norval Morriseau’s mural at Expo ’67 considered so controversial?” “In what ways has Buffy Sainte-Marie’s First Nations background informed her pacifism?”

**D3.3** analyse key causes of some significant events, developments, and/or issues that affected First Nations, Métis, and Inuit communities in Canada during this period (e.g., *the forced relocation of a number of First Nations, Métis, and Inuit communities; the continuing operation of residential schools; the formation of the National Indian Brotherhood/Assembly of First Nations; the Berger Commission; the Calder case; the recognition in the constitution of existing Aboriginal and treaty rights; the James Bay Project and the resulting protests; the efforts of Mary Two-Axe Early and others to secure equality for First Nations women; the creation of the Inuit Circumpolar Council; the inquest into the death of Chanie (“Charlie”) Wenjack*), and assess the impact of these events, developments, and/or issues on identities, citizenship, and/or heritage in Canada

**Sample questions:** “What was the significance for Canadian citizenship of the enfranchisement of ‘status Indians’ in 1960?” “What were some factors leading to the 1969 White Paper? What was the purpose of this policy document? How did Indigenous groups respond to it? What does that response reveal about the identity of First Nations in Canada?” “What were the causes of the creation of the National Indian Brotherhood? What contributions did this organization make to Canada?” “Why might ‘the Mohawks who built Manhattan’ occupy a meaningful place in the narrative of the Mohawk nation?” “How did the James Bay Project affect the relationship between the Cree and Inuit and the Quebec government?” “Was the inclusion of Métis and Inuit in section 35 of the Constitution Act, 1982, a turning point with respect to Métis and Inuit rights and identity? Why or why not?”

**D3.4** describe the main causes and consequences of the Quiet Revolution and of some other key events that occurred in or affected Quebec between 1945 and 1982 (e.g., *with reference to the leadership of Maurice Duplessis, Jean Lesage, and René Lévesque; the Royal Commission on Bilingualism and Biculturalism; “Maître Chez Nous”; the October Crisis; the formation of the*

*Parti Québécois; Bill 101; the patriation of the constitution; the 1980 referendum), and explain the significance of these events for the development of identities in Canada*

**Sample questions:** “What were the intended and unintended consequences of Charles de Gaulle’s ‘Vive le Québec Libre’ speech in Montreal in 1967? What was the significance of the speech for French Canadians? For English Canadians? For Ottawa?” “What factors contributed to the failure of the 1980 referendum on Quebec sovereignty? How did First Nations individuals and communities in Quebec tend to view the referendum? What do these views suggest about the identity of First Nations peoples in Quebec? How did First Nations individuals and communities in the rest of Canada view the referendum?”

**D3.5** describe some key developments in immigration and in refugee and immigration policy in Canada during this period, and explain their significance for heritage and identities in Canada (*e.g., with reference to the points system; origins and numbers of immigrants and refugees, including displaced persons after World War II; the domestic workers scheme; the growth of ethnic neighbourhoods in Canada’s largest cities; the development of various cultural festivals*)

**Sample question:** “How important was the role of postwar immigration policy in the development of Canada as a multicultural society?”

# E. CANADA, 1982 TO THE PRESENT

## OVERALL EXPECTATIONS

By the end of this course, students will:

- E1. Social, Economic, and Political Context:** describe some key social, economic, and political events, trends, and developments in Canada from 1982 to the present, and assess their significance for different groups and communities in Canada, including First Nations, Métis, and Inuit communities (**FOCUS ON:** *Historical Significance; Continuity and Change*)
- E2. Communities, Conflict, and Cooperation:** analyse some significant interactions within and between various communities in Canada, including First Nations, Métis, and Inuit communities, and between Canada and the international community, from 1982 to the present, and how key issues and developments have affected these interactions (**FOCUS ON:** *Continuity and Change; Historical Perspective*)
- E3. Identity, Citizenship, and Heritage:** analyse how various significant individuals, groups, organizations, and events, both national and international, have contributed to the development of identities, citizenship, and heritage in Canada from 1982 to the present (**FOCUS ON:** *Historical Significance; Cause and Consequence*)

## SPECIFIC EXPECTATIONS

### E1. Social, Economic, and Political Context

**FOCUS ON:** *Historical Significance; Continuity and Change*

By the end of this course, students will:

- E1.1** describe various social and cultural trends and developments in Canada since 1982 (e.g., *demographic changes, including changes in the family and in immigration; the development of Hollywood North; the rates of incarceration and suicide in First Nations communities; the growth of urban Inuit populations in Canada's South; the cultural appropriation of First Nations, Métis, and Inuit art, clothing, and ceremonies; developments related to multiculturalism and pluriculturalism; the growth of social and cultural advocacy groups*), and assess their significance for people in Canada, including First Nations, Métis, and Inuit communities

**Sample questions:** “What was the significance of the deinstitutionalization of people with disabilities in Canada during this period? In what ways was it a change from the treatment of disabled people in the past? Do you think that the practice of deinstitutionalization was related to larger social trends during this period?” “What impact have Hollywood

portrayals of Indigenous individuals and communities during this period had on Canadians’ understanding of First Nations, Métis, and/or Inuit culture?” “Why have a number of environmental groups developed in Canada since the 1980s? How significant do you think they have been?” “In what ways did the opening ceremonies for the 2002 Arctic Winter Games reflect an Inuit historical perspective? How does that event compare to the opening ceremonies for the 2010 Vancouver Winter Olympics?”

- E1.2** identify some major developments in science and technology since 1982 (e.g., *personal computers, the Internet, cellphones and “smartphone” technology, digital music, electric and hybrid cars, fossil fuel extraction technologies, cloning, stem cell research, genetically modified foods, developments in alternative energy*), and assess their significance for people in Canada, including First Nations, Métis, and/or Inuit communities

**Sample questions:** “What were computers used for in the early 1980s? What are they used for now? How important have these changes been?” “What impact have social media had on the ways in which Canadians communicate? What impact might they have on how students learn?” “What impact have recycling technologies had on consumer habits and attitudes?” “What



impact has the evolution of digital music had on First Nations, Métis, and Inuit music?" "How has the Internet affected communities in the Arctic?"

- E1.3** describe some key trends and/or developments in the Canadian economy since 1982, including those affecting First Nations, Métis, and Inuit communities (e.g., *the decline of the manufacturing sector, the Canada-U.S. Free Trade Agreement [FTA] and the North American Free Trade Agreement [NAFTA], the decline of East Coast fish stocks, recessions, the bursting of the tech bubble, consumerism, online shopping, economic growth in western and northern Canada, fluctuations in interest rates, the European Union ban on sealskin products*), and compare them to earlier trends/developments

**Sample questions:** "What impact have trade agreements had on the economies of different regions of Canada during this period? What has changed in these economies? What has remained the same?" "What were some similarities and differences between the tech bubble of the 1990s and economic developments during the 1920s?" "How were the role and goals of unions at the end of the twentieth century similar to or different from their role/goals earlier in the century?" "What role have new mining developments played in the economy of the Canadian Arctic? How does the development of diamond mining in the Arctic compare to earlier mining projects in the region? What is the Inuit perspective on such developments? How does the Inuit world view differ from that of the diamond corporation De Beers?" "What changes have occurred in northern Canada as a result of economic growth in First Nations, Métis, and Inuit communities?" "What role has ecotourism played in various First Nations communities? What has been the impact of such initiatives on these communities?"

- E1.4** describe some key political developments and/or government policies that have affected Indigenous peoples in Canada since 1982 (e.g., *the creation of Nunavut; Bill C-31 amending the Indian Act; the Royal Commission on Aboriginal Peoples; the Truth and Reconciliation Commission's calls to action; the 2016 Canadian Human Rights Tribunal decision regarding inequalities in funding for child welfare for First Nations children; the National Inquiry into Missing and Murdered Indigenous Women and Girls; the United Nations Declaration on the Rights of Indigenous People*), and assess their significance for First Nations, Métis, and Inuit individuals and communities

**Sample questions:** "What changes have been made to the Indian Act since 1982? What aspects of the act have stayed the same?" "What are some ways in which political developments and government policies that have affected First Nations, Métis, and Inuit in Canada since 1982 continue to reflect colonial attitudes and perspectives?" "Why have Canadian courts of law begun, since the 1990s, to accept oral testimony on historical matters from Indigenous peoples? Why is this change significant?" "How would you assess the success of the Truth and Reconciliation Commission compared to the Royal Commission on Aboriginal Peoples?" "How do unresolved issues arising from past systemic oppression and historical policies continued to affect First Nations, Métis, and Inuit individuals and communities today?" "Do you think that Prime Minister Justin Trudeau's visit to Shoal Lake reserve represented a change in government policy with respect to the right of First Nations, Métis, and Inuit to clean drinking water? Why or why not?"

- E1.5** describe some key political developments and/or government policies in Canada since 1982 (e.g., *the Goods and Services Tax and the Harmonized Sales Tax, pay equity legislation, Operation Support following 9/11, the Kyoto Accord, the decision to send troops to Afghanistan, new political parties such as the Reform Party and the Green Party, the Ontario government's recognition of the Franco-Ontarian flag and its creation of French-language school boards, the long gun registry, the Civil Marriage Act of 2005, policies related to Arctic sovereignty*), and assess their significance for different non-Indigenous groups in Canada

**Sample questions:** "In what ways did the Reform Party contribute to change in Canadian politics?" "How have the environmental policies of the federal government changed during this period? How might you account for the changes?"

## E2. Communities, Conflict, and Cooperation

**FOCUS ON:** Continuity and Change; Historical Perspective

By the end of this course, students will:

- E2.1** describe some significant ways in which Canadians have cooperated and/or come into conflict with each other since 1982 (e.g., *conflict over the 1992 cod moratorium; political protests such as those against the G20 meetings in Toronto or the rise in university tuition in Quebec; strikes;*

racism and hate crimes; continuing legal conflict and/or political protests over Aboriginal title and land rights; the Idle No More movement; the National Inquiry into Missing and Murdered Indigenous Women and Girls; continuing tension between Quebec and the federal government; cooperation in response to natural disasters such as the 1998 ice storm or the Saguenay and/or Red River floods; cooperation among members of social reform movements), and analyse these interactions from various perspectives

**Sample questions:** “What were the perspectives of various participants in the APEC summit in Vancouver and the conflicts that accompanied it?” “Whose perspectives were reflected in debates concerning hate crimes and free speech during this period?” “Do you think that the establishment of the National Inquiry into Missing and Murdered Indigenous Women and Girls reflected a change in government attitudes towards First Nations, Métis, and Inuit issues? Why, or why not?” “What is the ‘duty to consult and accommodate’, as stipulated in treaties and affirmed by the Supreme Court of Canada? How has this duty affected relationships between First Nations, Métis, and Inuit communities, the government, and the private sector?”

**E2.2** analyse aspects of regionalism in Canada since 1982, including new and ongoing challenges in the relationship between Ottawa and various regions (e.g., with reference to *have and have-not* provinces, economic development, revenues from natural resources, development of the Alberta oil sands, the cod moratorium, regional political parties, regional cultures, the birth of Nunatsiavut in 2005 and/or Nunavik in 2008)

**Sample questions:** “When you examine issues that have affected the relationship between Ottawa and the regions of Canada, why is it important to consider the perspectives of both the federal government and the region or regions involved? What sources enable you to do so?” “What are some of the enduring regional cultures of Canada?” “How has the participation of First Nations in the development of resources within their home territories and/or communities changed over time? Does the current nature of their involvement represent a change in or a continuation of their historical role in resource development?”

**E2.3** identify some key developments and issues that have affected the relationship between the federal/provincial governments and First Nations, Métis, and Inuit individuals and communities since 1982 (e.g., Bill C-31, 1985; the Meech Lake Accord; disputes over land at Oka,

Ipperwash, and/or Caledonia; land claims by the Lubicon Lake Nation; Delgamuukw v. British Columbia, 1997; the Nisga’a Final Agreement, 1988; the creation of Nunavut; R v. Powley, 2003; the McIvor decisions; the Truth and Reconciliation Commission; the Idle No More movement; Justice Phelan’s 2013 ruling on the Constitution Act, 1867; the Coolican Report, 1986; the Qikiqtani Truth Commission; the Daniels decision, 2016; living conditions and education on First Nations reserves; preservation of Indigenous languages; the numbers of Indigenous children in care; Jordan’s Principle; Métis Nation of Ontario Secretariat Act, 2015; control over Arctic waters), and analyse them from various perspectives

**Sample questions:** “What were the underlying issues in the Oka crisis? How did the positions of the various parties on these issues lead to the conflict?” “How has the Supreme Court of Canada interpreted the protection of Aboriginal rights in the Constitution Act, 1982?” “How was Prime Minister Stephen Harper’s apology for residential schools viewed by Indigenous people? By various non-Indigenous Canadians?” “What is the significance of the 2013 ruling by Justice Michael Phelan for the relationship between the federal government and both the Métis and non-status Indians in Canada?” “What did the Truth and Reconciliation Commission set out to do? Whose testimony did the commission collect? Do you think the commission’s calls to action are a turning point in the relationship between the federal/provincial governments and First Nations, Métis, and Inuit individuals and nations? Why, or why not?” “What do issues related to living conditions on some First Nations reserves since the 1980s reveal about continuity in the government’s treatment of and attitudes towards Indigenous peoples?” “What was the significance of the government of Ontario’s non-recognition of Métis in the province? What was the perspective of the government on this issue? What was the perspective of the Métis? What impact did the Supreme Court’s decision in the Powley case (2003) have on this issue? How did that decision affect the status of Métis in Ontario and the rest of Canada?”

**E2.4** describe some key developments and issues that have affected the relationship between Quebec and the federal government since 1982 (e.g., the Meech Lake and/or Charlottetown Accords; the creation of the Bloc Québécois; sovereignty association; relations between Canadian prime ministers and Quebec premiers; the 1995 referendum), and analyse them from various perspectives

**Sample questions:** “What was the purpose of the Clarity Act? How was it viewed by the Quebec government?” “What were the perspectives of First Nations and Inuit on Quebec sovereignty? What was the perspective of Quebec sovereigntists? Of federalists in Quebec and the rest of Canada?”

**E2.5** describe some ways in which Canada and Canadians have participated in the international community since 1982, with a focus on Canada’s response to international conflict (e.g., with reference to *South African apartheid; the Gulf War; events in Bosnia, Somalia, Rwanda, Syria; the War on Terror*) and Canadians’ cooperation in humanitarian work (e.g., *the International Court of Justice the Canadian International Development Agency; responses to natural disasters such as the Indian Ocean tsunami in 2004, earthquakes in Haiti or Japan, famine in Ethiopia; the role of Canadian non-governmental organizations*), and explain some key factors that have affected this participation

**Sample questions:** “How and why has Canada’s spending on official development assistance fluctuated since 1982?” “Was the decision to send troops to Afghanistan in keeping with Canada’s traditional role in world affairs?”

### E3. Identity, Citizenship, and Heritage

**FOCUS ON:** *Historical Significance; Cause and Consequence*

By the end of this course, students will:

**E3.1** describe contributions of various individuals, groups, and/or organizations to Canadian society and politics since 1982 (e.g., *Lincoln Alexander, Louise Arbour, Shawn Atleo, Maude Barlow, Tony Belcourt, Cindy Blackstock, Lucien Bouchard, Clément Chartier, Jean Chrétien, Nellie Cournoyea, Romeo Dallaire, Phil Fontaine, Stephen Harper, Michaëlle Jean, Shannen Koostachin, Gary Lipinski, Audrey McLaughlin, Josephine Mandamin, Preston Manning, Steve Powley, Judy Rebick, Jeanne Sauvé, Murray Sinclair, David Suzuki, Jean Teillet, Justin Trudeau, Sheila Watt-Cloutier; the Bloc Québécois, the Green Party, Inuit Tapiriit Kanatami, Métis Nation of Ontario, the Reform Party*), and explain the significance of these contributions for the development of identities, citizenship, and/or heritage in Canada

**Sample questions:** “What have been the short and long-term consequences of Elijah Harper’s rejection of the Meech Lake Accord?” “What criteria might you use to assess the political legacy of Brian Mulroney? Would you use the same criteria to assess the political legacy of

Jack Layton?” “What actions has Charlie Angus taken to bring awareness to issues around on-reserve education for First Nations children? What actions have First Nations community members and leaders taken to bring awareness to this issue?” “How have First Nations, Métis, and Inuit political organizations contributed to identities in Canada since the 1980s?”

**E3.2** explain ways in which various individuals, groups, organizations, and/or events have contributed to the arts and popular culture in Canada since 1982 (e.g., *Susan Aglukark, Denys Arcand, Margaret Atwood, Donovan Bailey, Adam Beach, Edward Burtynsky, Austin Clarke, Leonard Cohen, Sidney Crosby, Celine Dion, Paul Demers, Drake, Atom Egoyan, Michael J. Fox, Tomson Highway, Lawrence Hill, Clara Hughes, Jarome Iginla, Wab Kinew, Zacharias Kunuk, Deepa Mehta, Michael Ondaatje, Amanda Rheame, Robbie Robertson, Crystal Shawanda, Jordin Tootoo, Shania Twain, Neil Young; A Tribe Called Red, Afro Connexion, Arcade Fire, Cirque de Soleil, Digging Roots, the Tragically Hip; the Calgary or Vancouver Olympics, Caribana [Caribbean Carnival]*), and assess the significance of these contributions for the development of identities, citizenship, and/or heritage in Canada

**Sample questions:** “Do you think that the political satire of people such as Rick Mercer has had an influence on civic action or youth engagement? Why or why not?” “For whom is the work of Michel Tremblay significant? Why?” “What images of First Nations, Métis, and Inuit were on display during the opening ceremonies for the 2010 Vancouver Olympics? What was the significance of these images? What did they reveal about how Indigenous cultures tend to be represented in the popular culture of non-Indigenous Canadians?” “What do the lyrics of Amanda Rheame’s song ‘We Aspire’ tell you about the values and aspirations of Métis people?” “Who was Grey Owl? Do you think he should have been honoured with a commemorative plaque from the province of Ontario after his death in 1984? Why or why not?”

**E3.3** assess the significance of public acknowledgements and/or commemoration in Canada of past human tragedies and human rights violations, both domestic and international (e.g., *the Holocaust; the Holodomor; the Armenian, Rwandan, and Srebrenican genocides; the Chinese head tax; the Komagata Maru incident; Ukrainian- and Japanese-Canadian internment; residential schools; the arrest of Viola Desmond; the demolition of Africville; forced relocation of Inuit families; suicide rates among Indigenous youth*)



**Sample questions:** “Do you think that apologies for past human rights abuses provide adequate redress for past wrongs? Why, or why not?”

“What social, economic, and/or political factors might contribute to a decision to commemorate, or to issue an apology for, a violation of human rights?” “What events led to Stephen Harper’s statement of apology to former students of Indian Residential Schools in 2008? Did this apology lead to changes in attitudes towards and/or in policies directed at First Nations, Métis, and/or Inuit individuals and communities in Canada? Why or why not?” “What is the significance of the 2016 ruling of the Canadian Human Rights Tribunal with respect to inequalities in the funding for child welfare services for First Nations children?” “What were the causes of the 2016 inquest into the deaths of First Nations students in Thunder Bay? What was the significance of this inquest?”

**E3.4** describe some key developments that have affected Canada’s relationship with the United States since 1982 (*e.g., the Canada-U.S. FTA and/or NAFTA; softwood lumber disputes; policies to protect Canadian culture; the International Joint Commission; Canada’s response to 9/11; Canada’s refusal to participate in the Second Gulf War; Canada’s participation in the mission in Afghanistan; issues related to border control; the Omar Khadr case; Arctic sovereignty*), and explain the impact of Canadian-American relations on Canadian identities and heritage

**Sample questions:** “What impact did Canada’s responses to the Second Gulf War and the military mission in Afghanistan have on our relationship with the United States?” “What role do you think our relationship with the United States plays in Canadians’ view of themselves?”



# Canadian History since World War I, Grade 10

Applied

CHC2P

This course focuses on the social context of historical developments and events and how they have affected the lives of people in Canada, including First Nations, Métis, and Inuit individuals and communities, since 1914. Students will explore interactions between various communities in Canada as well as contributions of individuals and groups to heritage and identities in Canada. Students will develop an understanding of some key political developments and government policies that have had an impact on First Nations, Métis, and Inuit individuals and communities. They will develop their ability to apply the concepts of historical thinking and the historical inquiry process, including the interpretation and analysis of evidence, when investigating the continuing relevance of historical developments and how they have helped shape communities in present-day Canada.

**Prerequisite:** None

## OVERVIEW

The course has five strands. Instruction and learning related to the expectations in strand A are to be interwoven with instruction and learning related to expectations from the other four strands. Strand A must not be seen as independent of the other strands. Student achievement of the expectations in strand A is to be assessed and evaluated *throughout* the course.

### Strand A

A: Historical Inquiry and Skill Development
Overall Expectations
<b>A1. Historical Inquiry:</b> use the historical inquiry process and the concepts of historical thinking when investigating aspects of Canadian history since 1914
<b>A2. Developing Transferable Skills:</b> apply in everyday contexts skills developed through historical investigation, and identify some careers in which these skills might be useful

(continued)

**Overview** *(continued)*

Throughout this course, when planning instruction, teachers should weave the expectations from strand A in with the expectations from strands B–E.

**Strands B–E**

Overall Expectations and Related Concepts of Historical Thinking	Big Ideas*	Framing Questions*
<b>Strand B: Canada 1914–1929</b>		
<b>B1. Social, Economic, and Political Context:</b> describe some key social, economic, and political events, trends, and developments in Canada between 1914 and 1929, and assess how they affected the lives of people in Canada, including First Nations, Métis, and Inuit individuals and communities ( <b>FOCUS ON:</b> <i>Historical Significance; Historical Perspective</i> )	National and international events and developments during this period affected the lives of people in Canada in different ways.	Why might different individuals and/or communities in Canada view the same event or development in different ways?
<b>B2. Communities, Conflict, and Cooperation:</b> describe some key interactions between different communities in Canada, including First Nations, Métis, and Inuit communities, and between Canada and the international community, from 1914 to 1929, and explain their effects ( <b>FOCUS ON:</b> <i>Cause and Consequence</i> )	Canadians faced major conflict at home and abroad during this period.	What were the consequences of World War I for Canada and people in Canada?
<b>B3. Identity, Citizenship, and Heritage:</b> describe how some individuals, organizations, and domestic and international events contributed to the development of identities, citizenship, and/or heritage in Canada between 1914 and 1929 ( <b>FOCUS ON:</b> <i>Continuity and Change; Historical Perspective</i> )	Many individuals, groups, communities, and events helped to shape the development of Canada during this period.	What people and events contributed to the evolution of identities and citizenship in Canada during this period?
<b>Strand C: Canada 1929–1945</b>		
<b>C1. Social, Economic, and Political Context:</b> describe some key social, economic, and political events, trends, and developments in Canada between 1929 and 1945, and explain how they affected the lives of people in Canada, including First Nations, Métis, and Inuit individuals and communities ( <b>FOCUS ON:</b> <i>Cause and Consequence</i> )	The Great Depression and World War II had a major impact on the lives of people in Canada.	What were the consequences of Canada's involvement in World War II for Canada as a whole and for different individuals, groups, and communities in Canada?
<b>C2. Communities, Conflict, and Cooperation:</b> describe some significant interactions between different communities in Canada, including First Nations, Métis, and Inuit communities, and between Canada and the international community, from 1929 to 1945, and explain what changes, if any, resulted from them ( <b>FOCUS ON:</b> <i>Cause and Consequence; Continuity and Change</i> )	This period was marked by increasing tensions between different groups and communities within Canada and between Canada and other countries.	How did the lives of people in Canada change during this period? Did people in all regions of Canada experience the same degree of change?
<b>C3. Identity, Citizenship, and Heritage:</b> describe how some individuals, organizations, symbols, and events, including some major international events, contributed to the development of identities, citizenship, and/or heritage in Canada between 1929 and 1945 ( <b>FOCUS ON:</b> <i>Historical Significance; Historical Perspective</i> )	Various individuals and events had a major impact on the continuing development of Canada during this period.	How did colonialism continue to have an impact on Indigenous individuals and communities in Canada during this period?  Whose voices dominated in Canada at this time? Why did all voices not carry the same weight?

*(continued)*

Overall Expectations and Related Concepts of Historical Thinking	Big Ideas*	Framing Questions*
<b>Strand D: Canada 1945–1982</b>		
<b>D1. Social, Economic, and Political Context:</b> describe some key social, economic, and political trends, events, and developments in Canada between 1945 and 1982, and explain how they affected the lives of people in Canada, including First Nations, Métis, and Inuit individuals and communities ( <b>FOCUS ON:</b> <i>Continuity and Change</i> )	This was a period of major change in the lives of people in Canada.	In what ways did social welfare programs help people in Canada? Did they help all people equally?
<b>D2. Communities, Conflict, and Cooperation:</b> describe some key developments that affected interactions between different communities in Canada, including First Nations, Métis, and Inuit communities, and between Canada and the international community, from 1945 to 1982, and assess their significance ( <b>FOCUS ON:</b> <i>Historical Significance; Historical Perspective</i> )	Although this period was marked by conflict, both nationally and internationally, Canada also participated in cooperative ways in the international community.	Why did some people in Canada view the rise in immigration during this period as a threat?  In what ways did colonialist government policies continue to have an impact on First Nations, Métis, and/or Inuit individuals and communities during this time?
<b>D3. Identity, Citizenship, and Heritage:</b> describe how some individuals, organizations, and social and political developments and/or events contributed to the development of identities, citizenship, and/or heritage in Canada between 1945 and 1982 ( <b>FOCUS ON:</b> <i>Historical Significance; Cause and Consequence</i> )	During this period, Canada evolved into a multicultural country with a developing welfare state.	Which individual or event made the most significant contribution to the development of identities in Canada during this period?
<b>Strand E: Canada 1982 to the Present</b>		
<b>E1. Social, Economic, and Political Context:</b> describe some key social, economic, and political events, trends, and developments in Canada from 1982 to the present, and assess their impact on the lives of different people in Canada, including First Nations, Métis, and Inuit individuals and communities ( <b>FOCUS ON:</b> <i>Historical Significance; Historical Perspective</i> )	National and international events and developments since 1982 have affected the lives of all people in Canada, but not in the same ways.	What were the biggest changes in the lives of people in Canada in the recent past? What factors led to those changes?  Where do you see yourself in the Canadian narrative?
<b>E2. Communities, Conflict, and Cooperation:</b> describe some significant issues and/or developments that have affected interactions between different communities in Canada, including First Nations, Métis, and Inuit communities, and between Canada and the United States, from 1982 to the present, and explain some changes that have resulted from these issues/developments ( <b>FOCUS ON:</b> <i>Continuity and Change</i> )	Interrelationships between different groups and communities in Canada have changed over time.	In what ways have different individuals and events contributed to the development of identities in Canada?  What actions have some individuals and communities been taking to change the colonial relationship between Indigenous and non-Indigenous people in Canada?
<b>E3. Identity, Citizenship, and Heritage:</b> describe how some individuals, groups, and events, both national and international, have contributed to the development of identities, citizenship, and/or heritage in Canada from 1982 to the present ( <b>FOCUS ON:</b> <i>Historical Significance; Cause and Consequence</i> )	The story of Canada has been, and continues to be, shaped by the various individuals, groups, and communities in this country.	

\* See page 14 for a discussion of the purpose of big ideas and framing questions.

# A. HISTORICAL INQUIRY AND SKILL DEVELOPMENT

## OVERALL EXPECTATIONS

Throughout this course, students will:

- A1. Historical Inquiry:** use the historical inquiry process and the concepts of historical thinking when investigating aspects of Canadian history since 1914;
- A2. Developing Transferable Skills:** apply in everyday contexts skills developed through historical investigation, and identify some careers in which these skills might be useful.

## SPECIFIC EXPECTATIONS

### A1. Historical Inquiry

Throughout this course, students will:

**A1.1** formulate different types of questions to guide investigations into issues, events, and/or developments in Canadian history since 1914 (e.g., factual questions: *What was the Persons Case?*; comparative questions: *What were some similarities and differences in the experiences of soldiers in World War I and World War II?*; causal questions: *What issues led to the creation of the Canadian Radio-Television Commission [CRTC]?*)

**A1.2** select and organize relevant evidence and information on aspects of Canadian history since 1914 from a variety of primary and secondary sources (e.g., primary sources: *art works from the time, books and/or articles from the library, diaries, letters, maps, period newspapers, photographs, songs from the time, statistics*; secondary sources: *current newspaper or magazine articles, information from websites, reenactments of historical events, textbooks, videos*), ensuring that their sources reflect different perspectives

**Sample questions:** “If you want to study the history of fashion in the twentieth century, what are some visual sources that you might consult? Where would you locate period photographs? What other sources might you consult?” “Why might diaries and letters of Japanese Canadians living in internment camps be a good source on their experiences and perspectives? What other sources would you need to consult to explore other people’s perspectives on the internment of the Japanese?”

**A1.3** assess the credibility of sources and information relevant to their investigations (e.g., *by considering the perspective, bias, accuracy, purpose, and/or context of the source and the values and expertise of its author*)

**Sample questions:** “Can an anonymous website be considered an appropriate historical source? Why or why not?” “Whose perspectives are represented in the letters written to Prime Minister Bennett during the Great Depression?”

**A1.4** interpret and analyse evidence and information relevant to their investigations, using various tools, strategies, and approaches appropriate for historical inquiry (e.g., *use a ranking ladder to help them determine the significance of factors contributing to the Great Depression; critically select significant events for a timeline on Canada-U.S. relations; compare the points of view in different primary sources relating to the same event*)

**Sample questions:** “What information can you extract from these song lyrics? Is this information supported by your other sources?” “What type of tool might help you compare the impact of this development on two different groups?”

**A1.5** use the concepts of historical thinking (i.e., *historical significance, cause and consequence, continuity and change, and historical perspective*) when analysing, evaluating evidence about, and formulating conclusions and/or judgments regarding historical issues, events, and/or developments in Canada since 1914 (e.g., *use the concept of historical significance when assessing the impact of technological developments on the everyday lives of Canadians; use the concept of*



*cause and consequence when ranking the importance of factors contributing to the Great Depression; use the concept of continuity and change when determining turning points in relations between Quebec and the rest of Canada; use the concept of historical perspective when evaluating evidence about residential schools)*

**Sample questions:** “If you had to determine the most significant event in twentieth-century Canadian history, what criteria would you use? Did the event you have chosen have the same significance for all Canadians?”

- A1.6** evaluate and synthesize their findings to formulate conclusions and/or make informed judgements or predictions about the issues, events, and/or developments they are investigating

**Sample questions:** “After analysing the evidence you have gathered, do you think that Canada should have cancelled the Avro Arrow project? Why or why not?” “After analysing the information and evidence you have gathered, what conclusions have you reached about the arguments for and against the demolition of Africville?”

- A1.7** communicate their ideas, arguments, and conclusions using various formats and styles, as appropriate for the audience and purpose (*e.g., a photo essay on the history of a large Canadian city in the twentieth century; an oral presentation on racism and/or antisemitism in Canada; a debate on immigration policy; a video on the Winnipeg General Strike; a role play on changing social values in the 1920s; a poem or rap about the war in Afghanistan; a blog about border security since 9/11*)

- A1.8** use accepted forms of documentation (*e.g., footnotes or endnotes, author/date citations, reference lists, bibliographies, credits*) to acknowledge different types of sources (*e.g., articles, art works, blogs, books, films or videos, songs, websites*)

- A1.9** use appropriate terminology when communicating the results of their investigations (*e.g., vocabulary specific to their topic; terminology related to history and to the concepts of historical thinking*)

## A2. Developing Transferable Skills

Throughout this course, students will:

- A2.1** describe some ways in which historical investigation can help them develop skills, including the essential skills in the Ontario Skills Passport (*e.g., skills related to reading text, writing, document use, computer use, oral communication, numeracy*), that can be transferred to the world of work and/or to everyday life

- A2.2** apply in everyday contexts skills and work habits developed through historical investigation (*e.g., use skills to assess the credibility of a source, use appropriate organizers to manage their evidence and ideas; apply work habits such as creating and following a plan, taking responsibility when collaborating with peers*)

- A2.3** apply the knowledge and skills developed in the study of Canadian history when analysing current social, economic, and/or political issues (*e.g., to determine perspectives in media reports on a current event; to understand the significance of a new political policy; to understand ways in which a current social trend is similar to or different from past trends*), in order to enhance their understanding of these events and their role as informed citizens

**Sample questions:** “Why might it be useful to apply the concept of change and continuity and/or cause and consequence to help you to evaluate the promises being made by politicians during this election campaign?” “If you were asked to evaluate possible names for a new school in your community, which concepts of historical thinking might you apply? Why?”

- A2.4** identify some careers in which the skills learned in history might be useful (*e.g., actor, community worker, musician, politician, tour guide*)

## B. CANADA, 1914–1929

### OVERALL EXPECTATIONS

By the end of this course, students will:

- B1. Social, Economic, and Political Context:** describe some key social, economic, and political events, trends, and developments in Canada between 1914 and 1929, and assess how they affected the lives of people in Canada, including First Nations, Métis, and Inuit individuals and communities (**FOCUS ON:** *Historical Significance; Historical Perspective*)
- B2. Communities, Conflict, and Cooperation:** describe some key interactions between different communities in Canada, including First Nations, Métis, and Inuit communities, and between Canada and the international community, from 1914 to 1929, and explain their effects (**FOCUS ON:** *Cause and Consequence*)
- B3. Identity, Citizenship, and Heritage:** describe how some individuals, organizations, and domestic and international events contributed to the development of identities, citizenship, and/or heritage in Canada between 1914 and 1929 (**FOCUS ON:** *Continuity and Change; Historical Perspective*)

### SPECIFIC EXPECTATIONS

#### B1. Social, Economic, and Political Context

**FOCUS ON:** *Historical Significance; Historical Perspective*

By the end of this course, students will:

- B1.1** describe some key social developments in Canada during this period (*e.g., changes in immigration, the broadening of citizenship rights for many women, the treatment of “enemy aliens” during World War I, the challenges facing returning veterans, the rise of the flapper in popular culture*), and assess their impact on the lives of different people in Canada, including First Nations, Métis, and Inuit communities

**Sample questions:** “Were First Nations, Métis, and Inuit women represented in the women’s suffrage movement? Did the victories of this movement during and after World War I mean that all Canadians had the right to vote?” “What impact did the growth of ethnic neighbourhoods in Canadian cities have on the ways of life of people living in those neighbourhoods?”

- B1.2** identify some major developments in science and/or technology and applications of scientific/technological knowledge during this period, and explain their significance for different people in Canada, including First Nations, Métis, and/or Inuit individuals and communities (*e.g., the*

*impact that military technology such as the Ross rifle had on Canadian soldiers in World War I; the significance of developments in transportation such as airplanes and automobiles for rural Canadians or people involved in manufacturing; the impact of the development of insulin on Canadians with diabetes*)

**Sample questions:** “What impact did the use of chemical weapons have on soldiers in World War I?” “Did the mass production of automobiles affect all Canadian youth in the same way?” “What role did radio play in the everyday lives of people during this time?” “What was the purpose behind government exploration in the Arctic during this period? How did such exploration affect Inuit communities?” “What are some ways in which the Canadian Arctic Expedition of 1913–18 benefited from Inuit scientific and technological knowledge?”

- B1.3** describe some key economic trends and developments in Canada during this period (*e.g., with reference to the wartime economy, postwar recession, consumerism, trends in the whaling and fur industries in the Canadian North*), and explain their impact on the lives of different people in Canada, including First Nations, Métis, and Inuit individuals and communities

**Sample questions:** “What was the significance of the consumerism of the 1920s? Did it affect all Canadians the same way?” “What impact did rising prices have on the lives of different

people in Canada?" "Did all Canadians share in the prosperity of the 1920s? Did First Nations, Métis, and Inuit individuals and communities share in it?" "What was the significance of the collapse of the bowhead whale industry for Inuit communities?" "How did the price of furs during this period affect First Nations, Inuit, and Métis living in the North?" "How did political policies affect the price of goods traded by First Nations and Inuit in the North? What impact did these policies have on the lives of Indigenous traders?"

**B1.4** describe the impact that World War I had on Canadian society and politics and the lives of different people in Canada, including First Nations, Métis, and Inuit individuals and communities (e.g., with reference to the internment of "enemy aliens"; the participation of women in the wartime economy; the conscription crisis; the Union government; new legislation such as the Wartime Elections Act, the Income Tax Act, and the War Measures Act)

**Sample questions:** "What impact did the Halifax Explosion have on people living in Halifax, Dartmouth, and the Mi'kmaq settlement in Tufts Cove?" "What are some of the ways in which the war changed the lives of many women in Canada?" "Why were some Ukrainian Canadians interned during and after World War I?" "Why did First Nations, Métis, and Inuit men choose to fight for a country in which they experienced oppression and mistreatment?" "What impact did military enlistment have on the status of First Nations men and their families?"

## B2. Communities, Conflict, and Cooperation

**FOCUS ON:** Cause and Consequence

By the end of this course, students will:

**B2.1** identify some of the causes of World War I (e.g., European alliances and rivalries, militarism), and explain some of the consequences of Canada's military participation in the war (e.g., the passing of the conscription bill; the development of war industries; the military consequences and human costs of battles such as Ypres and Vimy Ridge; enfranchisement; issues facing veterans; Remembrance Day)

**Sample questions:** "Why did young men enlist in the armed services at the beginning of World War I? Who tended to enlist? Who did not? Who was actively discouraged from enlisting by Canadian military officials? Why? What

inspired First Nations, Métis, and Inuit men to volunteer to fight in World War I? Given the values and circumstances at the time, would you have enlisted to fight in the war? Would you have been allowed to enlist? Why or why not?" "What was the Soldier Settlement Board? What impact did it have on First Nations, Métis, and Inuit communities?"

**B2.2** describe some significant ways in which people in Canada cooperated and/or came into conflict with each other at home during this period (e.g., with reference to the social gospel movement, the women's suffrage movement, labour unions, the Winnipeg General Strike, the Ku Klux Klan), and explain key reasons for these interactions as well as some of their consequences

**Sample questions:** "What were the ideas behind the Coloured Women's Club of Montreal? Was it successful in meeting its goals?" "Why was the League of Indians of Canada founded? What impact did it have?" "Why did some groups not feel welcome in the labour movement? Which groups were excluded? Why? How did they respond?"

**B2.3** describe some significant challenges facing First Nations, Métis, and Inuit individuals and communities in Canada during this period (e.g., mandatory attendance in residential schools; provincial day schools, training schools; loss of language and culture; ongoing prohibitions against Indigenous ceremonies and gatherings; amendments to the Indian Act that prohibited First Nations from hiring legal counsel to pursue land claims; limitations on voting rights; the pass system; systemic racism; economic disparity; continued expropriation of resources and loss of land; forced removals), and explain some of their consequences

**Sample questions:** "What were some amendments to the Indian Act during this period? What attitudes are reflected in these amendments?" "Why was it mandatory for status Indians to attend residential schools? What were the goals of these schools?" "How did the residential school experiences of First Nations and Métis children differ?" "Why did many Métis people choose not to publicly identify as Métis during this period? What were some of the consequences of such decisions?"

**B2.4** describe some significant challenges facing immigrants and other non-Indigenous ethno-cultural minorities in Canada during this period, with a particular emphasis on forms of discrimination (e.g., racism and antisemitism; segregation and discrimination in jobs and housing; immigration policy, including the 1919 Immigration

Act; barriers to enlistment in the Canadian military based on race and ethnicity), and explain some of their consequences

**Sample questions:** “What challenges did African-Canadian men face when trying to enlist in the Canadian armed forces during World War I?” “What changes were made to the Chinese Immigration Act in 1923? What attitudes are reflected in these changes? What effects did the changes have?”

**B2.5** describe how some specific events, developments, and/or attitudes affected the relationship between French and English Canada during this period (e.g., *conscription during World War I, the Ontario Schools Question and the response to Regulation 17, the beliefs of Quebec nationalists such as Henri Bourassa and Abbé Lionel Groulx, the ideas of groups such as the Orange Order*)

**Sample questions:** “What was the message of Quebec nationalists such as Henri Bourassa? How did English Canadians tend to view this message?”

### B3. Identity, Citizenship, and Heritage

**FOCUS ON:** Continuity and Change; Historical Perspective

By the end of this course, students will:

**B3.1** describe how some individuals and organizations during this period contributed to the development of identities, citizenship, and/or heritage in Canada (e.g., *Billy Bishop, J. Armand Bombardier, Robert Borden, Henri Bourassa, Peter Henderson Bryce, Lionel Connacher, F. O. Loft, Tom Longboat, Nellie McClung, Francis Pegahmagabow, Mary Pickford, Fred Simpson; the No. 2 Construction Battalion, the One Big Union, the Royal Canadian Mounted Police, the Woman’s Christian Temperance Union*)

**Sample questions:** “What contribution has the National Hockey League (NHL) made to heritage and identities in Canada?” “How have the actions of labour activists during this period contributed to labour rights then and now?” “What impact did the art of Tom Thomson and members of the Group of Seven have on culture and identities in Canada? Do you think the work of the Group of Seven accurately reflects the Canadian North? Why or why not? Whose perspectives are absent from their works? Why are their images still iconic today?”

**B3.2** identify some significant developments in the rights and lives of women in Canada, including First Nations, Métis, and Inuit women, during this period (e.g., *women’s contribution to the war effort, women’s suffrage, access to employment, changing social mores in the 1920s, the participation of women in sports, the role of Inuit women in the whaling and sealskin industry*), and describe the impact of these developments on Canadian citizenship and/or heritage

**Sample questions:** “What effect did the Wartime Elections Act have on women’s right to vote?” “Why were First Nations, Métis, and Inuit women excluded from the Wartime Elections Act and the Military Voters Act? Why would such exclusion have been considered acceptable in 1917?” “What effect did the final decision in the Persons Case have on the citizenship rights of women in Canada?” “What was significant about the participation of Canadian women in the 1928 Olympics?” “What are some ways in which First Nations, Métis, and Inuit women participated in the war effort?”

**B3.3** explain the significance for identities, citizenship, and/or heritage of some key international events and/or developments in which Canada participated in this period (e.g., *the battle of Vimy Ridge; Canada’s attending the Paris Peace Conference and signing the Treaty of Versailles; membership in the League of Nations and the Commonwealth of Nations; Canadians’ participation in international sporting events such as the Olympics; the success of Canadian actors in Hollywood*)

**Sample questions:** “Why did the poppy come to be associated with Canadians in World War I and then adopted as an international symbol of remembrance?” “Why is the *Bluenose* on the Canadian dime? Do you think it is an appropriate symbol for Canada? Why or why not?” “Why is the Halibut Treaty seen as a turning point in the development of Canada’s political autonomy?”



# C. CANADA, 1929–1945

## OVERALL EXPECTATIONS

By the end of this course, students will:

- C1. Social, Economic, and Political Context:** describe some key social, economic, and political events, trends, and developments in Canada between 1929 and 1945, and explain how they affected the lives of people in Canada, including First Nations, Métis, and Inuit individuals and communities (**FOCUS ON:** *Cause and Consequence*)
- C2. Communities, Conflict, and Cooperation:** describe some significant interactions between different communities in Canada, including First Nations, Métis, and Inuit communities, and between Canada and the international community, from 1929 to 1945, and explain what changes, if any, resulted from them (**FOCUS ON:** *Cause and Consequence; Continuity and Change*)
- C3. Identity, Citizenship, and Heritage:** describe how some individuals, organizations, symbols, and events, including some major international events, contributed to the development of identities, citizenship, and/or heritage in Canada between 1929 and 1945 (**FOCUS ON:** *Historical Significance; Historical Perspective*)

## SPECIFIC EXPECTATIONS

### C1. Social, Economic, and Political Context

**FOCUS ON:** *Cause and Consequence*

By the end of this course, students will:

- C1.1** identify some key social developments in Canada during this period (*e.g., increasing levels of poverty, the dislocation of farm families on the Prairies, the increasing influence of American culture, northern Indigenous people becoming more reliant on European material goods*), and explain their main causes as well as their impact on the lives of people in Canada, including First Nations, Métis, and Inuit communities  
**Sample questions:** “Why did immigration rates and birth rates decline in the 1930s?” “What impact did high unemployment and poverty rates have on people in Canadian cities?” “What were the consequences for Inuit communities of the continued growth of non-Indigenous settlement in the North?”
- C1.2** identify some major developments in science and/or technology and applications of scientific/technological knowledge during this period, and assess their impact on the lives of people in Canada, including First Nations, Métis, and/or Inuit individuals and communities (*e.g., the impact of Pabulum on children’s health, of developments in aeronautics and radar on Canada’s armed forces during World War II, of the mining of radium/uranium on Indigenous individuals and communities in the North*)  
**Sample question:** “What impact did medical advances such as the development of penicillin and improvements in blood transfusions have on Canadian forces during World War II?”
- C1.3** describe some key economic trends and developments in Canada during this period (*e.g., individuals and corporations buying on margin, the stock market crash of 1929, job losses and high unemployment, the creation of public work camps and government relief, the boom and bust of the white fox fur trade*), and explain how they affected the lives of people in Canada, including First Nations, Métis, and Inuit individuals and communities  
**Sample questions:** “What do the high unemployment rates of the 1930s tell you about life in Canada during this period?” “What were ‘Bennett buggies’? What do they tell you about the impact of the economic crisis of the 1930s on some Canadians?” “What impact did World War II have on the Canadian economy?” “What were some consequences of the growth of the

pulp and paper industry in the 1930s for First Nations and Métis communities in Canada? Who benefited financially from this industry?" "What were some ways in which people in First Nations, Métis, and Inuit communities were affected by the growth of companies extracting natural resources during this period?"

- C1.4** describe the main causes of some key political developments and/or government policies that had an impact on Indigenous people in Canada during this period (e.g., *amendments to the Indian Act; the continuing operation of residential schools; the Dominion Franchise Act, 1934; provincial Sexual Sterilization Acts; the creation of the Newfoundland Rangers; the Métis Population Betterment Act, 1938; the beginning of the federal government's use of "Eskimo" identification tags*), and explain how they affected the lives of First Nations, Métis, and Inuit individuals and communities

**Sample questions:** "What were the consequences of provincial Sexual Sterilization Acts for First Nations, Métis, and Inuit individuals and communities?" "How did the continued operation of residential schools affect First Nations, Métis, and Inuit individuals and communities in Canada during this period?" "What developments led to Inuit becoming a federal responsibility in 1939? What were some of the consequences of this change for Inuit individuals and communities?" "How did the powers of Indian agents change in the 1930s? What impact did their powers have on the lives of people in First Nations communities?" "Why did governments in Canada develop 'Indian' hospitals in the 1920s and 1930s? What were the consequences of these institutions for Indigenous peoples in Canada?"

- C1.5** describe the main causes of some key political developments and/or government policies in Canada during this period (e.g., *the development of new political parties; R. B. Bennett's social welfare policies; the passing of the Padlock Act in Quebec; victory bonds; government policies on wartime rationing, propaganda, and censorship; the decision to intern Japanese Canadians during World War II*), and explain how they affected the lives of non-Indigenous people in Canada

**Sample questions:** "Why did the government invoke the War Measures Act during World War II? What effect did it have on the lives of people in Canada?" "Why did the Alberta and British Columbia governments force some people with disabilities to undergo sterilization?"

## C2. Communities, Conflict, and Cooperation

**FOCUS ON:** *Cause and Consequence; Continuity and Change*

By the end of this course, students will:

- C2.1** identify some significant ways in which people in Canada, including First Nations, Métis, and Inuit individuals and communities, cooperated and/or came into conflict with each other during this period (e.g., *the founding of the Canadian Brotherhood of Sleeping Car Porters; the On-to-Ottawa Trek; antisemitic and racial conflicts such as the riot in Christie Pits or those related to the ruling by the Supreme Court in the Christie case [1940]; the hostility towards some ethnocultural minorities during World War II; changes to the Métis Population Betterment Act, 1938, that increased government control*), and explain their impact on different people in Canada

**Sample questions:** "Why did the Great Depression increase race-based tensions in Canada?" "What were the major concerns of people involved in the Antigonish movement? How did they address these concerns? What changes did they bring about? Which changes had the greatest impact on Canadians?"

- C2.2** explain how some key issues and/or developments affected Canada's relationships with Great Britain and the United States during this period (e.g., *with reference to prohibition and rum running; the Statute of Westminster, 1931; placing high tariffs on American magazines; trade and other economic ties; military involvement in World War II; Arctic sovereignty*)

**Sample questions:** "Why did prohibition in the United States strain the relationship between Canada and the United States?" "Why did Canada train Commonwealth pilots during World War II? What does the air training program tell you about the relationship between Canada and Great Britain?" "How did the lives of Inuit change during this period as a result of the struggle for Arctic sovereignty between Canada and the United States?"

- C2.3** describe some ways in which World War II affected First Nations, Métis, and Inuit individuals and communities in Canada (e.g., *with reference to enlistment, military, and post-military experiences; experiences on the home front; the War Measures Act; Indigenous communities that supported the war effort and those that did not; appropriation of reserve lands by the Department of National Defence; the Veterans' Land Act, 1942; loss of Indian status for enlisted men and their families*)



**Sample questions:** “What was the impact of the war on the Kettle and Stoney Point Nation in Ipperwash, Ontario?” “What are some ways in which Cree Code Talkers contributed to the war effort?” “What are some ways in which the treatment of First Nations, Métis, and Inuit veterans after World War II was similar to and/or different from their treatment after World War I?”

**C2.4** describe some ways in which World War II changed the lives of various non-Indigenous groups in Canada (e.g., with reference to economic recovery; rationing; the experiences of young men enlisting in the armed services, munitions workers, farmers, men in the merchant marine, women, Japanese Canadians)

**Sample questions:** “Which groups were interned in Canada during the war? How did this treatment change their lives?” “What opportunities opened to women in Canada as a result of the war?”

### C3. Identity, Citizenship, and Heritage

**FOCUS ON:** *Historical Significance; Historical Perspective*

By the end of this course, students will:

**C3.1** describe how some individuals, organizations, and symbols contributed to the development of identities, citizenship, and/or heritage in Canada during this period (e.g., individuals: R. B. Bennett, Norman Bethune, Emily Carr, the Dionne quintuplets, Maurice Duplessis, Foster Hewitt, Mackenzie King, Guy Lombardo, Elsie MacGill, Tommy Prince; organizations: the Canadian Broadcasting Corporation [CBC], the Edmonton Grads, the National Film Board; symbols: the Bennett buggy, the Bren Gun Girl)

**Sample questions:** “How did the CBC contribute to heritage and identities in Canada during this period?” “Why is the Bennett buggy a symbol of the Great Depression? Do you think it is an appropriate symbol? Why or why not?” “What are some ways in which the Hudson’s Bay Company had an impact on First Nations, Métis, and Inuit culture during this period?”

**C3.2** describe responses of Canada and people in Canada to some major international events and/or developments that occurred between 1929 and 1945, including their military response to World War II (e.g., the Red Scare, the Holodomor, the Nanking Massacre, aggression by Nazi Germany, the Battle of Hong Kong, the Holocaust, D-Day, the Manhattan Project, the liberation of the Netherlands; the contributions of individuals such as Norman Bethune or Paul Triquet), and explain the significance of these responses for identities and/or heritage in Canada

**Sample questions:** “How did different groups in Canada respond to the rise of the Nazis? What social attitudes and values are reflected in those responses?” “Why did the Canadian government refuse to allow the SS *St Louis* entry into Canada?” “Why does the Netherlands send thousands of tulip bulbs to Canada every year?” “In what ways was the internment of Japanese Canadians in World War II similar to and/or different from the forced attendance of First Nations, Métis, and Inuit children in residential schools?”

**C3.3** explain the significance of the Holocaust for Canada and people in Canada (e.g., with reference to antisemitism in Canada in the 1930s and 1940s, Canada’s reaction to anti-Jewish persecution in Nazi Germany, the role of Canadians in liberating Nazi concentration camps and death camps, postwar refugee policy and attitudes towards survivors, the evolution of human rights and anti-hate crime legislation)

**Sample questions:** “Do you think that the Holocaust affected Canadians’ views about Canada’s treatment of First Nations, Métis, and Inuit in this country?” “When you look at paintings by Canadian war artists made during the liberation of Nazi concentration and death camps, what impact do you think they would have had on people in Canada?”

# D. CANADA, 1945–1982

## OVERALL EXPECTATIONS

By the end of this course, students will:

- D1. Social, Economic, and Political Context:** describe some key social, economic, and political trends, events, and developments in Canada between 1945 and 1982, and explain how they affected the lives of people in Canada, including First Nations, Métis, and Inuit individuals and communities (**FOCUS ON:** *Continuity and Change*)
- D2. Communities, Conflict, and Cooperation:** describe some key developments that affected interactions between different communities in Canada, including First Nations, Métis, and Inuit communities, and between Canada and the international community, from 1945 to 1982, and assess their significance (**FOCUS ON:** *Historical Significance; Historical Perspective*)
- D3. Identity, Citizenship, and Heritage:** describe how some individuals, organizations, and social and political developments and/or events contributed to the development of identities, citizenship, and/or heritage in Canada between 1945 and 1982 (**FOCUS ON:** *Historical Significance; Cause and Consequence*)

## SPECIFIC EXPECTATIONS

### D1. Social, Economic, and Political Context

**FOCUS ON:** *Continuity and Change*

By the end of this course, students will:

- D1.1** describe some key demographic trends and developments in Canada during this period (*e.g., the origins of immigrants and refugees, the arrival of war brides, the baby boom, the growth of suburbs, increased urbanization, the changing status of established ethnocultural groups, the growth of settlement in the High Arctic*), and compare them to trends/developments earlier in the century  
*Sample questions:* “What was new about the teen subcultures that developed in some communities after World War II? In what ways were the lives of some youth in the 1950s and 1960s different from those who lived in the 1920s?” “What are some Indigenous communities that were relocated during this time? Why were they moved? How were these relocations similar to and/or different from those earlier in the century?”
- D1.2** identify some major developments in science and/or technology during this period, and explain how they changed the lives of people in Canada, including First Nations, Métis and/or Inuit individuals and communities (*e.g., the popularization of television changed recreational*

*habits; developments in medicine contributed to increased life expectancy; the development and use of satellites expanded communications across the country; innovations in the design of the snowmobile changed the way many people in rural and northern Canada travelled in the winter; the advent of commercial fertilizers and pesticides helped farmers but also had consequences for the environment; the creation of the DEW Line changed the way of life of many Inuit*)

*Sample questions:* “What types of changes arose from developments in computers in this period?” “How did developments in plastics during this time affect people’s lives?” “What was the impact of satellite communication on peoples in northern Canada?”

- D1.3** describe some key trends and developments in the Canadian economy during this period (*e.g., postwar consumerism, branch plants, the Auto Pact, the energy crisis of the 1970s, labour unrest*), and assess how they affected the lives of people in Canada, including First Nations, Métis, and Inuit individuals and communities  
*Sample questions:* “What impact did the energy crisis have on the auto industry in Canada? How did it change the lives of Canadians?” “What was the James Bay Project? What impact did it have on the lives of First Nations, Métis, and Inuit in Quebec?” “Why did the Hudson’s Bay Company become the primary supplier of Inuit art during this time period? On balance,

do you think this development benefited or hurt Inuit art? What evidence supports your conclusion?"

**D1.4** describe some key political developments and/or government policies that had an impact on Indigenous people in Canada during this period (e.g., *the continuing use of numbered identification tags for Inuit; Inuit and status Indians gaining the right to vote; the 1969 White Paper; the inclusion of Métis and Inuit as "Aboriginal people" in section 35 of the Constitution Act, 1982*), and explain how they affected the lives of First Nations, Métis, and Inuit individuals and communities

**Sample questions:** "How did Inuit sled dog killings by the RCMP during this period affect Inuit culture and ways of life? What do the slayings reveal about the Canadian government's attitude towards Inuit?" "What was the Sixties Scoop? What attitudes underpinned this policy? In what ways were they a continuation of government attitudes towards Indigenous peoples?"

**D1.5** describe some key political developments and/or government policies in Canada during this period (e.g., *Canada's response to the Cold War, including joining the North Atlantic Treaty Organization [NATO]; Newfoundland's joining Confederation; the Massey Commission; the creation of the CRTC; the Royal Commission on Bilingualism and Biculturalism; social welfare legislation; the Canadian Charter of Rights and Freedoms*), and assess how they affected the lives of non-Indigenous people in Canada

**Sample questions:** "What are some ways in which government social programs from this period affected the lives of Canadians? Did these programs have greater impact on people's lives than those created during the Depression? Why, or why not?" "Do you think the Royal Commission on the Status of Women was a turning point for women in Canada? Why, or why not?"

## D2. Communities, Conflict, and Cooperation

**FOCUS ON:** *Historical Significance; Historical Perspective*

By the end of this course, students will:

**D2.1** describe some key factors that affected the relationship between French and English Canada during this period (e.g., *with reference to the Quiet Revolution, bilingualism and biculturalism, the flag debate, Expo '67, the formation of the*

*Parti Québécois, the October Crisis, the Montreal Olympics, Bill 101, negotiations to patriate the Constitution*), and assess their significance for people in Canada, including French, English, and Indigenous peoples

**Sample questions:** "What was the significance of the Asbestos Strike for French-English relations?" "How did language rights affect the relationship between French and English Canada? Why might language rights be more important to French Canadians than to English Canadians?" "How did First Nations people in Quebec tend to view the 1980 referendum on sovereignty association?"

**D2.2** identify some major social movements in Canada during this period, including those involving First Nations, Métis, and Inuit organizations (e.g., *civil rights, women's, Indigenous, environmental, peace, Quebec nationalism, labour, or youth movements*), and explain their goals and perspectives

**Sample questions:** "What were some of the issues that motivated the early environmental movement in Canada?" "What were some of the main goals of the women's movement in this period? Whose perspectives did these goals reflect?" "What impact did the civil rights movement in the United States have on African Canadians?" "What were some of the issues around which First Nations, Métis, and Inuit individuals and communities organized during this period?" "What were some ways in which First Nations people demonstrated resistance to the 1969 White Paper?" "What was the aim of the Inuit Tapirisat of Canada (now Inuit Tapiriit Kanatami)? How did it provide a voice for Inuit?"

**D2.3** describe some key developments related to Canada's participation in the international community during this period, with a particular focus on the context of the Cold War (e.g., *with reference to membership in the United Nations, the North American Air Defense Command [NORAD], and/or NATO; the Gouzenko Affair; the Korean War; the Suez Crisis; the arms race and the Non-proliferation of Nuclear Weapons Treaty; peacekeeping*), and assess their significance

**Sample question:** "How significant was the Cold War in influencing Canada's participation in the international community during this period?"

**D2.4** describe some key developments in Canada's relationship with the United States during this period (e.g., *with reference to NORAD, the DEW Line, the St. Lawrence Seaway, the influence of*

American cultural industries, the Vietnam War, environmental concerns such as acid rain), and explain their significance

**Sample questions:** “Which development in Canadian-American relations in this period do you think had the most significance for Canadians? Why?” “Why has the Avro Arrow become a symbol for Canada’s changing relations with the United States?” “What was the DEW Line? What was its significance for Canadian-American relations during this period? What did the establishment of DEW Line stations reveal about attitudes towards Inuit in the Canadian North?”

### D3. Identity, Citizenship, and Heritage

**FOCUS ON:** *Historical Significance; Cause and Consequence*

By the end of this course, students will:

**D3.1** describe ways in which some individuals, symbols, and/or events during this period contributed to the development of identities, citizenship, and/or heritage in Canada (e.g., individuals: *Doris Anderson, George Armstrong, Kenojuak Ashevak, Rosemary Brown, Frank Arthur Calder, Leonard Cohen, Harry Daniels, Tommy Douglas, Terry Fox, Chief Dan George, Daniel G. Hill, Peter Ittinuar, René Lévesque, Norval Morrisseau, Madeleine Parent, Lester B. Pearson, Maurice Richard, Buffy Sainte-Marie, David Suzuki, Pierre Trudeau, Jean Vanier, Gilles Vigneault*; events: *the convening of the Massey Commission, the demolition of Africville, the 1972 Hockey Summit Series, the first Arctic Winter Games*; symbols: *the Canadian flag, the Ontario flag*)

**Sample questions:** “What was the significance of Expo ‘67 for heritage and identities in Canada?” “In what ways did Viola Desmond contribute to the development of Canadian citizenship?” “Why has Paul Henderson’s goal during the 1972 Hockey Summit Series become an enduring symbol for Canadians?” “Why do you think that certain people or events from this period have become national symbols?” “What values or world views did Buffy Sainte-Marie and Norval Morrisseau express in their art? What were some of the responses to their work?” “What is the significance of the art of the Indigenous Group of Seven?” “When the federal government was deciding which woman should appear on the new \$10 bill in 2016, why was Kenojuak Ashevak one of the nominees?”

**D3.2** describe some significant developments and/or issues that affected First Nations, Métis, and Inuit communities in Canada during this period (e.g., *the forced relocation of a number*

*of First Nations, Métis, and Inuit communities; the continuing operation of residential schools; enfranchisement; the Sixties Scoop; challenges related to Aboriginal title and land claims; the White Paper and the “Red Paper”; the founding of the Assembly of First Nations; the Calder case; the James Bay Project; efforts to secure equality for First Nations women; section 35 of the Constitution; the ongoing use of “Eskimo” identification tags*), and explain the impact of these developments/issues on identities, citizenship, and/or heritage in Canada

**Sample questions:** “When did status Indians in Canada gain the right to vote? What was the significance of this development for First Nations people? For citizenship in Canada?” “What impact did First Nations and Inuit art from this period have on Indigenous and Canadian heritage and identity?” “Why did governments across Canada ‘scoop’ Indigenous children from their parents and put them in foster/adoptive Canadian families? What was the impact on the cultural identity and self-image of these children? What was the impact on the biological families and communities of the children?” “How did inclusion of Métis in section 35 of the Constitution Act affect Métis rights and identity?” “What impact did the federal government’s use of numbered ‘Eskimo’ identification tags have on Inuit identity and heritage?”

**D3.3** identify some key social welfare programs in Canada that were created or expanded during this period (e.g., *unemployment insurance, family allowance, medicare, old age security*), and explain some of their effects, with reference to the everyday lives of people in Canada and to Canadian identities

**Sample questions:** “What factors led to the creation of the Canada/Quebec Pension Plan? What was the significance of this program for Canadians?” “How important do you think medicare is for Canadian identities?” “What was the 1965 Indian Welfare Agreement? What impact did it have on First Nations people in Ontario?”

**D3.4** describe some key developments in immigration and immigration policy in Canada during this period, and assess their significance for Canadian heritage and identities in Canada (e.g., *with reference to the points system, origins of immigrants and refugees, the development of Canada as a multicultural society, cultural festivals*)

**Sample questions:** “What impact did the Canadian Citizenship Act of 1946 have on immigrants to Canada?” “What changes in policy were reflected in the Immigration Act of 1978? What impact did they have on Canadian heritage?”



# E. CANADA, 1982 TO THE PRESENT

## OVERALL EXPECTATIONS

By the end of this course, students will:

- E1. Social, Economic, and Political Context:** describe some key social, economic, and political events, trends, and developments in Canada from 1982 to the present, and assess their impact on the lives of different people in Canada, including First Nations, Métis, and Inuit individuals and communities (**FOCUS ON:** *Historical Significance; Historical Perspective*)
- E2. Communities, Conflict, and Cooperation:** describe some significant issues and/or developments that have affected interactions between different communities in Canada, including First Nations, Métis, and Inuit communities, and between Canada and the United States, from 1982 to the present, and explain some changes that have resulted from these issues/developments (**FOCUS ON:** *Continuity and Change*)
- E3. Identity, Citizenship, and Heritage:** describe how some individuals, groups, and events, both national and international, have contributed to the development of identities, citizenship, and/or heritage in Canada from 1982 to the present (**FOCUS ON:** *Historical Significance; Cause and Consequence*)

## SPECIFIC EXPECTATIONS

### E1. Social, Economic, and Political Context

**FOCUS ON:** *Historical Significance; Historical Perspective*

By the end of this course, students will:

- E1.1** describe some key social trends and/or developments in Canada since 1982 (e.g., *changes in families, such as higher divorce rates, lower birth rates, same-sex marriage; changes in immigration; an increasingly multicultural and pluricultural society; continuing movement from rural to urban areas; the rates of suicide within First Nations and Inuit communities; the growth of urban Inuit populations in Canada's South; the cultural appropriation of First Nations, Métis, and Inuit art, clothing, and ceremonies; the growth of social advocacy groups, including environmental and human rights groups*), and assess their significance for the lives of different people in Canada, including First Nations, Métis, and Inuit communities

**Sample questions:** “What impact has the decline in the birth rate in this period had on Canadian society? What impact is it likely to have on Canadians in the future?” “Why has there been increasing movement of Indigenous people to urban areas? How effectively have governments

responded to the needs of urban Indigenous peoples?” “What impact have Hollywood portrayals of Indigenous individuals and communities during this period had on Canadians’ understanding of First Nations, Métis, and Inuit cultures?”

- E1.2** identify some major developments in science and/or technology since 1982 (e.g., *personal computers, the Internet, cellphones, electric and hybrid cars, recycling technologies, cloning, genetically modified foods, new fossil fuel extraction technologies, developments in alternative energy, artificial hearts*), and assess their impact on the lives of different people in Canada, including First Nations, Métis, and/or Inuit individuals and communities

**Sample questions:** “Which scientific or technological development during this period do you think has had the greatest impact on the lives of Canadians? Why?” “How has the development of social media affected the lives of different people in Canada? What are some of the issues related to the use of social media?” “What impact has the evolution of digital music had on First Nations, Métis, and Inuit music?” “How has the evolution of mapping technologies affected First Nations and Inuit communities in northern Canada?”

**E1.3** describe some key trends and developments in the Canadian economy since 1982 (e.g., *the decline of the manufacturing sector and fisheries, developments in the information economy, free trade, recessions, the development of the energy sector in western and Atlantic Canada, the European Union ban on sealskin products, food insecurity in the Far North*), and explain their impact on different people in Canada, including First Nations, Métis, and Inuit individuals and communities

**Sample questions:** “What impact has the decline of the manufacturing sector had on workers in Canada?” “How has the development of online retail and resulting competition affected different groups of Canadians? Which industries and personal practices have changed as a result of this development?” “What are some resource-extraction projects that have had an impact on First Nations, Métis, and Inuit communities in this time period? What are some ways in which these projects have affected Indigenous peoples?” “What role has ecotourism played in various First Nations and Inuit communities?” “How has the fluctuating price in oil affected the lives of people who work in that industry? What impact has it had on the communities that depend on the oil industry?”

**E1.4** describe some key political developments and/or government policies that have affected Indigenous peoples in Canada since 1982 (e.g., *the creation of Nunavut; Bill C-31 amending the Indian Act; the Royal Commission on Aboriginal Peoples; the Truth and Reconciliation Commission; the 2016 Canadian Human Rights Tribunal decision regarding inequalities in funding for child welfare for First Nations children; the National Inquiry into Missing and Murdered Indigenous Women and Girls; the United Nations Declaration on the Rights of Indigenous Peoples*), and assess their impact on the lives of First Nations, Métis, and Inuit individuals and communities

**Sample questions:** “Do you consider the establishment of National Aboriginal Day in 1996 a historically significant event in First Nations, Métis, and Inuit history? In Canadian history? Why, or why not?” “What are some ways in which the residential school system continues to affect the lives of First Nations, Métis, and Inuit individuals and communities in Canada?” “What impact have changes to the Indian Act during this period had on the lives of some First Nations women and their children?” “What are some ways in which the 2 per cent federal funding cap for programs and services on First Nations reserves, which was in effect for nineteen years, has had an impact on the housing, water, education, and infrastructure in First Nations communities?”

**E1.5** describe some key political developments and/or government policies in Canada since 1982 (e.g., *the Canada-U.S. Free Trade Agreement and/or the North American Free Trade Agreement, new political parties such as the Reform Party and the Green Party, the introduction of the Goods and Services Tax and/or the Harmonized Sales Tax, fishing moratoria, the Montreal Protocol, the Kyoto Accord, the Civil Marriage Act, legislation related to developments in communications technology*), and assess their impact on the lives of different non-Indigenous people in Canada

**Sample questions:** “How has the moratorium on cod fishing affected the lives of people in Atlantic Canada?” “How have governments in Canada responded to the issue of cyberbullying?” “How have governments in Canada responded to issues around texting when driving and/or other forms of distracted driving?”

## E2. Communities, Conflict, and Cooperation

### FOCUS ON: Continuity and Change

By the end of this course, students will:

**E2.1** describe some significant issues and/or developments that have affected the relationship between Quebec and the federal government since 1982 (e.g., *the Meech Lake and/or Charlottetown Accords, the creation of the Bloc Québécois, the 1995 referendum, the Clarity Act, the Calgary Declaration*), and explain some changes which have resulted from them

**Sample questions:** “What was the purpose of the Meech Lake Accord? Why did Elijah Harper vote against the accord? What did Harper’s vote reveal about the perspectives of Indigenous people on Quebec sovereignty? How did the accord’s defeat change the relationship between Quebec and Ottawa?”

**E2.2** describe some significant issues and/or developments that have affected relations between the federal/provincial governments and First Nations, Métis, and Inuit individuals and communities since 1982 (e.g., *the Meech Lake Accord; disputes over land at Oka, Ipperwash, and/or Caledonia; the Nisga’a Final Agreement, 1998; Ottawa’s apology for the residential school system; the creation of Nunavut; the New Credit Settlement; the Idle No More movement; the Indian Residential Schools Settlement Agreement; the Qikiqtani Truth Commission; the Daniels decision, 2016; the Métis Nation of Ontario Secretariat Act, 2015; living conditions on First Nations reserves; the Truth and Reconciliation Commission’s calls to action*), and explain some changes that have resulted from them



**Sample questions:** “What progress has been made with respect to Aboriginal land claims since 1982?” “What was the significance of the Royal Commission on Aboriginal Peoples?” “What was the *Marshall* decision? How has it affected the way Canadians view Indigenous rights?” “What are some ways in which the relationship between the federal/provincial governments and Indigenous people has begun to change as a result of the Truth and Reconciliation Commission’s calls to action?” “Why was the appointment of Justin Trudeau’s cabinet in 2015 historically significant for First Nations, Métis, and Inuit people?”

**E2.3** describe some significant issues and/or developments that have affected the relationship between Canada and the United States since 1982 (e.g., *cruise missile testing, the softwood lumber conflict, free trade agreements, Canadian cultural nationalism, American branch plants, Arctic sovereignty, 9/11, border security, the Omar Khadr case*), and explain some changes that have resulted from them

**Sample question:** “What changes in the relationship between Canada and the United States resulted from 9/11?”

### E3. Identity, Citizenship, and Heritage

**FOCUS ON:** *Historical Significance; Cause and Consequence*

By the end of this course, students will:

**E3.1** describe ways in which some individuals and organizations have contributed to society and politics and to the development of identities, citizenship, and/or heritage in Canada since 1982 (e.g., *Lincoln Alexander, Louise Arbour, Shawn Atleo, Maude Barlow, Tony Belcourt, Cindy Blackstock, Lucien Bouchard, June Callwood, Jean Chrétien, Matthew Coon Come, Romeo Dallaire, Phil Fontaine, Stephen Harper, Michaëlle Jean, Craig Kielburger, Shannen Koostachin, Brian Mulroney, Jeanne Sauv  , Murray Sinclair, Jean Vanier; the Assembly of First Nations, Inuit Tapiriit Kanatami, the Reform Party, the Romanow Commission*)

**Sample questions:** “What are some of the contributions Stephen Lewis has made to Canadian society and politics and to Canadian identity?” “What action has Shannen Koostachin taken to raise public awareness of the realities facing Indigenous youth attending federally funded schools on reserves?”

**E3.2** describe ways in which individuals, organizations, and/or events have contributed to the arts and/or popular culture in Canada since 1982 (e.g., *Susan Aglukark, Donovan Bailey, Adam Beach, Edward Burtynsky, Austin Clarke, Sidney Crosby, Celine Dion, Drake, Michael J. Fox, Nelly Furtado, Waneek Horn-Miller, Karen Kain, Wab Kinew, K’naan, Avril Lavigne, Rick Mercer, Michael Ondaatje, Jordin Tootoo, Shania Twain, Hayley Wickenheiser; A Tribe Called Red, Arcade Fire, Digging Roots, the NHL, the Tragically Hip; the Calgary Stampede, Caribana [Caribbean Carnival], the Calgary and Vancouver Olympics, Cirque du Soleil, Indspire Awards*), and explain their significance for cultural identities, including multiculturalism, in Canada

**Sample questions:** “What did the opening and closing ceremonies at the Vancouver Olympics reveal about Canadian identity? Did the ceremonies put forward accurate portrayals of Canada and people in Canada? Why might some communities have been offended by these ceremonies?” “What can the humour of Howie Miller teach non-First Nations Canadians about First Nations issues?”

**E3.3** explain the significance of responses by Canada and Canadians to some key international events and/or developments since 1982 (e.g., *the Gulf War; events in Bosnia, Somalia, Rwanda, Syria; the War on Terror and the mission in Afghanistan; famine in Ethiopia; the AIDS crisis; the refugee crisis in Darfur; natural disasters such as the Indian Ocean tsunami or the earthquake in Haiti; climate change*)

**Sample questions:** “What was Canada’s involvement in Rwanda during the time of the genocide? What effect did this involvement have in Rwanda, Canada, and internationally?”

**E3.4** describe some of the ways in which Canada and people in Canada have, since 1982, acknowledged the consequences of and/or commemorated past events, with a focus on human tragedies and human rights violations that occurred in Canada or elsewhere in the world (e.g., *apologies for the Chinese head tax, the internment of Japanese Canadians, and/or the residential school system; memorial days such as Remembrance Day, Persons Day; government recognition of the Holocaust and Holodomor and of genocide in Armenia, Rwanda, and/or Srebrenica; the creation of the Canadian Museum for Human Rights and/or the memorial to Africville; Black History or Aboriginal History Month; Jordan’s Principle*), and explain the significance of these acknowledgments/commemorations for identities and/or heritage in Canada

*Sample questions:* “When you review various types of commemorations, what criteria do you think have determined whether an event is commemorated in Canada? What do these criteria tell you about identities and/or heritage in Canada?” “What was the purpose of the Truth and Reconciliation Commission? Do you think the commission was an effective response to the history of residential schools? Why, or why not?”

# CIVICS (POLITICS)

## INTRODUCTION

Politics is about how societies are governed, how public policy is developed, and how power is distributed. Civics is a branch of politics that focuses on the rights and responsibilities associated with citizenship, the role of governments, and how people can get involved in the political process and take action on issues of civic importance. The study of civics supports students in becoming informed, engaged, and active citizens in the various communities to which they belong, whether at the local, national, or global level.

## Strands

The Grade 10 civics (politics) course is organized into the following three strands.

- A. Political Inquiry and Skill Development:** This strand highlights the political inquiry process and the skills that students need in order to become active and informed citizens who participate purposefully in civic affairs and can influence public decision making. Students will develop their ability to use the political inquiry process and the concepts of political thinking when analysing issues, events, and developments of civic importance. They will apply this process and related skills in a variety of contexts throughout the course, thereby enhancing their ability to solve problems and to be critically thoughtful and collaborative citizens in the various communities to which they belong.
- B. Civic Awareness:** This strand focuses on the beliefs, values, rights, and responsibilities associated with democratic citizenship and governance. Students will develop their understanding of how people's values and beliefs influence both their civic actions and their positions on local, national, and/or global issues. Students will explore, in the context of various issues, the roles and responsibilities of the different levels and branches of government in Canada and will determine ways in which they themselves can responsibly and effectively participate in political and civic decision making, both in Canada and the world.
- C. Civic Engagement and Action:** In this strand, students will explore ways in which people in different communities express their beliefs and values, voice their positions on issues of civic importance, and contribute to the common good. In addition, students will assess whether the perspectives and contributions of different people are equally valued. Students will also explore the civic contributions of various non-governmental organizations and other groups. In this strand, students will have opportunities to express their own ideas and perspectives and to make informed judgements by planning a course of action relating to a civic issue, event, or development of personal interest.

### Citizenship Education

The expectations in the Grade 10 civics (politics) course provide numerous opportunities for students to explore the four elements of the citizenship education framework: identity, attributes, structures, and active participation (see page 10).

## The Concepts of Political Thinking

The four concepts of political thinking – political significance, objectives and results, stability and change, and political perspective – underpin thinking and learning in all politics courses in the Canadian and world studies program. At least one concept of political thinking is identified as the focus for each overall expectation in strands B and C of the Grade 10 civics (politics) course. The following chart describes each concept and provides sample questions related to it. These questions highlight opportunities for students to apply a specific concept in their studies. (See page 13 for a fuller discussion of the concepts of disciplinary thinking.)

Political Significance
<p>This concept requires students to determine the importance of things such as government policies; political or social issues, events, or developments; and the civic actions of individuals or groups. Political significance is generally determined by the impact of a government policy or decision on the lives of citizens, or by the influence that civic action, including the civic action of students, has on political or public decision making. Students develop their understanding that the political significance of something may vary for different groups of people.</p> <p><b>Related Questions*</b></p> <ul style="list-style-type: none"> <li>– What do you think is the most important reason for engaging in civic action? (B1.3)</li> <li>– What criteria do you think should be used when deciding which events or people to formally recognize? (C2.2)</li> <li>– Why do some people not vote? What is the significance of their lack of participation for Canadian citizenship? (B1.2)</li> </ul>
Objectives and Results
<p>This concept requires students to explore the factors that lead to events, policies, decisions, and/or plans of action of civic and political importance. It also requires students to analyse the effects of civic and political actions and to recognize that government policies and decisions as well as responses to civic issues can have a range of effects on various groups of people. A comparison of the initial purpose or goals of a policy or decision and its effects enables students to distinguish between intended and unintended results.</p> <p><b>Related Questions</b></p> <ul style="list-style-type: none"> <li>– How would you know if your plan were achieving its objectives? (C3.4)</li> <li>– Why do you think that, in order to earn a secondary school diploma in Ontario, students must complete community involvement hours? (B3.2)</li> <li>– What was the objective of the UN Declaration of Human Rights? Do all people enjoy the rights embodied in that document? (B3.4)</li> </ul>

(continued)

\* The “related questions” are drawn directly from the overview chart that precedes the Grade 10 civics (politics) course and from the sample questions that accompany many specific expectations.

### Stability and Change

This concept requires students to analyse how and why political institutions and government policies change over time or why they remain the same. Students will determine how political structures and decisions contribute to stability and change within various local, national, and/or global communities. They analyse ways in which various institutions, groups, or individuals resist or support change, as well as how a variety of factors, including civic action, can contribute to change or stability. Students also apply this concept to help them determine when change is necessary and how they themselves can contribute to change or help ensure stability through civic action.

#### Related Questions

- If you were concerned about a social issue in publicly funded schools, would it be more appropriate to contact your MP, your MPP, or your city or band councillor? Why? (B2.2)
- What contributions can I make to my community? (Overview)
- What impact can consumers' choices have on the natural environment? (C1.3)

### Political Perspective

This concept requires students to analyse the beliefs and values of various groups, including different governments, in local, national, and/or global communities. Students analyse how these beliefs and values, as well as political ideologies, can affect one's position on or response to issues of civic importance. Students also develop their awareness of how stakeholder groups with different perspectives can influence the policies and platforms of political parties and the decisions of governments.

#### Related Questions

- How might you determine whether your student council represents the perspectives of all students in the school? (A1.5)
- How important a role do you think the media play in swaying public opinion on social/political issues? Whose opinions do you think the media reflect? (B2.4)
- Why might some people's perspectives be valued more than those of others? (C2.1)

## The Political Inquiry Process

In each course in politics in the Canadian and world studies curriculum, strand A focuses explicitly on the political inquiry process, guiding students in their investigations of issues, events, developments, policies, and/or plans of action. This process is *not* intended to be applied in a linear manner: students will use the applicable components of the process in the order most appropriate for them and for the task at hand. Although strand A covers all of the components of the inquiry process, it is important to note that students apply skills associated with the inquiry process throughout the content strands in each course. (See page 27 for a fuller discussion of the inquiry process in the Canadian and world studies program.)

The following chart identifies ways in which students may approach each of the components of the political inquiry process.

Formulate Questions
<p>Students formulate questions:</p> <ul style="list-style-type: none"> <li>– to explore various issues, events, developments, and/or policies that are related to the overall expectations in order to identify the focus of their inquiry</li> <li>– to help them determine which key concept (or concepts) of political thinking is relevant to their inquiry</li> <li>– that reflect the selected concept(s) of political thinking</li> <li>– to help them focus on the kind of evidence they need to gather</li> <li>– to develop criteria that they will use in evaluating policy, data, evidence, and/or information; in making judgments, decisions, or predictions; in reaching conclusions; in formulating and/or in evaluating plans of action</li> </ul>
Gather and Organize
<p>Students:</p> <ul style="list-style-type: none"> <li>– collect relevant qualitative and quantitative data, evidence, and/or information from a variety of primary and secondary sources,<sup>a</sup> including visuals<sup>b</sup> and community resources<sup>c</sup></li> <li>– determine if their sources are accurate and reliable</li> <li>– identify the purpose and intent of each source</li> <li>– identify the points of view in the sources they have gathered</li> <li>– use a variety of methods to organize the data, evidence, and/or information they have gathered</li> <li>– record the sources of the data, evidence, and/or information they are using</li> <li>– decide whether they have collected enough data, evidence, and/or information for their inquiry</li> </ul>

(continued)

a. Primary sources may include, but are not limited to, census data, interviews, legislation, letters, photographs, policy documents, speeches, and treaties. Secondary sources may include, but are not limited to, documentaries and other films, editorials, news articles, political cartoons, reference books, song lyrics, and works of art. Depending on the context, digital sources, including social media and websites, can be either primary or secondary sources.

b. Visuals may include, but are not limited to, photographs, media clips, maps, models, graphs, and diagrams.

c. Community resources may include, but are not limited to, a range of resources from community groups and associations, government offices, and non-governmental organizations.



Interpret and Analyse
<p>Students:</p> <ul style="list-style-type: none"> <li>– analyse data, evidence, and information, applying the relevant concepts of political thinking (see preceding chart)</li> <li>– use different types of tools to help them interpret and analyse their data, evidence, and/or information</li> <li>– identify the key points or ideas in each source</li> <li>– analyse graphs, charts, and/or diagrams</li> <li>– construct graphs, charts, and/or diagrams to help them analyse the issue, event, development, and/or policy they are investigating and/or the plan of action they are developing</li> <li>– analyse their sources to determine the importance of an issue, event, development, plan of action, and/or policy for communities, individuals, and/or groups, including different groups</li> <li>– identify biases in individual sources</li> <li>– determine if all points of view are represented in the source materials as a whole, and which, if any, are missing</li> </ul>
Evaluate and Draw Conclusions
<p>Students:</p> <ul style="list-style-type: none"> <li>– synthesize data, evidence, and/or information, and make informed, critical judgements based on that data, evidence, and/or information</li> <li>– determine the short- and long-term impact of an issue, event, development, and/or policy on people within various local, national, and/or global communities</li> <li>– reach conclusions about their inquiry and support them with their data, evidence, and/or information</li> <li>– make predictions based on their data, evidence, and/or information</li> <li>– determine the ethical implications of an issue, policy, or action</li> <li>– use criteria to determine appropriate forms of action, or to evaluate the impact of a plan of action</li> </ul>
Communicate
<p>Students:</p> <ul style="list-style-type: none"> <li>– use appropriate forms (e.g., oral, visual, written, kinaesthetic) for different audiences and purposes</li> <li>– communicate their arguments, conclusions, predictions, and/or plans of action clearly and logically</li> <li>– use terminology and concepts related to politics and citizenship education correctly and effectively</li> <li>– cite sources, using appropriate forms of documentation</li> </ul>



# Civics and Citizenship, Grade 10

Open

CHV20

This course explores rights and responsibilities associated with being an active citizen in a democratic society. Students will explore issues of civic importance such as healthy schools, community planning, environmental responsibility, and the influence of social media, while developing their understanding of the role of civic engagement and of political processes in the local, national, and/or global community. Students will apply the concepts of political thinking and the political inquiry process to investigate, and express informed opinions about, a range of political issues and developments that are both of significance in today's world and of personal interest to them.

**Prerequisite:** None

## OVERVIEW

The course has three strands. Instruction and learning related to the expectations in strand A are to be interwoven with instruction and learning related to expectations from the other two strands. Strand A must not be seen as independent of the other strands. Student achievement of the expectations in strand A is to be assessed and evaluated *throughout* the course.

### Strand A

A: Political Inquiry and Skill Development
Overall Expectations
<b>A1. Political Inquiry:</b> use the political inquiry process and the concepts of political thinking when investigating issues, events, and developments of civic importance
<b>A2. Developing Transferable Skills:</b> apply in everyday contexts skills developed through investigations related to civics and citizenship education, and identify some careers in which civics and citizenship education might be an asset

(continued)

## Overview *(continued)*

Throughout this course, when planning instruction, teachers should weave the expectations from strand A in with the expectations from strands B and C. Aspects of the citizenship education framework found on page 10 should also be considered when planning instruction.

## Strands B–C

Overall Expectations and Related Concepts of Political Thinking	Big Ideas*	Framing Questions*
<b>B: Civic Awareness</b>		
<b>B1. Civic Issues, Democratic Values:</b> describe beliefs and values associated with democratic citizenship in Canada, and explain how they are related to civic action and to one's position on civic issues ( <b>FOCUS ON:</b> <i>Political Significance; Political Perspective</i> )	In a democratic society, people have different beliefs, which influence their position and actions with respect to issues of civic importance.	What is the relationship between people's beliefs and values and their positions on civic issues?  Why is it important to understand how political structures and processes work?
<b>B2. Governance in Canada:</b> explain, with reference to a range of issues of civic importance, the roles and responsibilities of various institutions, structures, and figures in Canadian governance ( <b>FOCUS ON:</b> <i>Stability and Change; Political Perspective</i> )	An understanding of how various levels of government function and make decisions enables people to effectively engage in the political process.	What are some ways in which I can make my voice heard within the political process?
<b>B3. Rights and Responsibilities:</b> analyse key rights and responsibilities associated with citizenship, in both the Canadian and global context, and some ways in which these rights are protected ( <b>FOCUS ON:</b> <i>Political Significance; Objectives and Results</i> )	People living in Canada have rights and freedoms based in law; at the same time, they have responsibilities associated with citizenship.	In what ways does the Canadian Charter of Rights and Freedoms protect me? What responsibilities come with these rights?
<b>C: Civic Engagement and Action</b>		
<b>C1. Civic Contributions:</b> analyse a variety of civic contributions, and ways in which people can contribute to the common good ( <b>FOCUS ON:</b> <i>Political Significance; Stability and Change</i> )	Individuals and groups of people can make a difference in the world.	Why should I care about issues in my community?  What contributions can I make to my community?
<b>C2. Inclusion and Participation:</b> assess ways in which people express their perspectives on issues of civic importance and how various perspectives, beliefs, and values are recognized and represented in communities in Canada ( <b>FOCUS ON:</b> <i>Political Significance; Political Perspective</i> )	People, including students, have various ways to voice their points of view within the many communities to which they belong.	What is the most effective way to voice my position on a civic issue?  What can I do to make a difference in the world?
<b>C3. Personal Action on Civic Issues:</b> analyse a civic issue of personal interest and develop a plan of action to address it ( <b>FOCUS ON:</b> <i>Political Significance; Objectives and Results</i> )	Through the critical analysis of issues and the creation of plans of action, students can contribute to the common good.	How will I know whether my actions have been effective?

\* See page 14 for a discussion of the purpose of big ideas and framing questions.

# A. POLITICAL INQUIRY AND SKILL DEVELOPMENT

## OVERALL EXPECTATIONS

Throughout this course, students will:

- A1. Political Inquiry:** use the political inquiry process and the concepts of political thinking when investigating issues, events, and developments of civic importance;
- A2. Developing Transferable Skills:** apply in everyday contexts skills developed through investigations related to civics and citizenship education, and identify some careers in which civics and citizenship education might be an asset.

## SPECIFIC EXPECTATIONS

### A1. Political Inquiry

Throughout this course, students will:

- A1.1** formulate different types of questions to guide investigations into issues, events, and/or developments of civic importance (e.g., factual questions: *What form of government does Canada have? What are my rights and responsibilities as a citizen in my local community?*; comparative questions: *What are the similarities and differences in the positions of stakeholder groups on an issue related to local transit in Ontario?*; causal questions: *If I were to implement this plan of action, what impact might it have on my community?*)
- A1.2** select and organize relevant evidence, data, and information on issues, events, and/or developments of civic importance from a variety of primary and secondary sources (e.g., primary sources: *interviews, photographs, podcasts, speeches, statistics, surveys*; secondary sources: *investigative news stories, textbooks, most websites*), ensuring that their sources reflect multiple perspectives  
*Sample questions:* “If you were advocating for recreational space for youth in your community, why would it be important to gather statistics on the number of people in the local community and their ages? Are there people you might interview about the need for such a space?” “Why might political cartoons be a good source on the ideas of a political leader and the public response to those ideas?”
- A1.3** assess the credibility of sources relevant to their investigations (e.g., *the reliability of the evidence presented in a source; the purpose, intended audience, and context of a source; the bias, values, and expertise of the speaker/author*)  
*Sample questions:* “Does this author back up his or her position with specific evidence or data, or are the claims unsupported?” “What criteria might you use to help you determine if a source is credible?” “Are there reasons to think that this source might be biased in some way?” “What ideas are presented in this interview or news story? Do your other sources on this issue support these ideas? If not, which source do you think is the most reliable? Why?”
- A1.4** interpret and analyse evidence, data, and information relevant to their investigations using various tools, strategies, and approaches appropriate for political inquiry (e.g., *use a 5W’s chart to help them begin to analyse the information they have gathered; analyse their evidence for the points of view of different stakeholders and record them on a web chart; assess the validity and rank the importance of the points made in their sources; collaborate with their peers to discuss, clarify, and compare positions on the issue*)  
*Sample questions:* “What type of tool might help you clarify the different positions on an issue?” “If you were talking to people who were extremely passionate about an issue, what questions might you ask to get them to clarify and build on their ideas about the issue?” “What approaches might one take to include ideas on an issue from people whose voices are not always heard?”

**A1.5** use the concepts of political thinking (i.e., political significance, objectives and results, stability and change, political perspective) when analysing and evaluating evidence, data, and information and formulating conclusions and/or judgments about issues, events, and/or developments of civic importance (e.g., use the concept of political significance when analysing the impact of the Canadian Charter of Rights and Freedoms on Canadian society; use the concept of objectives and results when analysing the intended and unintended impact of a community-planning decision; use the concept of stability and change when analysing the results of an election; use the concept of political perspective when evaluating the positions of different stakeholder groups on how best to foster healthy schools and determining the values and beliefs that underpin these positions)

**Sample questions:** “What does the term *digital footprint* mean? Why is your digital footprint significant? Do you think that the information you share on social media with your peers would be interpreted differently by a potential employer? Do you think the employer has a right to access or restrict such information?” “What are the objectives of the plan of action you are proposing to address an issue in your school or local community? What did your investigation reveal about unintended results of other courses of action that were implemented to address this issue?” “What criteria can be used to assess the changes that have resulted from this decision taken by a local council?” “How might you determine whether your student council represents the perspectives of all students in the school?”

**A1.6** evaluate and synthesize their findings to formulate conclusions and/or make informed judgements or predictions about the issues, events, and/or developments they are investigating

**Sample questions:** “When you assess the information you have gathered, what factor or factors stand out as being particularly important? What influence do these factors have on your judgements with respect to this issue?” “What have you learned from your investigation of this event? Has your view of it changed over the course of your investigation? If so, why?”

**A1.7** communicate their ideas, arguments, and conclusions using various formats and styles, as appropriate for the intended audiences and purpose (e.g., a blog on the results of environmental action in their school; a web page on a social justice

issue such as child poverty and links to relevant organizations; a discussion group on how best to foster healthy schools; a poster that highlights people’s civic responsibilities; a news report on a plan to build a big box store in the local community; a presentation on cultural celebrations of various people within the local community; a protest song to commemorate or raise awareness about a violation of human rights; a petition calling for clean, safe water on First Nations reserves; a debate on alternative electoral processes; a work of art on the value of volunteer work)

**A1.8** use accepted forms of documentation (e.g., footnotes or endnotes, author/date citations, bibliographies, reference lists) to acknowledge different types of sources (e.g., articles, blogs, books, films or videos, songs, websites)

**A1.9** use appropriate terminology when communicating the results of their investigations (e.g., vocabulary specific to their topics; terms related to civics/citizenship education and to the concepts of political thinking)

## A2. Developing Transferable Skills

Throughout this course, students will:

**A2.1** describe some ways in which political inquiry can help them develop skills, including the essential skills in the Ontario Skills Passport (e.g., skills related to reading texts, writing, computer use, oral communication, numeracy, decision making, problem solving) and those related to the citizenship education framework,\* that can be transferred to the world of work and/or to everyday life

**A2.2** demonstrate in everyday contexts attributes, skills, and work habits developed in civics and citizenship education (e.g., listen respectfully to the position of others during conversations; collaborate with peers to organize an event in their school; assess the credibility of information in a news story; voice informed opinions when engaging in discussions)

**Sample question:** “What are some ways in which you might demonstrate attributes that are included in the citizenship education framework?”

**A2.3** apply the concepts of political thinking when analysing current events and issues involving Canada and the world (e.g., to understand the significance of an issue currently before a human rights commission; to analyse

\* The citizenship education framework appears on page 10.



*the motives and objectives of a group proposing a course of action in response to a current social, political, or environmental issue; to predict changes that a new government might make; to understand the perspectives of people engaged in a protest currently in the news)*

**Sample questions:** “Why might it be useful to apply the concept of stability and change when considering what impact the election of a new president of the United States might have on Canada?” “When analysing the importance of the Olympic Games, why should you consider their political significance?” “Why might it be useful to apply the concept of political perspective when analysing the purpose of and responses to a political summit such as the G20?”

**A2.4** identify some careers in which civics and citizenship education might be useful (e.g., *Indigenous community development worker, civil servant, engineer, fundraiser for a charitable organization, international aid worker, lawyer, municipal councillor, news reporter, researcher for a non-governmental organization [NGO]*)

## B. CIVIC AWARENESS

### OVERALL EXPECTATIONS

By the end of this course, students will:

- B1. Civic Issues, Democratic Values:** describe beliefs and values associated with democratic citizenship in Canada, and explain how they are related to civic action and to one's position on civic issues  
(**FOCUS ON:** *Political Significance; Political Perspective*)
- B2. Governance in Canada:** explain, with reference to a range of issues of civic importance, the roles and responsibilities of various institutions, structures, and figures in Canadian governance  
(**FOCUS ON:** *Stability and Change; Political Perspective*)
- B3. Rights and Responsibilities:** analyse key rights and responsibilities associated with citizenship, in both the Canadian and global context, and some ways in which these rights are protected  
(**FOCUS ON:** *Political Significance; Objectives and Results*)

### SPECIFIC EXPECTATIONS

#### B1. Civic Issues, Democratic Values

**FOCUS ON:** *Political Significance; Political Perspective*

By the end of this course, students will:

- B1.1** describe some civic issues of local, national, and/or global significance (*e.g., bullying in schools; violence in local communities; accessibility of buildings in the local community for people with disabilities; availability of recreational facilities in the local community; casino development; voter turnout; issues related to freedom of information, taxation, water quality; Aboriginal treaty rights; the impact of consumer choices; human rights issues related to racism, child labour, the rights of girls or women, homophobia, or classism; intervention in foreign conflict*), and compare the perspectives of different groups on selected issues

**Sample questions:** "What are some privacy or safety issues related to the use of social media? Do they have an impact on the way you or your friends use social media?" "What positions are being voiced in your community with respect to a local transit issue?" "What are some different views on the privatization of aspects of the health care system in Canada?" "What are some considerations that affect people's consumer choices? Why might people who favour free trade and those who favour fair trade differ in the criteria they use when making these choices?"

- B1.2** describe fundamental beliefs and values associated with democratic citizenship in Canada (*e.g., rule of law; freedom of expression; freedom of religion; equity; respect for human dignity, the rights of others, and the common good; social responsibility*), and explain ways in which they are reflected in citizen actions (*e.g., voting, various protest movements and/or demonstrations, various ethnic or religious celebrations or observances, organ donation, environmental stewardship, volunteer work*)

**Sample questions:** "In what ways does volunteering reflect beliefs associated with citizenship in Canada?" "What is the difference between *equity* and *equality*? Why is equity important?" "What beliefs/values underpin movements initiated by Indigenous people, such as Idle No More? What is the significance of the actions taken by the people in this movement?" "Why do some people not vote? What is the significance of their lack of participation for Canadian citizenship?" "In what ways has Canada's history as a British colony influenced the beliefs/values associated with Canadian citizenship?"

- B1.3** explain why it is important for people to engage in civic action, and identify various reasons why individuals and groups engage in such action (*e.g., to protect their rights or the rights of others, to advocate for change, to protect existing programs, to protect the environment, to*

*achieve greater power or autonomy, out of a sense of social justice or social responsibility, for ethical reasons, to protect their own interests)*

**Sample questions:** “What do you think is the most important reason for engaging in civic action? Why?” “What role would civic action have in your ideal community? What would communities be like if people did not engage in such action?”

- B1.4** communicate their own position on some issues of civic importance at the local, national, and/or global level (*e.g., equitable availability of extracurricular activities in schools, a local land-use conflict, poverty or violence in the local community, electoral reform, the debate over Sharia law in Ontario, the level of Canada’s contribution to international development assistance, food security, Aboriginal land rights*), explaining how their position is influenced by their beliefs/values

## B2. Governance in Canada

**FOCUS ON:** *Stability and Change; Political Perspective*

By the end of this course, students will:

- B2.1** identify the political parties in Canada and their position on the political spectrum, and explain how the beliefs/values that underpin them may affect their perspectives on and/or approaches to issues of civic importance (*e.g., social programs, taxation, trade, Indigenous self-government, the status of Quebec, economic development, environmental protection, criminal justice*)

**Sample questions:** “What are the positions of different political parties on the issue of climate change? How might you account for the differences?” “Why was the Conservative Party of Canada created? In what ways is it similar to or different from the former Progressive Conservative Party?” “Where would you place the Green Party on the political spectrum? Why?” “What are the positions of different political parties on ‘inherent’ Aboriginal rights? What do these differences tell you about differences in beliefs/values in these parties?”

- B2.2** explain, with reference to issues of civic importance, the roles and responsibilities of different levels of government in Canada (*e.g., federal, provincial and territorial, municipal, Indigenous governments*) and of key figures at each level (*e.g., members of Parliament [MPs], senators, members of provincial Parliament [MPPs], premiers, mayors, municipal councillors, chiefs, band councillors, Métis Senators*)

**Sample questions:** “If you were concerned about a social issue in publicly funded schools,

would it be more appropriate to contact your MP, your MPP, or your city or band councillor? Why?” “Given his or her responsibilities, what issues would you like to discuss with your municipal or band councillor?” “Why might different levels of government have different perspectives on the same issue? In what ways might these diverse perspectives complicate the policy-making process? In what ways might they enhance it?” “What are the main issues in current debates over Senate reform?”

- B2.3** describe, with reference to both the federal and provincial governments, the functions of the three branches of government in Canada (*i.e., executive, legislative, judicial*) and the roles/responsibilities of key positions within governments (*e.g., the governor general, a lieutenant governor, the prime minister, a premier, cabinet ministers, a leader of the opposition, a speaker, the chief justice of the Supreme Court of Canada*), and explain how the branches help ensure political and social stability in Canada

**Sample questions:** “Who delivers the speech from the throne in federal and/or provincial parliaments? Why? What issues were highlighted in the latest throne speech in Ontario?” “What responsibilities do cabinet ministers have?” “Why is it important that the judicial branch operate independently of the other two branches?” “What roles do the three branches play in the law-making process in Canada? What are some ways in which you could participate in that process?” “Based on your inquiry, what similarities and differences do you see in the branches of government in Canada and Britain?”

- B2.4** explain, with reference to issues of civic importance, how various groups and institutions (*e.g., lobby groups, unions, the media, NGOs, international organizations*) can influence government policy

**Sample questions:** “What is a current issue on which groups are lobbying the government? Whose interests do these groups represent?” “How important a role do you think the media play in swaying public opinion on social/political issues? Whose opinions do you think the media reflect?” “Why has Amnesty International been investigating missing and murdered women in Canada? Who are these women? What does this NGO hope to accomplish by drawing attention to their disappearance?”

- B2.5** identify Canada’s form of government and demonstrate an understanding of the process of electing governments in Canada (*e.g., the first-past-the-post electoral system, riding distribution,*

*voters' lists, how elections are called, campaigning, candidates' and party leaders' debates, advance polls, election day procedures)*

**Sample questions:** "What is the significance of the queen in Canada's constitutional monarchy?" "What is the process by which someone becomes premier or prime minister?" "Why does the popular vote not always give a clear indication of the number of seats won by the parties?" "What role does Elections Canada play in the election process?" "What impact can technology have on electoral processes?" "How and why might a majority government govern differently than a minority government?" "Given its geographic size and population, do you think your region's ridings are fairly distributed?" "Do you think that polls published in the media can have an impact on election results? Why or why not?"

### B3. Rights and Responsibilities

**FOCUS ON:** *Political Significance; Objectives and Results*

By the end of this course, students will:

**B3.1** demonstrate an understanding that Canada's constitution includes different elements, and analyse key rights of citizenship in the constitution, with particular reference to the Canadian Charter of Rights and Freedoms (*e.g., voting rights, mobility rights, language rights, equality rights, right to privacy, rights of Aboriginal people*)

**Sample questions:** "Besides the Charter of Rights and Freedoms, what other documents are part of the Canadian constitution?" "What section of the Charter do you value the most? Why?" "What is the difference between a freedom, a right, and a responsibility?" "What are some challenges to Canadians' right to privacy presented by new technological developments?" "What rights of citizenship are represented by a passport? Should the government be able to rescind a passport?"

**B3.2** analyse key responsibilities associated with Canadian citizenship (*e.g., voting, obeying the law, paying taxes, jury duty, protecting Canada's cultural heritage and natural environment, helping others in the community*)

**Sample questions:** "Should people be fined if they do not vote? Why or why not?" "At what age do you think people are responsible enough to vote?" "Why is paying one's taxes an important responsibility?" "Why do you think that, in order to earn a secondary school diploma in

Ontario, students must complete community involvement hours?" "What are your responsibilities as a Canadian citizen? In what ways will these change or develop as you get older?"

**B3.3** explain how the judicial system and other institutions and/or organizations help protect the rights of individuals and the public good in Canada (*e.g., with reference to the courts, trials, juries, sentencing circles, human rights tribunals, commissions of inquiry, the media, NGOs and social enterprises*)

**Sample questions:** "What supports and mechanisms are in place in your school and/or local community to help protect the rights of individuals?" "What protections does the Canadian legal system offer you? What impact does it have on your everyday life?" "What responsibility does the community have for integrating offenders back into society?" "What is the role of the Children's Aid Society?" "Are there groups of people that need more support than others to protect their rights? Why or why not?"

**B3.4** analyse rights and responsibilities of citizenship within a global context, including those related to international conventions, laws, and/or institutions (*e.g., the United Nations Universal Declaration of Human Rights [1948], Convention on the Rights of the Child [1989], Rio Declaration on Environment and Development [1992], or Declaration on the Rights of Indigenous Peoples [2007]; the International Criminal Court*)

**Sample questions:** "What are the main similarities between the rights and responsibilities associated with citizenship in Canada and those associated with citizenship in the global community? What are the main differences?" "What role or responsibility does an individual have in helping to protect the global commons such as air and water?" "Does digital technology present a challenge to the rights and/or responsibilities of citizenship in a global context? Why or why not?" "What was the objective of the UN Declaration of Human Rights? Do all people enjoy the rights embodied in that document?" "What are the issues surrounding Haudenosaunee passports?"

**B3.5** identify examples of human rights violations around the world (*e.g., hate crimes, torture, genocide, political imprisonment, recruitment of child soldiers, gender-based violence and discrimination*), and assess the effectiveness of responses to such violations (*e.g., media scrutiny; government sanctions; military intervention;*

*regional, national, and/or international tribunals; boycotts; pressure from governments and/or NGOs)*

**Sample questions:** “What legal processes are in place to address human rights issues, both in Canada and globally?” “What are some of the issues addressed by the Ontario Human Rights Commission? Has the commission dealt with any cases that have a direct impact on you and/or your community?” “What are some NGOs that deal with human rights abuses? What limitations do they face?” “Should people be charged with war crimes if they were ‘just following orders’?” “What criteria should be used to determine whether Canadians should actively respond to human rights abuses in other countries?”



# C. CIVIC ENGAGEMENT AND ACTION

## OVERALL EXPECTATIONS

By the end of this course, students will:

- C1. Civic Contributions:** analyse a variety of civic contributions, and ways in which people can contribute to the common good (**FOCUS ON:** *Political Significance; Stability and Change*)
- C2. Inclusion and Participation:** assess ways in which people express their perspectives on issues of civic importance and how various perspectives, beliefs, and values are recognized and represented in communities in Canada (**FOCUS ON:** *Political Significance; Political Perspective*)
- C3. Personal Action on Civic Issues:** analyse a civic issue of personal interest and develop a plan of action to address it (**FOCUS ON:** *Political Significance; Objectives and Results*)

## SPECIFIC EXPECTATIONS

### C1. Civic Contributions

**FOCUS ON:** *Political Significance; Stability and Change*

By the end of this course, students will:

**C1.1** assess the significance, both in Canada and internationally, of the civic contributions of some individuals (e.g., *Shawn Atleo, Maude Barlow, Mohandas K. Gandhi, Elijah Harper, Craig Kielburger, Martin Luther King, Jr., Cardinal Paul Émile Léger, Stephen Lewis, Nelson Mandela, Aung San Suu Kyi, David Suzuki*) and organizations, including NGOs and social enterprises (e.g., *Amnesty International, L'Arche Canada, Democracy Watch, Free the Children, International Federation of Red Cross and Red Crescent Societies, Inuit Circumpolar Conference, Métis Nation of Ontario, Ontario Federation of Indian Friendship Centres, Samara Canada, Spread the Net, SoChange, World Wildlife Federation, Youth in Philanthropy Canada*)

**C1.2** describe a variety of ways in which they could make a civic contribution at the local, national, and/or global level (e.g., *by serving on student council or on an organization offering support to students who are being bullied; by reducing the amount of solid waste they generate and by properly disposing of hazardous waste; by volunteering at a food bank, retirement home, hospital, humane society, or recreational facility in the local community; by donating blood; by participating in community clean-up or tree-planting days; by raising funds for a charity or a development*

*NGO; by writing to or speaking with their city or band councillor, MPP, or MP to request action on an issue)*

**Sample questions:** “When you brainstormed with other students, what are some ways you identified for making a contribution in the community? Which of these appeal to you? Why?” “Are there food banks and/or community gardens in your community? What are some ways in which you could get involved with them?”

**C1.3** explain how various actions can contribute to the common good at the local, national, and/or global level (e.g., *engaging in a non-violent protest can heighten awareness of an issue and pressure for change; buying fair trade products helps ensure that producers are fairly compensated for the products they produce; the organized boycotting of products can pressure corporations to change irresponsible practices; donating to a development NGO can help improve the lives of people affected by a natural disaster or enhance health care in developing countries; canvassing or fundraising for an organization that works for social justice can raise people’s awareness of issues related to inequity or human rights abuses*)

**Sample questions:** “In what ways does using public transit, biking, or carpooling contribute to the common good?” “What are some significant changes in your local community that have been brought about as a result of citizen action?” “What impact can consumers’ choices have on the natural environment?”



## C2. Inclusion and Participation

**FOCUS ON:** *Political Significance; Political Perspective*

By the end of this course, students will:

**C2.1** analyse ways in which various beliefs, values, and perspectives are represented in their communities (e.g., with reference to different racial, ethnic, and/or religious groups; people with various political beliefs and/or social values; people from different age groups; men and women; First Nations, Inuit, or Métis people; people in lesbian, gay, bisexual, and transgender [LGBT] communities; environmentalists; people with disabilities; people from different professions and/or economic circumstances; recent immigrants and new Canadians; business people), and assess whether all perspectives are represented or are valued equally

**Sample questions:** “What are some ways in which various student perspectives are represented in our school? Do you feel like your voice is heard?” “What cultural festivals are celebrated in your community? Whose beliefs and values do they reflect?” “What religious structures are in your community? What do they tell you about respect for diversity in the community?” “Why might some people’s perspectives be valued more than those of others? What are some ways to address this inequity? What action could be taken to ensure that marginalized voices are heard?”

**C2.2** describe ways in which some events, issues, people, and/or symbols are commemorated or recognized in Canada (e.g., by war memorials and Remembrance Day services; through citizenship awards such as the Order of Canada; by depicting them on postage stamps or currency; in museums; on public plaques; by naming streets or public spaces after them; through observances such as Black History Month, Fête nationale du Québec, Flag Day, Holocaust Day, Holodomor Memorial Day, Human Rights Day, Labour Day, National Aboriginal Day, Persons Day, Pride Week, Victoria Day), and analyse the significance of this recognition

**Sample questions:** “What do you think are the most important regional or national symbols in Canada? Who or what do they represent?” “Do you think there are people in your local community or in Canada whose civic contribution has not been formally recognized but should be? Why and how do you think they should be acknowledged?” “What criteria do you think should be used when deciding which events or people to formally recognize?”

**C2.3** describe various ways in which people can access information about civic matters (e.g., websites of governments, political parties, NGOs, or other groups and/or institutions; social media; meetings organized by elected representatives; newspapers or newscasts), and assess the effectiveness of ways in which individuals can voice their opinions on these matters (e.g., by contacting their elected representatives, being part of a delegation to speak on an issue under consideration by city council, organizing a petition, voting, making a presentation to a commission of inquiry, participating in a political party or interest group; by expressing their views through the media, including social media, or at a town-hall meeting; through court challenges; through art, drama, or music)

**Sample questions:** “What are some ways in which a person can communicate his or her position on an environmental issue?” “What do you think is the most effective way for you to get your ideas heard in our school?” “What criteria might you use to determine the most effective way to voice your position on a social justice issue?”

## C3. Personal Action on Civic Issues

**FOCUS ON:** *Political Significance; Objectives and Results*

By the end of this course, students will:

**C3.1** analyse a civic issue of personal interest, including how it is viewed by different groups

**Sample questions:** “What current civic issue is important to you? Who are the people and/or organizations involved in this issue? What views do they have on it? Do you think there might be other perspectives on this issue that are not commonly heard? Which level or levels of government would be responsible for addressing this issue?”

**C3.2** propose different courses of action that could be used to address a specific civic issue (e.g., a public awareness campaign, a plan for local action, a campaign to pressure for political action), and assess their merits

**Sample questions:** “When you consider the various courses of action proposed to address this issue, how would you rank them from easiest to most difficult to carry out?” “Which option do you think would have the greatest impact?” “Would you be able to carry out, or participate in, any of these courses of action?”

**C3.3** develop a plan of action to implement positive change with respect to a specific civic issue, and predict the results of their plan

*Sample questions:* “What is the main goal of your plan? How do you intend to accomplish that goal? What changes do you anticipate will result from specific strategies in your plan?”  
“Which people, organizations, and/or governments would be most likely to embrace your plan? How might you engage them?”

**C3.4** develop criteria that could be used to assess the effectiveness of their plan of action if it were implemented

*Sample questions:* “How would you know if your plan were achieving its objectives?”  
“How would you determine if your plan were making a positive difference?” “How might you respond if things did not go as planned?”

# APPENDIX A

## THE GOALS OF SOCIAL STUDIES, ECONOMICS, AND LAW

The charts on pages 6–7 identify the vision and overall goals of the elementary and secondary program in social studies, history, geography, and Canadian and world studies, as well as the specific goals for the three subjects that constitute the program in Grade 9 and 10 Canadian and world studies (geography, history, and politics [civics]). This appendix identifies the goals of economics and law, the subjects that, along with geography, history, and politics, constitute the Canadian and world studies program in Grades 11 and 12. It also identifies the goals of social studies in the elementary curriculum, as all the subjects in the Grade 9–12 Canadian and world studies program are represented to some extent in the interdisciplinary subject of social studies.

**Goals of Social Studies (Grades 1–6)** – Developing a sense of who I am, and who we are  
*Where have I come from? What makes me belong? Where are we now? How can I contribute to society?*

Students will work towards:

- developing an understanding of responsible citizenship;
- developing an understanding of the diversity within local, national, and global communities, both past and present;
- developing an understanding of interrelationships within and between the natural environment and human communities;
- developing the knowledge, understanding, and skills that lay the foundation for future studies in geography, history, economics, law, and politics;
- developing the personal attributes that foster curiosity and the skills that enable them to investigate developments, events, and issues.

**Goals of Economics (Grades 11–12)** – Developing a sense of value  
*What do we value? How do we determine the worth of goods and services? What are their costs? What are their benefits?*

Students will work towards:

- developing an understanding of how scarcity and wealth affect individual and collective choices, and assessing the trade-offs that can influence and/or arise from these choices;
- analysing the application of economic models, and assessing the factors that can influence economic decisions;
- analysing how competing stakeholders influence economic policies, and assessing the impact of these policies on different stakeholders;
- developing an understanding of the basic needs and wants of people and that people's needs should be respected when economic decisions are made.

**Goals of Law (Grades 11–12)** – Developing a sense of fairness and justice

*What are our rights and responsibilities? How does society create its rules? What structures can people use to address conflict?*

Students will work towards:

- developing an understanding of the fundamental principles of justice as well as the relevance of law to society and to the daily lives of individuals;
- analysing the role of law in determining and upholding the rights and responsibilities of all people, and assessing the impact of the law and legal systems in people's lives;
- developing an understanding of the role of the justice system in a healthy democracy and the contribution of individuals and groups to the evolution of law;
- analysing issues and managing conflict in their own lives through the application of legal reasoning.

# APPENDIX B

## THE CITIZENSHIP EDUCATION FRAMEWORK

The citizenship education framework that is represented on page 10 in a circular graphic is recast here in tabular form, suitable for screen readers and potentially useful for teachers when preparing instruction. Each of the four main elements of citizenship education – active participation, identity, attributes, and structures – is addressed in a separate table. Readers are encouraged to refer to the introductory text at the bottom of page 9 when using this appendix.

### *Structures – Power and systems within societies*

Ways of Developing Citizenship Knowledge, Skills, Attitudes	Related Terms and Topics
<ul style="list-style-type: none"><li>• Develop an understanding of the importance of rules and laws</li><li>• Develop an understanding of how political, economic, and social institutions affect their lives</li><li>• Develop an understanding of power dynamics</li><li>• Develop an understanding of the dynamic and complex relationships within and between systems</li></ul>	<ul style="list-style-type: none"><li>• democracy</li><li>• self-determination</li><li>• rules and law</li><li>• institutions</li><li>• power and authority</li><li>• security</li><li>• systems</li></ul>

### *Active Participation – Work for the common good in local, national, and global communities*

Ways of Developing Citizenship Knowledge, Skills, Attitudes	Related Terms and Topics
<ul style="list-style-type: none"><li>• Voice informed opinions on matters relevant to their community</li><li>• Adopt leadership roles in their community</li><li>• Participate in their community</li><li>• Investigate controversial issues</li><li>• Demonstrate collaborative, innovative problem solving</li><li>• Build positive relationships with diverse individuals and groups</li></ul>	<ul style="list-style-type: none"><li>• decision making and voting</li><li>• influence</li><li>• conflict resolution and peace building</li><li>• reconciliation</li><li>• reciprocity</li><li>• advocacy</li><li>• stewardship</li><li>• leadership</li><li>• volunteering</li></ul>

### Identity – *A sense of personal identity as a member of various communities*

Ways of Developing Citizenship Knowledge, Skills, Attitudes	Related Terms and Topics
<ul style="list-style-type: none"> <li>• Identify and develop their sense of connectedness to local, national, and global communities</li> <li>• Develop a sense of their civic self-image</li> <li>• Consider and respect others' perspectives</li> <li>• Investigate moral and ethical dimensions of developments, events, and issues</li> </ul>	<ul style="list-style-type: none"> <li>• interconnectedness</li> <li>• beliefs and values</li> <li>• self-efficacy</li> <li>• culture</li> <li>• perspective</li> <li>• community</li> <li>• relationships</li> </ul>

### Attributes – *Character traits, values, habits of mind*

Ways of Developing Citizenship Knowledge, Skills, Attitudes	Related Terms and Topics
<ul style="list-style-type: none"> <li>• Explore issues related to personal and societal rights and responsibilities</li> <li>• Demonstrate self-respect, as well as respect and empathy for others</li> <li>• Develop attitudes that foster civic engagement</li> <li>• Work in a collaborative and critically thoughtful manner</li> </ul>	<ul style="list-style-type: none"> <li>• inclusiveness</li> <li>• equity</li> <li>• empathy and respect</li> <li>• rights and responsibilities</li> <li>• freedom</li> <li>• social cohesion</li> <li>• justice</li> <li>• fairness</li> <li>• truth</li> <li>• citizenship</li> <li>• collaboration and cooperation</li> </ul>



# APPENDIX C

## MAP, GLOBE, AND GRAPHING SKILLS – A CONTINUUM

The charts on the following pages identify a continuum for the purposeful introduction from Grade 1 through Grade 12 of (1) universal map and globe skills, and (2) universal graphing skills. Students need these skills in order to be spatially literate, to communicate clearly about “place”, and to develop a sense of place. The charts show the progression of spatial skills in the social studies, history, geography, and Canadian and world studies programs. The first chart, Map and Globe Skills, is divided into (A) Map Elements, and (B) Spatial Representation.

All these skills should be taught in an issue-based context, and not as an end in themselves. They can be used at many stages of the inquiry process, helping students gather, organize, and analyse data and information, both visual and written, and communicate their findings.

Map, globe, and graphing skills can be used in the following ways:

- *to extract information and data:* students read maps, globes, and graphs to locate information and/or data
- *to analyse information and data:* students process information and/or data from maps, globes, and graphs
- *to construct maps and graphs:* students create maps and graphs to help them analyse and communicate information and/or data and solve problems

It is important to note that map, globe, and graphing skills can be linked to skills related to literacy, mathematical literacy, and technology.

## 1. MAP AND GLOBE SKILLS

### A. Map Elements

CATEGORY	Grade 1	Grades 2–3	Grades 4–6	Grades 7–8	Grade 9	Grades 11–12
	The student:					
Title	• uses the title to identify the purpose of a map					
Legend	• uses appropriate pictorial representations to convey meaning (e.g., photographs of a playground, library, school) • uses colour to represent particular elements (e.g., a park, an ocean)					
		• uses colour to represent common characteristics of an area (e.g., the same provincial, territorial, and/or national area, the same physical landforms, similar temperatures, settlement by a particular group) • uses symbols to represent places on print and digital maps (e.g., a dot to represent cities, a square with a flag to represent a school) • uses labels with different font sizes and styles to indicate hierarchy of cities, countries, continents				
				• uses colour and contour lines to show elevation		
					• uses lines (e.g., isotherms, isobars) to connect places with common physical characteristics • uses proportional representation for symbols (e.g., size of flow arrows, size of populations circles) • determines and uses appropriate intervals for data to communicate intended messages	
						• uses appropriate elements of a legend to communicate intended messages
Direction	• uses relative direction (e.g., right, left, in front, behind) to explain location and movement					
		• uses cardinal compass points (i.e., N, S, E, W) to provide direction				

## 1. MAP AND GLOBE SKILLS *(continued)*

### A. Map Elements *(continued)*

CATEGORY	Grade 1	Grades 2–3	Grades 4–6	Grades 7–8	Grade 9	Grades 11–12
Direction (continued)			• uses intermediate cardinal compass points (i.e., NE, NW, SE, SW) to provide direction			
					• is able to orient a map	
						• makes connections between degree bearings and cardinal compass points to provide direction
Scale	• uses non-standard units of measurement (e.g., footprints, blocks, houses) • uses relative distance (e.g., near, far, further) to describe measurement					
		• uses standard units (e.g., metre, kilometre) to measure distance • uses absolute distance (e.g., measures distance on a map, uses a measuring tool on a digital map)				
					• uses large- to small-scale maps, as appropriate, to investigate a specific area	
						• determines appropriate scale and intervals to communicate intended messages
Location	• uses relative location (e.g., near, far, up, down) to describe the location of a person or object					
		• locates hemispheres, poles, and the equator on a map or globe				
			• uses number and letter grids to locate something on a map • uses latitude and longitude to locate something on a map or globe • understands time zones			
				• uses locational technologies (e.g., compass, GPS)		

## 1. MAP AND GLOBE SKILLS *(continued)*

### B. Spatial Representation

CATEGORY	Grade 1	Grades 2–3	Grades 4–6	Grades 7–8	Grade 9	Grades 11–12
	The student:					
<b>Map types (e.g., sketch, thematic, topographic)</b>	<ul style="list-style-type: none"> <li>extracts information from and creates sketch maps (e.g., showing a local neighbourhood, the layout of a classroom)</li> <li>creates 2D maps of familiar surroundings</li> <li>creates 3D models using blocks and toys</li> </ul>					
			<ul style="list-style-type: none"> <li>extracts information from, analyses, and creates thematic maps, including the following:               <ul style="list-style-type: none"> <li>political (e.g., Canada's political regions, countries of the world)</li> <li>physical (e.g., climate, landforms)</li> <li>historical (e.g., settlement patterns)</li> <li>land use (e.g., community features)</li> </ul> </li> <li>extracts information from, analyses, and creates digital maps (e.g., online interactive)</li> </ul>			
					<ul style="list-style-type: none"> <li>extracts information from, analyses, and creates thematic maps, including the following:               <ul style="list-style-type: none"> <li>demographic (e.g., population distribution)</li> <li>flow (e.g., movement of people)</li> <li>issue-based (e.g., pollution or poverty in Canada)</li> <li>annotated (e.g., illustrating an aspect of student inquiry)</li> </ul> </li> </ul>	
					<ul style="list-style-type: none"> <li>extracts information from, analyses, and creates increasingly complex thematic maps, including the following:               <ul style="list-style-type: none"> <li>demographic (e.g., population density, literacy rates)</li> <li>physical (e.g., frequency of natural events)</li> </ul> </li> <li>extracts information from and analyses topographic maps</li> </ul>	
					<ul style="list-style-type: none"> <li>extracts information from, analyses, and creates increasingly complex thematic maps, including the following:               <ul style="list-style-type: none"> <li>issue-based maps layering two or more themes (e.g., population density and CO<sub>2</sub> emissions; population settlement and weather events)</li> </ul> </li> </ul>	

## 1. MAP AND GLOBE SKILLS *(continued)*

### B. Spatial Representation *(continued)*

CATEGORY	Grade 1	Grades 2–3	Grades 4–6	Grades 7–8	Grade 9	Grades 11–12
Map types (e.g., sketch, thematic, topographic) <i>(continued)</i>						<ul style="list-style-type: none"> <li>uses and creates appropriate types of maps to analyse data and communicate intended messages</li> </ul>
Image types	<ul style="list-style-type: none"> <li>extracts information from and analyses photographs of familiar places and sites (e.g., schoolyard, local community)</li> </ul>					
		<ul style="list-style-type: none"> <li>extracts information from and analyses the following images:                             <ul style="list-style-type: none"> <li>photographs of unfamiliar places and sites</li> <li>aerial images (e.g., satellite images, photographs taken from a plane)</li> </ul> </li> </ul>				
					<ul style="list-style-type: none"> <li>extracts information from and analyses remote sensing images (e.g., showing urban growth, water pollution, vegetation disease)</li> </ul>	
						<ul style="list-style-type: none"> <li>extracts information/data from various image types</li> <li>uses various image types to communicate intended messages</li> </ul>
Geographic information systems (GIS)				<ul style="list-style-type: none"> <li>selects and uses appropriate base maps for chosen locations and for specific inquiry</li> <li>uses pre-selected layer content required for inquiry</li> <li>interprets and analyses information from layers placed on map</li> </ul>		

1. MAP AND GLOBE SKILLS <i>(continued)</i>						
B. Spatial Representation <i>(continued)</i>						
CATEGORY	Grade 1	Grades 2–3	Grades 4–6	Grades 7–8	Grade 9	Grades 11–12
Geographic information systems (GIS) <i>(continued)</i>					<ul style="list-style-type: none"> <li>chooses the appropriate data to create a map for a specific purpose</li> <li>determines and selects layer content required for a specific inquiry</li> <li>interprets and analyses a GIS generated map</li> <li>uses a GIS generated map to communicate ideas and recommendations</li> </ul>	
						<ul style="list-style-type: none"> <li>generates data from various sources (e.g., GPS, statistics, surveys)</li> <li>creates layers relevant to a specific inquiry</li> <li>applies GIS to solve problems and make recommendations</li> </ul>
Plan types					<ul style="list-style-type: none"> <li>analyses land-use plans (e.g., community and regional plans, official site plans)</li> </ul>	
						<ul style="list-style-type: none"> <li>extracts and analyses information/data from various plan types</li> <li>uses various plan types to communicate intended messages</li> </ul>



## 1. MAP AND GLOBE SKILLS *(continued)*

### B. Spatial Representation *(continued)*

CATEGORY	Grade 1	Grades 2–3	Grades 4–6	Grades 7–8	Grade 9	Grades 11–12
Globes		<ul style="list-style-type: none"> <li>• locates key reference points (e.g., poles, equator)</li> <li>• identifies hemispheres</li> <li>• locates selected countries and cities</li> </ul>				
Projections and map perspectives					<ul style="list-style-type: none"> <li>• understands the distortions in various map projections (e.g., Mercator, Peters, Lambert)</li> </ul>	
						<ul style="list-style-type: none"> <li>• uses various projections to communicate intended messages about data and information</li> </ul>

## 2. GRAPHING SKILLS

Grade 1	Grades 2–3	Grades 4–6	Grades 7–8	Grade 9	Grades 11–12
The student:					
<ul style="list-style-type: none"> <li>extracts information from, analyses, and creates:               <ul style="list-style-type: none"> <li>pictographs</li> <li>tallies</li> </ul> </li> </ul>					
	<ul style="list-style-type: none"> <li>extracts information from, analyses, and creates:               <ul style="list-style-type: none"> <li>bar graphs</li> <li>line graphs</li> </ul> </li> </ul>				
		<ul style="list-style-type: none"> <li>extracts information from, analyses, and creates:               <ul style="list-style-type: none"> <li>double bar graphs</li> <li>multiple line graphs</li> <li>climate graphs</li> </ul> </li> <li>uses computer technology (e.g., graphing software and online programs) to create graphs</li> </ul>			
			<ul style="list-style-type: none"> <li>extracts information from, analyses, and creates:               <ul style="list-style-type: none"> <li>scatter graphs</li> <li>population pyramids</li> <li>circle graphs</li> <li>stacked bar graphs</li> <li>cross-sectional profiles</li> </ul> </li> </ul>		
					<ul style="list-style-type: none"> <li>uses appropriate graphs to communicate data, make recommendations, and solve problems</li> </ul>

# GLOSSARY

*The definitions provided in this glossary are specific to the curriculum context in which the terms are used.*

*Note:* The definitions of terms marked with an asterisk (\*) are reproduced with the permission of the Minister of Public Works and Government Services Canada, 2012. Courtesy of the Department of Canadian Heritage.

**Aboriginal title.** The inherent right of Indigenous peoples to their lands. The Canadian legal system recognizes Aboriginal title as *sui generis* – that is, as a right to that derives from Indigenous peoples' occupation of the land since time immemorial.

**absolute location.** The location of a point on Earth's surface that can be expressed by a grid reference (e.g., by latitude and longitude).

**acid precipitation.** Any form of precipitation, including rain, fog, and snow, that is more acidic than normal. Acid precipitation is determined by its pH level; the lower the pH the more acidic and damaging it is.

**advocacy group.** See **stakeholder**.

**aggregate.** A coarse material that includes gravel, crushed stone, and sand. The major component in concrete and asphalt, it is generally used in construction and is the most heavily mined material in the world.

**alternative energy source.** An alternative to such conventional energy sources as fossil fuels and nuclear power. Common alternative energy sources include solar, wind, hydrogen, fuel cell, and tidal power.

**annotated map.** A map that includes a collection of notes about a specific location or an event that happened at a specific location. See also **map**.

**antisemitism.** The opposition to, and hatred of, Jews throughout history.

**aquifer.** A large, natural reservoir underground.

**arable land.** Land that can be used for growing crops. It is rich in nutrients, has a fresh water supply, and is located in a suitable climate.

**artefact.** An item (e.g., a tool, weapon, household utensil, etc.) made by people in the past and used as historical evidence.

**Assembly of First Nations (AFN).** A national representative organization of the First Nations in Canada. Formerly known as the National Indian Brotherhood, it became the Assembly of First Nations in 1982. Each band council in the country elects a chief to participate in an annual general assembly of the AFN. A national chief is elected every three years by the Chiefs-in-Assembly.

**band.** Defined by the Indian Act, in part, as “a body of Indians ... for whose use and benefit in common, lands ... have been set apart”. Each band has its own governing band council, usually consisting of a chief and several councillors. The members of the band usually share common values, traditions, and practices rooted in their language and ancestral heritage. Today, many bands prefer to be known as First Nations. See also **First Nations**.

**band council.** A governance structure that is defined and mandated under the provisions within the Indian Act. A band council of a First Nation consists of an elected chief and councillors. *See also* **band**.

**bias.** An opinion, preference, prejudice, or inclination that limits an individual's or group's ability to make fair, objective, or accurate judgements.

**birth rate.** The number of live births per thousand people in one year.

**boreal forest.** A zone dominated by coniferous trees. Canada's largest biome, occupying 35 per cent of the total Canadian land area and 77 per cent of Canada's total forest land, is boreal forest.

**branches of government.** In Canada, the three branches – executive, legislative, and judicial – that make up the federal and provincial governments. *See also* **executive branch; judicial branch; legislative branch**.

**branch plant.** Historically, a factory or office built in Canada by an American parent company whose head office remained in the United States. Branch plants were created primarily to avoid tariffs. They are now a global phenomenon. *See also* **multinational corporation**.

**built environment.** Features of the human environment that were created or altered by people (e.g., cities, transportation systems, buildings, parks, recreational facilities, landfill sites). *See also* **human environment**.

**bylaw.** A law or rule passed by a municipal council and applicable to that municipality.

**Canadian Charter of Rights and Freedoms.** A part of the Constitution Act, 1982, the Charter guarantees Canadians fundamental freedoms as well as various rights, including democratic, mobility, legal, and equality rights. It recognizes the multicultural heritage of Canadians, and protects official language rights and the rights of Aboriginal Canadians.

**Canadian Shield.** A vast landform region that extends from the Great Lakes and the St. Lawrence River to the Arctic Ocean, covering almost half of Canada. It is characterized by Precambrian rock that is rich in minerals.

**carbon offset.** A way in which an emitter of greenhouse gases can prevent its emissions from increasing atmospheric greenhouse gas concentrations by paying someone else to reduce, avoid, or absorb an equal quantity of emissions.

**cardinal directions.** The four major points of the compass – N, S, E, and W. Cardinal directions can be subdivided into intermediate directions – NE, SE, NW, SW. Cardinal and intermediate directions are elements of mapping.

**census metropolitan area (CMA).** A statistical area classification, a CMA consists of one or more neighbouring municipalities situated around a major urban core. A CMA must have a total population of at least 100,000 of which 50,000 or more live in the urban core. As of 2011, there were 33 CMAs in Canada, which range in size from Toronto (the largest) to Peterborough (the smallest).

**chief.** One of many types of leaders, informal and formal, in First Nations, Métis, and Inuit societies, governments, and traditional governance structures, past and present. Currently, under the Indian Act, there is an imposed governing system on reserves requiring each band to elect a chief and up to 12 councillors for a term of two years. *See also* **Indian Act**.

**choropleth map.** A map in which graded colours are used to illustrate the average values for or quantities of something (e.g., population density, quality of life indicators, fresh water resources) in specific areas. *See also* **map**.

**citizen.** An inhabitant of a city, town, or country; also, a person who is legally entitled to exercise the rights and freedoms of the country in which he or she lives.

**citizenship.** An understanding of the rights of citizens within various communities (local, national, and global), and of the roles, responsibilities, and actions associated with these rights.

**civics.** A branch of politics that focuses on the rights and responsibilities of citizenship. *See also* **citizenship**.

**clan.** A system of kinship or extended family used by various First Nations peoples. Clans are usually represented by mammals, birds, or fish that signify each clan's unique roles and responsibilities in the community. Clans can be either matrilineal or patrilineal.

**clan mother.** In a matrilineal system, the female head of a clan/family, a role that is passed down hereditarily. The clan mother has the right to nominate the candidate who will replace the chief when he dies, as well as to remove the chief's authority if his actions do not support the welfare of the clan. The clan mother possesses cultural knowledge and commitment to her nation.

**climate.** The average weather conditions of an area over an extended period of time. *See also* **weather**.

**climate change.** A significant change in the average state of Earth's climate that persists for several decades or more. It can be caused either by natural factors or by human activities that alter the composition of the atmosphere or change major characteristics of the land surface, as when forests are replaced by farmland. Climate change can affect a number of weather characteristics, such as temperature, precipitation, and wind patterns, as well as the occurrence of severe weather.

**climate graph.** A graph that combines average monthly temperature (presented as a line graph) and precipitation data (presented as a bar graph) for a particular place.

**clustered settlement pattern.** A closely spaced grouping of houses, towns, or villages.

**colonialism.** The policy of establishing political control by one nation over another nation or region, sending settlers to claim the land from the original inhabitants, and taking its resources. It is a philosophy of domination, which involves the subjugation of one or more groups of people to another. *See also* **colonization; imperialism**.

**colonization.** The process in which a foreign power invades and dominates a territory or land base inhabited by indigenous peoples by establishing a colony and imposing its own social, cultural, religious, economic, and political systems and values. A colonized region is called a colony. *See also* **colonialism**.

**command economy.** An economic system in which the government owns and controls all facets of the economy. *See also* **economic system**.

**commodity.** A good or service purchased or used by consumers.

**common good.** The well-being of all or most of the people in a community or society as well as of components of the natural environment. Factors such as peace, justice, economic fairness, and respect for human rights and the environment contribute to the common good.

**community/communities.** A group of people who have shared histories, culture, beliefs, and/or values. Communities can also be identified on the basis of shared space, ethnicity, religion, and/or socio-economic status. A person may belong to more than one community (e.g., a school community, town, ethnic group, nation, etc.).

**Confederation.** The federal union of all the Canadian provinces and territories.

**constitution.\*** A set of rules that define the political principles, the institutions, the powers, and the responsibilities of a state. The Canadian Constitution is made up of three elements: written constitution, legislation, and unwritten constitution (rules of common law and conventions). *See also* **Canadian Charter of Rights and Freedoms; constitutional convention**.

**constitutional convention.\*** Well-established customs or practices that have evolved over time and are integral aspects of the Canadian system of government even though they are not specifically mentioned in the Constitution. See also **constitution**.

**constitutional monarchy.\*** A form of government in which executive (Crown) powers are exercised by or on behalf of the sovereign and on the basis of ministerial advice. Canada is a constitutional monarchy.

**country wives.** Indigenous women who became common-law wives of European men during the fur trade era.

**Covenant Chain Wampum.** A series of alliances between the Haudenosaunee and Europeans that were based on Haudenosaunee governance structures and represented in a wampum belt. It is referred to as a chain to symbolize the linking of both parties in the alliance and their promise to renew the relationship by polishing the chain whenever it tarnishes.

**Crown corporations.\*** Corporations in which the government, be it at the national or provincial level, has total or majority ownership. Organized on the pattern of private enterprises, they have a mandate to provide specific goods and/or services.

**Crown land.\*** Land belonging to the government, whether in the national or provincial jurisdiction.

**culture.** The customary beliefs, values, social forms, and material traits of an ethnic, religious, or social group.

**death rate.** The number of deaths per thousand people in one year.

**deforestation.** The destruction and removal of a forest and its undergrowth by natural or human means.

**democracy.** A form of government in which laws are made by a direct vote of the citizens (direct democracy) or by representatives on their behalf (indirect democracy). In an indirect,

or representative, democracy such as Canada, elected representatives vote on behalf of their constituents.

**demographics.** Statistics describing the characteristics of an area's population, including those relating to age, sex, income, and education.

**desertification.** The process by which arable land becomes desert, as a result of factors such as a decline in average rainfall over time, deforestation, and/or poor agricultural practices.

**DEW Line.** The Distant Early Warning Line was a series of radar stations that were set up in the Arctic during the Cold War to provide a notice of attacks on North America by missiles or aircraft.

**digital footprint.** A trail of information a person leaves when using digital devices. It enables third parties to access data such as an individual's Internet Protocol (IP) address, the Internet sites that person has visited, and comments he or she has made.

**digital representations.** Computer-based representations of the world in which spatial characteristics are represented in either 2D or 3D format. These representations can be accessed and applied using online mapping software or interactive atlases.

**disparity.** The unequal distribution of funds, food, or other commodities or resources among groups, regions, or nations. Indicators of economic wealth are often used when assessing disparity.

**diversity.** The presence of a wide range of human qualities and attributes within a group, organization, or society. The dimensions of diversity include, but are not limited to, ancestry, culture, ethnicity, gender identity, language, physical and intellectual ability, race, religion, sex, sexual orientation, and socio-economic status.

**Doctrine of Discovery.** A concept embedded in a 1493 papal bull, the doctrine stated that any lands inhabited by non-Christians could be acquired on behalf of Europe. The Doctrine of Discovery became a key foundation for European claims to lands outside of Europe.



**drainage basin.** The area drained by a river system.

**ecological footprint.** The impact of human activities on the environment, measured in terms of biologically productive land and water that is used to produce the goods people consume and to assimilate the waste they generate. An ecological footprint can be calculated at the individual, community, national, or global level.

**economic indicator.** A statistical measure that gives an indication of the overall performance of an economy.

**economic sector.** A segment of the economy that is characterized by similar types of activities, products, and/or services (e.g., by resource extraction, manufacturing, etc.). *See also* **knowledge-based industries; manufacturing sector; primary industries; service-based industries.**

**economic system.** The way in which a particular society produces, distributes, and consumes various goods and services. *See also* **command economy; market economy; traditional economy.**

**economy.** The system of production and consumption of various commodities and services in a community, region, or country, or globally.

**ecosystem.** A self-regulating system, created by the interaction between living organisms and their environment, through which energy and materials are transferred.

**ecotourism.** Travel to fragile or pristine areas, often seen as low impact and as an alternative to standard commercial travel.

**Elder.** A man or woman whose wisdom about spirituality, culture, and life is recognized and affirmed by the community. Not all Elders are “old”. Indigenous community members will normally seek the advice and assistance of Elders on various traditional, as well as contemporary, issues.

**elevation.** The height of something above a reference level, especially above sea level.

**enemy aliens.** Historically, people residing in Canada who were citizens of states at war with this country. In World War I, the majority of people classified as enemy aliens were of Ukrainian descent; they were either interned or forced to carry identity papers and report regularly to the police. In World War II, the majority of people classified as enemy aliens were of Japanese descent; many Japanese Canadians were rounded up and sent to camps and had their property confiscated.

**enfranchisement.** The legal process for giving a person, or a group of people, a right or privilege associated with citizenship. The term is commonly associated with the right to vote.

**environment.** Everything, both natural and human-made, that surrounds us.

**equality.** A condition in which all people are treated the same way, regardless of individual differences. *See also* **equity.**

**equator.** Latitude zero degrees; an imaginary line running east and west around the globe and dividing it into two equal parts.

**equity.** Fair, inclusive, and respectful treatment of all people. Equity does not mean treating all people the same, without regard for individual differences. *See also* **equality.**

**erosion.** The wearing down and carrying away of material from exposed surfaces by water, wind, or ice.

**ethnicity.** The shared national, ethnocultural, racial, linguistic, and/or religious heritage or background of a group of people, whether or not they live in their country of origin.

**ethnogenesis.** The process in which an ethnic group is formed and becomes a distinct people.

**executive branch.\*** The branch of government that carries out the law; the cabinet and ruling government that sit in the elected chamber (House of Commons/Legislature). Also referred to as “the Queen in Council”. *See also* **branches of government; judicial branch; legislative branch.**

**fair trade.** An approach to international trade, with the goal of social and environmental sustainability and fair compensation to producers.

**faith keeper.** In Haudenosaunee culture, one female and one male relative of the clan mother is appointed as a faith keeper of their clan to promote traditions, language, and ceremonies and to act as a spiritual guide. *See also* **clan mother**.

**federal system.** A system of government in which several political jurisdictions form a unity but retain autonomy in defined areas. The central or national government is called the federal government. Canada has a federal system of government.

**fertility rate.** The average number of live births for a woman in her childbearing years in the population of a specific area.

**field study.** A hands-on learning experience in the outdoors. Field studies can be open ended or organized for a specific purpose or inquiry.

**First Nations.** The term used to refer to the original inhabitants of Canada, except the Inuit. A term that came into common usage in the 1970s to replace the word “Indian”, which many found offensive. The term “First Nation” has been adopted to replace the word “band” in the names of communities. *See also* **band**.

**first past the post.** A voting system, used in Canada, in which the person with the most votes in a riding wins the seat for that person’s political party. *See also* **proportional representation; voting system**.

**flow map.** A map that shows the movement of objects or people from one location to another. *See also* **map**.

**flow resource.** A resource that is neither renewable nor non-renewable, but must be used when and where it occurs or be lost (e.g., running water, wind, sunlight).

**fossil fuel.** A non-renewable energy source that is formed from the remains of ancient plants and animals (e.g., coal, natural gas, petroleum). *See also* **non-renewable resource**.

**free trade.** Trade, including international and interprovincial trade, where tariffs are not applied to imports, and exports are not subsidized.

**genocide.** The planned, systematic destruction of a national, racial, political, religious, or ethnic group.

**geographic information system (GIS).** A technological system that allows for the digital manipulation of spatial data, such as those relating to land use, physical features, and the impact of disasters. Users of GIS can input data and create and analyse tables, maps, and graphs in order to solve problems relating to a specific area of land and/or water. *See also* **spatial technologies**.

**global commons.** Earth’s resources, such as the oceans or the atmosphere, that have no political boundaries because they are part of systems that circulate throughout the world.

**globalization.** A process, accelerated by modern communications technology, that multiplies and strengthens the economic, cultural, and financial interconnections among many regions of the world.

**global positioning system (GPS).** A navigation and positioning system that uses satellites and receivers to provide highly accurate location coordinates for positions on or above Earth’s surface. *See also* **spatial technologies**.

**governor general.\*** The personal representative of the Queen, who acts on her behalf in performing certain duties and responsibilities in the federal jurisdiction.

**Gradual Civilization Act.** The Act to Encourage the Gradual Civilization of Indian Tribes in this Province, and to Amend the Laws Relating to Indians or the Gradual Enfranchisement Act

was designed as a way for the government to revoke the legal rights and status of First Nations people through the process of enfranchisement. *See also* **enfranchisement**.

**Great Lakes–St Lawrence Lowlands.** The area that surrounds the lower Great Lakes and the St. Lawrence River, including the most densely populated portions of Ontario and Quebec. This area of gently rolling hills and flat plains provides an excellent physical base for agriculture and settlement and is often described as the country's heartland.

**grid.** A pattern of lines on a chart or map, such as those representing latitude and longitude, which helps determine absolute location and assists in the analysis of distribution patterns. The term also refers to a coordinate plane that contains an x-axis (horizontal) and a y-axis (vertical) and is used to describe the location of a point. *See also* **scatter graph**.

**gross domestic product (GDP).** The value of all the goods and services produced in a country in one year.

**gross national product (GNP).** Gross domestic product, minus goods and services produced by foreign-owned businesses operating inside the country, plus goods and services produced by domestic-owned businesses operating outside the country.

**groundwater.** Water below the surface of the land. Often an aquifer, groundwater can also take the form of underground streams or lakes or be held in pores in the soil. Groundwater is constantly in motion as part of the hydrological cycle. *See also* **aquifer**.

**habitat.** The place where an organism lives and that provides it with the food, water, shelter, and space it needs to survive.

**Haudenosaunee Confederacy.** The governance structure of the Haudenosaunee that was re-established by Hiawatha and the Peacemaker. It united the Mohawk, Oneida, Onondaga, Cayuga, and Seneca, and later the Tuscarora,

under the Great Law of Peace to promote harmony and establish roles and responsibilities within the Haudenosaunee nations.

**heritage.** The legacy passed down from previous generations, including cultural traditions, art, literature, and buildings.

**historic Métis communities.** Métis communities emerged as a result of the North American fur trade, during which First Nations peoples and European traders forged close economic ties and personal relationships. Over time, many of the children born of these relationships developed a distinct sense of identity and culture. Within their communities, they shared customs, practices, and a way of life that were distinct from those of their First Nations and European forebears. Métis communities formed along strategic water and trade routes well before the Crown assumed political and legal control of these areas. Many of the communities persevered, and continue to celebrate their distinct identities and histories today, practising their unique culture, traditions, and way of life. These communities are a part of Ontario's diverse heritage. In 2003, the Supreme Court of Canada recognized a Métis community with a communal right to hunt for food in and around Sault Ste. Marie. This case provides the framework for identifying historic Métis communities in other areas of the province as well as other parts of Canada.

**Holocaust.** The systematic, state-sponsored persecution and annihilation of European Jewry by the Nazis and their collaborators between 1933 and 1945.

**Holodomor.** A famine in Ukraine in 1932–33, engineered by the Soviet government under Stalin, during which millions of Ukrainians starved.

**House of Commons.** *See* **legislature; parliament**.

**Human Development Index.** The results of an annual ranking of countries with respect to life expectancy, educational achievement, standard of living, and other measures of development.

**human environment.** The built features of an area and the interactions among these features and/or between these features and the natural environment. *See also* **built environment**.

**human rights.** Rights that recognize the dignity and worth of every person, and provide for equal rights and opportunities without discrimination, regardless of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status, disability, or other similar factors.

**identity.** How one sees oneself within various communities, local to global.

**ideology.** A set of related beliefs, ideas, and attitudes that characterizes the thinking of a particular group or society.

**immigration.** The act of coming to a different country or region in order to take up permanent residence.

**imperialism.** The policy of extending the authority of one country over others by territorial acquisition or by establishing economic and political control over the other nations. *See also* **colonialism**.

**Indian.** Under the Indian Act, “a person who pursuant to this Act is registered as an Indian or is entitled to be registered as an Indian”. However, outside this specific legal purpose for its use, the term is often seen as outdated and offensive, and the term “First Nation” is preferred. *See also* **First Nations**.

**Indian Act.** Federal legislation that regulates Indians and reserves and sets out certain federal government powers and responsibilities towards First Nations and their reserved lands. The first Indian Act was passed in 1876. Since then, the act has undergone numerous amendments, revisions, and re-enactments. *See also* **Indian**.

**Indian agent.** A representative of the federal government who enforced the Indian Act, including provisions relating to land, health care, education, cultural practices, and political structures, in a specific area or district. *See also* **Indian Act**.

**Indigenous.** A term referring to the original peoples of a particular land or region. First Nations (status and non-status), Inuit, and Métis peoples are recognized as the Indigenous peoples of Canada.

**Indigenous ecological knowledge (IEK).** Deep understanding of and knowledge about the environment that derives from Indigenous peoples’ long histories and experiences on the land. IEK focuses on sustainable practices, reciprocal relationships between the environment and all living things, and preservation of the environment and its resources for future generations.

**indigenous species.** A native species – one that originates or naturally occurs in an area.

**industrialization.** The development of industry, primarily manufacturing, on a very wide scale.

**infant mortality rate.** The death rate of children between birth and one year of age in a given area, expressed per 1,000 live births.

**infographic.** A graphic visual representation of information and/or data. It is usually an image with accompanying information or data.

**infrastructure.** The networks of transportation, communications, education, and other public services that are required to sustain economic and societal activities.

**interest group.** *See* **stakeholder**.

**intergenerational trauma.** The transmission of the negative consequences of a historical event across generations.

**intergovernmental organization.** An agency established by a formal agreement between member national governments (e.g., the United Nations, the Commonwealth).

**intermediate directions.** *See* **cardinal directions**.

**internment.** In the context of Canadian history, the detention, confinement, or incarceration of people, often enemy aliens, under the federal War Measures Act. *See also* **enemy aliens; War Measures Act**.

**Inuit (singular: Inuk).** Indigenous people in northern Canada, living mainly in Nunavut, the Northwest Territories, northern Quebec, and northern Labrador. The word means “the people” in the Inuit language of Inuktitut. Inuit are not covered by the Indian Act. The federal government has entered into several major land claim settlements with Inuit.

**Inuksuk.** A human-made stone structure that functions to warn or inform Inuit travellers and hunters; inuksuit are important to Inuit survival in the Arctic climate.

**issue.** A topic or question of concern on which people may take different points of view.

**judicial branch.\*** The branch of government that interprets the law – in other words, the courts. Also referred to as “the Queen in Banco” or “the Queen on the Bench”. *See also* **branches of government; executive branch; legislative branch.**

**knowledge-based industries.** The part of the economy that is knowledge-based, such as government, scientific research, education, and information technology. Also referred to as the quaternary sector. *See also* **economic sector.**

**knowledge keepers.** Traditional teachers who are recognized by their community as having cultural and spiritual knowledge of traditions, teachings, and practices and who help guide their community or nation.

**labour union.** A group of workers who have come together to pursue common goals, such as better working conditions. Their leaders bargain with the employer(s) and negotiate labour contracts.

**land claims.** A First Nation, Métis, or Inuit assertion of rights over lands and resources, and of self-government, which can also concern Aboriginal and treaty title and rights. When resolved, the final agreements often outline rights, responsibilities, and/or benefits.

**landfill.** A method of waste disposal, in which solid waste is collected and transferred to a set location, where it is buried. In Canada, there are provincial regulations governing landfill sites, with the goal of minimizing their impact on health and the environment.

**landform.** A natural physical feature of a land surface (e.g., a mountain, plateau, valley, plain).

**land grant.** Land that is given to individuals or groups by a government or other governing body.

**land reclamation.** The creation of “new” land from existing riverbeds or seas. Also, the reclamation or rehabilitation of land that was previously disturbed, often by resource extraction. *See also* **rehabilitation.**

**land use.** Ways in which land is used by people (e.g., commercial, industrial, residential, transportation, or recreational uses). In mapping, different land uses are conventionally represented by specific colours.

**latitude.** The distance north and south of the equator, measured in degrees.

**laws.** The principles and regulations governing a community’s affairs that are enforced by a political authority and judicial decisions.

**League of Indians of Canada.** An organization established in 1919 to lobby for First Nations rights in Canada.

**legend.** An explanatory description or key to features on a map or chart.

**legislative branch.\*** The branch of government that makes the laws – the Parliament of Canada and provincial and territorial legislatures. Also referred to as “the Queen in Parliament”. *See also* **branches of government; executive branch; judicial branch.**

**legislature.\*** The federal legislature (Parliament of Canada) consists of the Queen, the Senate, and the House of Commons. The provincial legislatures consist of the lieutenant governor and the elected house. *See also* **parliament.**



**LGBT.** The initialism used to refer to *lesbian, gay, bisexual, and transgender* people. A broader range of identities is also sometimes implied by this initialism, or they may be represented more explicitly by *LGBTTIQ*, which stands for *lesbian, gay, bisexual, transgender, transsexual or two-spirited, intersex, and queer or questioning*.

**life expectancy.** The average number of years that a person is expected to live. Life expectancy varies by historical period, gender, region, and other factors.

**linear settlement pattern.** A narrow grouping of houses or settlements whose placement is determined by features such as a river, road, or valley.

**literacy rate.** The percentage of the adult population who can read and write.

**longitude.** The distance east and west of the prime meridian, measured in degrees. *See also* **prime meridian**.

**manufacturing.** The process of making goods, either by machine or by hand.

**manufacturing sector.** Industries that convert raw materials into finished industrial products (e.g., the auto industry). Also referred to as the secondary sector or secondary industries. *See also* **economic sector**.

**map.** A visual representation of natural and/or human characteristics. Maps can be used in various forms – print, digital, and online interactive – and may be annotated with textboxes to provide more information. *See also* **annotated map; choropleth map; flow map; thematic map; topographic map**.

**market economy.** An economic system in which privately owned corporations control the production and distribution of most goods and services. *See also* **economic system**.

**matrilineal.** A matrilineal society is one in which kinship is based on the mother's line.

**medicine man.** An Indigenous person who is a traditional healer or spiritual guide and who provides guidance and support for the community.

**medicines.** Sacred plants that are used for specific ceremonial purposes to promote healing, health, and/or spiritual connection.

**medicine wheel.** A First Nations symbol that represents creation, balance, and the inter-connectedness among of all living things. It is also known as the sacred hoop.

**Métis.** People of mixed First Nations and European ancestry. The Métis history and culture draws on diverse ancestral origins, such as Scottish, Irish, French, Ojibwe, and Cree.

**Métis communities.** *See* **historic Métis communities**.

**Métis sash.** A symbol of the Métis people, the sash was used historically for utility, decoration, and community affiliation and is worn today as a symbol of Métis pride, identity, and nationhood.

**Métis scrip.** A certificate issued to Métis families by the federal government that was redeemable either for land (160 or 240 acres) or money. The intention of the policy was to remove Métis peoples from their traditional territories and settle them in new areas.

**Métis Senator.** A Métis individual recognized and respected by their community, who has knowledge of Métis culture, traditions, and experience and is dedicated to preserving Métis ways of life and governance. In Ontario, the Métis self-governance system includes one Métis Senator on each community council.

**migration.** The permanent shift of people from one country, region, or place to another for economic, political, environmental, religious, or other reasons. Also, the movement, often seasonal, of animals from one area to another (e.g., for food or breeding or because of loss of habitat).



**multiculturalism.** The acceptance of cultural pluralism as a positive and distinctive feature of society. In Canada, multiculturalism is government policy, and includes initiatives at all levels of government to support cultural pluralism.

**multinational corporation/transnational corporation.** A corporation that has its headquarters in one country and manages production or delivers services in other countries.

**municipal government.** In Canada, one of the levels of government below that of the provinces. The constitution gives the provinces jurisdiction over municipal affairs.

**municipal region.** A local area that has been incorporated for the purpose of self-government.

**NAFTA.** See **North American Free Trade Agreement.**

**nationalism.** The ideology that promotes devotion to the collective interests and cultural identity of a nation.

**NATO.** See **North Atlantic Treaty Organization.**

**natural disaster.** A catastrophic event caused by Earth's physical processes that affects human settlement. Examples include the North American ice storm of 1998, the Indian Ocean tsunami of 2004, and Hurricane Sandy in 2012. See also **natural hazard.**

**natural hazard.** A natural event or feature, created by Earth's natural processes, that poses a threat to human safety. Examples of natural hazards include blizzards and ice storms; earthquakes; floods; landslides; tornadoes, cyclones, and hurricanes; tsunamis; icebergs; and volcanoes. See also **natural disaster.**

**natural phenomena.** Physical processes and events pertaining to things such as weather, wave action, soil build-up, or plant growth.

**natural resource.** Something found in nature that people find useful or valuable. See also **flow resource; non-renewable resource; renewable resource.**

**non-governmental organization (NGO).** An organization that operates independently of governments, typically providing a social or public service (e.g., Doctors without Borders, Free the Children, Nature Conservancy).

**non-renewable resource.** A resource that is limited and cannot be replaced once it is used up (e.g., coal, oil, natural gas).

**NORAD.** See **North American Air Defense Command.**

**North American Air Defense Command (NORAD).** A joint Canadian-American organization established in 1958 to monitor and defend airspace and to issue warnings regarding threats to North America from missiles and other aerospace weapons. Later renamed the North American Aerospace Defense Command.

**North American Free Trade Agreement (NAFTA).** A trade agreement between Canada, the United States, and Mexico that became law in 1993. The main purpose of NAFTA is to facilitate and increase trade among the three countries.

**North Atlantic Treaty Organization (NATO).** A political and military alliance among 28 European and North American nations, including Canada, whose primary goal is the collective defence of its members and peace in the North Atlantic region.

**Numbered Treaties.** Agreements made in the years 1871–1921 between the Crown and First Nations and Métis peoples, the Numbered Treaties cover parts of British Columbia, the Northwest Territories, Yukon, Saskatchewan, Manitoba, and Northern Ontario. The treaties are numbered 1 to 11.

**opinion.** A belief or conclusion held with confidence but not substantiated by positive knowledge or proof.

**parliamentary democracy.\*** A British system of government in which the executive (prime minister/premier and cabinet) sit in the elected chamber (House of Commons/Legislature) and are accountable to the elected representatives of the people. Canada is a parliamentary democracy.

**Parliament of Canada.\*** The supreme legislature of Canada, consisting of the Queen (represented by the Governor General), the Senate, and the House of Commons.

**pass system.** An informal administrative policy that restricted the movement of First Nations people by requiring them to obtain a pass from an Indian agent in order to leave the reserve. *See also* **Indian agent**.

**Peace and Friendship Treaties.** Agreements signed by the Mi'kmaq, Maliseet, and Passamaquoddy on the Eastern Coast of Canada and the British in 1779. These treaties did not include the surrender of lands and resources. They were intended to establish the basis for an ongoing relationship between the British and First Nations.

**peacekeeping.** Intervention, often by international forces (military, police, and/or civilian) in countries or regions that are experiencing conflict, with the goal of maintaining peace and security and helping create a social and political environment that leads to lasting peace. International peacekeeping missions are generally conducted under the auspices of the United Nations.

**Pemmican Proclamation.** An 1814 decree that prohibited the export of pemmican and other goods from the Red River district to Assiniboia, the proclamation had a major impact on both Métis and the fur trade.

**per capita income.** The average amount of money earned per person per year in a country or region.

**petroglyphs.** Rock carvings that transmit stories, teachings, traditions, and/or knowledge. In Canada, petroglyphs created by Indigenous peoples are sacred.

**physical feature.** An aspect of a place or area that derives from the physical environment (e.g., water bodies – lakes, rivers, oceans, seas, swamps; landforms – mountains, valleys, hills, plateaus; soil types; vegetation).

**physical region.** A geographic area characterized by similar landforms, climate, soil, and vegetation.

**pictograph.** A graph that uses pictures or symbols for statistical comparisons.

**plate tectonics.** The movement of the thin outer layer of Earth's crust on which the oceans and continents rest. This movement, which is driven mainly by convection currents in material beneath the crust, by gravity, and by Earth's rotation, results in the buckling (fold mountains), tearing (earthquakes), and erupting (volcanoes) of Earth's surface. *See also* **tectonic forces**.

**pluriculturalism.** The idea that individuals belong to multiple groups, nations, identities, and cultures that shape their beliefs, awareness, and actions.

**political region.** A geographical area that shares a government and has its own leaders and sets of laws.

**population density.** The average number of people in a particular area, calculated by dividing the number of people by a unit of space (e.g., per square kilometre).

**population distribution.** The way in which a population is spread across a geographical area.

**population pyramid.** A horizontal bar graph that indicates the number of people in different age groups and the balance between males and females in the population. These graphs can be used for a city, country, or other political region.

**potlatch.** Among Northwest Coast First Nations, a gift-giving ceremony and feast held to celebrate important events and to acknowledge a family's status in the community.

**premier.** The head of a provincial or territorial government in Canada.

**primary industries/primary sector.** Industries that harvest or extract raw materials or natural resources (e.g., agriculture, ranching, forestry, fishing, mining). *See also* **economic sector**.

**primary sources.** Artefacts and oral, print, media, or computer materials created during the period of time under study.

**prime meridian.** Longitude zero degrees; an imaginary line running north and south, which by international agreement runs through the Royal Observatory at Greenwich, England. *See also* **longitude.**

**prime minister.** The head of the government in a parliamentary democracy, including Canada. The prime minister is the leader of the party that is in power and that normally has the largest number of the seats in the House of Commons.

**proportional representation.** A voting system in which the number of seats held by each party is in proportion to the number of votes each party received, rather than, as in the first-past-the-post system, the number of ridings won by each party. *See also* **first past the post; voting system.**

**pull factors.** In migration theory, the social, political, economic, and environmental attractions of new areas that draw people away from their previous locations.

**push factors.** In migration theory, the social, political, economic, and environmental forces that drive people from their previous locations to search for new ones.

**quality of life.** Human well-being, as measured by social indicators, including education, environmental well-being, health, and living standards. *See also* **Human Development Index.**

**quaternary sector.** *See* **knowledge-based industries.**

**Quiet Revolution.** A period of rapid change that occurred in Quebec in the 1960s. During these years the church-based education system was reformed, hydroelectric utilities were nationalized, the Quebec Pension Plan was created, and new ministries for cultural affairs and federal/provincial relations were formed.

**refugee.** A person who is forced to flee for safety from political upheaval or war to a foreign country.

**region.** An area of Earth having some characteristic or characteristics that distinguish it from other areas.

**rehabilitation.** A process in which people attempt to restore land damaged by a natural event or by human activity, such as primary industry, back to its natural state (e.g., an old quarry being turned into a park).

**relative location.** The location of a place or region in relation to other places or regions (e.g., northwest or downstream).

**remote sensing.** The gathering of information about Earth from a distance (e.g., through aerial photographs or data collected by instruments aboard satellites or aircraft).

**renewable resource.** A resource that can be regenerated if used carefully (e.g., fish, timber).

**reserves.** Lands set aside by the federal government for the use and benefit of a specific band or First Nation. The Indian Act provides that this land cannot be owned by individual band or First Nation members.

**residential school system/residential schools.** A network of government-funded, church-run schools for First Nations, Métis, and Inuit children, the goal of which was to eradicate Indigenous languages, traditions, knowledge, and culture and to assimilate Indigenous peoples into mainstream settler society.

**resource recovery.** The extraction of resources from materials that have been discarded (e.g., from recycled materials or mine tailings).

**resources.** The machines, workers, money, land, raw materials, and other things that can be used to produce goods and services.

**responsible government.\*** A government that is responsible to the people, based on the principle that governments must be responsible to the representatives of the people.

**revolution.** The forcible overthrow of a political regime or social order.

**rights.** Entitlements recognized and protected by law.

**ring of fire.** In Ontario, an area north of Thunder Bay that contains large deposits of chromite and other valuable minerals. There is some controversy as to how best to develop the deposits, with issues related to First Nations rights and economic development as well as the environment needing to be resolved.

**rule of law.** The fundamental constitutional principle that no governments or persons are above the law and that society is governed by laws that apply fairly to all persons.

**scale.** On a map, the measurement that represents an actual distance on Earth's surface. Scale can be indicated on a map by a ratio, a linear representation, or a statement.

**scattered settlement pattern.** Settlement mainly in rural areas where houses are scattered in no apparent pattern. The amount of space between dwellings depends on the amount of land that is required to grow enough food for the family living in each dwelling.

**scatter graph.** A graph in which data pairs are plotted on a coordinate plane or grid as unconnected points. A scatter graph is useful for showing correlation (i.e., the extent to which one variable is related to another). *See also* **grid**.

**secondary sector.** *See* **manufacturing sector**.

**secondary sources.** Oral, print, media, and computer materials that are second-hand, often created after the event or development being studied. Secondary sources are often based on an analysis of primary sources and offer judgements about past events/issues. *See also* **primary sources**.

**Senate.** *See* **legislature; parliament**.

**senator.** In federal politics, a member of the Canadian Senate. *See also* **Métis Senator**.

**service-based industries.** That part of the economy that provides services (e.g., banking, retailing, education) rather than products. Also referred to as the tertiary sector. *See also* **economic sector**.

**settlement pattern.** The distribution and arrangement of individual buildings or of rural and urban centres (e.g., clustered, linear, scattered).

**shaman.** In some Indigenous spiritual traditions, a person who is responsible for holding ceremonies, communicating with good and bad spirits, healing people from illnesses, and tracking game animals. An Inuk shaman is called an *angakok*.

**Sixties Scoop.** The removal, during the 1960s, of First Nations, Inuit, and Métis children from their homes and their subsequent placement in the foster care system or, in the majority of cases, with non-Indigenous families, without the consent of their parents, guardians, or communities. Victims of the Sixties Scoop are often referred to as the Stolen Generation.

**social enterprises.** For-profit companies or not-for-profit organizations that generate funds by selling goods and/or services in order to support social, cultural, and/or environmental goals.

**social gospel.** A movement, dating from the end of the nineteenth century, in which Christian ethics and ideas were applied to address social problems related to industrialization, including poverty, inequality, urban slums, and harsh working conditions. Social gospellers in Canada advocated temperance and child welfare, among other social reforms.

**social justice.** A concept based on the belief that each individual and group within a given society has a right to equal opportunity and civil liberties, and to exercise the social, educational, economic, institutional, and moral freedoms and responsibilities of that society.



**social welfare programs.** Government programs designed to help meet the personal, economic, emotional, and/or physical needs of citizens.

**sovereignty.** Independent control or authority over a particular area or territory.

**spatial technologies.** Technologies that support the use of geographic data. The data can be represented in various forms, such as maps, graphs, or photographs of a site. Examples of spatial technologies include geographic information systems (GIS), global positioning system (GPS), and remote sensing. *See also* **geographic information system; global positioning system; remote sensing.**

**stakeholder.** A person, group, or organization that has an interest in or concern about something.

**status Indian.** *See* **Indian.**

**stewardship.** The concept that people's decisions, choices, and actions can have a positive impact, supporting a healthy environment that is essential for all life. A healthy environment supports sustainable relationships among all of the Earth's living and non-living things.

**suffragist.** A person who campaigns for the extension of the right to vote (suffrage); a member of the suffrage movement, particularly the women's suffrage movement.

**sustainability.** Living within the limits of available resources. These resources may include Earth's natural resources and/or the economic and human resources of a society. Sustainability also implies equitable distribution of resources and benefits, which requires an understanding of the interrelationships between natural environments, societies, and economies.

**sustained yield.** Harvesting of a resource in which the amount extracted is managed so that the resource has time to regenerate itself.

**system.** Something made up of interconnected elements and processes that contribute to the whole (e.g., political systems, economic systems, natural systems).

**tailings.** Waste material left after a resource has been extracted during the mining process (e.g., the extraction of minerals from rocks, oil from the oil sands). Tailings are often toxic because of the processes used to separate the valuable materials from the waste.

**tectonic forces.** Forces caused by movements within or beneath Earth's crust that can produce earthquakes and volcanoes. These forces result in the building up and tearing down of Earth's physical features (e.g., mountains, valleys, trenches). *See also* **plate tectonics.**

**temperance movement.** The movement to control or ban alcoholic beverages. In Canada, the temperance movement was particularly active at the end of the nineteenth and beginning of the twentieth century.

**tertiary industries.** *See* **service-based industries.**

**thematic map.** A map depicting specific characteristics for a given area (e.g., a political map of the world, a natural resource map of Ontario, a map showing the destination of immigrants in early twentieth-century Canada). *See also* **map.**

**topographic map.** A map whose primary purpose is to show the relief of the land through the use of contour lines. It also uses symbols and colour to show a variety of built features. *See also* **map.**

**traditional economy.** An economic system in which decisions are made on the basis of customs, beliefs, religion, and habit. Traditional economies are often based on hunting, fishing, and/or subsistence agriculture. *See also* **economic system.**

**transnational corporation.** *See* **multinational corporation.**

**treaty.** A formal agreement between two or more parties. In Canada, treaties are often formal historical agreements between the Crown and Aboriginal peoples; these treaties are often interpreted differently by federal, provincial, and Indigenous governments.

**treaty rights.** Rights specified in a treaty. Rights to hunt and fish in traditional territory and to use and occupy reserves are typical treaty rights. This concept can have different meanings depending on context and the perspective of the user.

**Truth and Reconciliation Commission of Canada (TRC).** A federally commissioned investigative body whose mandate was to learn the truth about the experience of residential school survivors and, in so doing, to create a historical record of and promote awareness and public education about the history and impact of the residential school system.

**United Nations.** An intergovernmental organization formed in 1945 to promote peace and economic development.

**United Nations Declaration on the Rights of Indigenous People.** Adopted by the United Nations General Assembly in 2007, the declaration identifies a universal framework of standards for the treatment of Indigenous peoples around the world and elaborates on existing human rights standards and fundamental freedoms, including, but not limited to, those related to culture, language, health, and education.

**Universal Declaration of Human Rights.** A document adopted by the United Nations in 1948 setting out the basic rights and freedoms of all people.

**urbanization.** A process in which there is an increase in the percentage of people living and/or working in urban places.

**urban sprawl.** The spread of a city over a relatively large area of land. The term has a negative connotation as a result of the stress on infrastructure and the environment associated with such expansion.

**values.** Personal or societal beliefs that govern a person's behaviours and choices.

**voting.** The act of expressing an opinion by a show of hands or ballot, usually with the intent of electing a candidate to office or passing a resolution.

**voting system.** The rules and processes by which governments are elected. Canada has a first-past-the-post voting system. *See also* **first past the post; proportional representation.**

**War Measures Act.** An act, passed during World War I, that gives the federal cabinet emergency powers, permitting them to govern by decree when they believe that Canada and Canadians are under threat from war, invasion, or insurrection.

**waste management.** The handling (e.g., collection, disposal, reuse) of the waste products from human activity (e.g., sewage, garbage, e-waste).

**weather.** The conditions of the atmosphere, including temperature, precipitation, wind, humidity, and cloud cover, at a specific place and time. *See also* **climate.**



The Ministry of Education wishes to acknowledge the contribution of the many individuals, groups, and organizations that participated in the development and refinement of this curriculum policy document.



Printed on recycled paper

17-062

ISBN 978-1-4868-1518-0 (Print)

ISBN 978-1-4868-1519-7 (PDF)

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# Exhibit 03

INTERNATIONAL COURT OF JUSTICE

REPORTS OF JUDGMENTS,  
ADVISORY OPINIONS AND ORDERS

CASE CONCERNING APPLICATION OF  
THE CONVENTION ON THE PREVENTION AND  
PUNISHMENT OF THE CRIME OF GENOCIDE  
(BOSNIA AND HERZEGOVINA v. SERBIA AND MONTENEGRO)

JUDGMENT OF 26 FEBRUARY 2007

# 2007

COUR INTERNATIONALE DE JUSTICE

RECUEIL DES ARRÊTS,  
AVIS CONSULTATIFS ET ORDONNANCES

AFFAIRE RELATIVE À L'APPLICATION  
DE LA CONVENTION POUR LA PRÉVENTION  
ET LA RÉPRESSION DU CRIME DE GÉNOCIDE  
(BOSNIE-HERZÉGOVINE c. SERBIE-ET-MONTÉNÉGRO)

ARRÊT DU 26 FÉVRIER 2007

Official citation:

*Application of the Convention on the Prevention and Punishment  
of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro),  
Judgment, I.C.J. Reports 2007, p. 43*

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Mode officiel de citation:

*Application de la convention pour la prévention et la répression  
du crime de génocide (Bosnie-Herzégovine c. Serbie-et-Monténégro),  
arrêt, C.I.J. Recueil 2007, p. 43*

ISSN 0074-4441

ISBN 978-92-1-071029-9

Sales number  
N° de vente:

**921**

26 FEBRUARY 2007

JUDGMENT

APPLICATION OF THE CONVENTION ON THE PREVENTION  
AND PUNISHMENT OF THE CRIME OF GENOCIDE  
(BOSNIA AND HERZEGOVINA *v.* SERBIA AND MONTENEGRO)

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APPLICATION DE LA CONVENTION POUR LA PRÉVENTION  
ET LA RÉPRESSION DU CRIME DE GÉNOCIDE  
(BOSNIE-HERZÉGOVINE *c.* SERBIE-ET-MONTÉNÉGRO)

26 FÉVRIER 2007

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## LIST OF ACRONYMS

<i>Abbreviation</i>	<i>Full name</i>	<i>Comments</i>
ARBiH	Army of the Republic of Bosnia and Herzegovina	
FRY	Federal Republic of Yugoslavia	Name of Serbia and Montenegro between 27 April 1992 (adoption of the Constitution) and 3 February 2003
ICTR	International Criminal Tribunal for Rwanda	
ICTY	International Criminal Tribunal for the former Yugoslavia	
ILC	International Law Commission	
JNA	Yugoslav People's Army	Army of the SFRY (ceased to exist on 27 April 1992, with the creation of the VJ)
MUP	Ministarstvo Unutrašnjih Pollova	Ministry of the Interior
NATO	North Atlantic Treaty Organization	
SFRY	Socialist Federal Republic of Yugoslavia	
TO	Teritorijalna Odbrana	Territorial Defence Forces
UNHCR	United Nations High Commissioner for Refugees	
UNPROFOR	United Nations Protection Force	
VJ	Yugoslav Army	Army of the FRY, under the Constitution of 27 April 1992 (succeeded to the JNA)
VRS	Army of the Republika Srpska	

INTERNATIONAL COURT OF JUSTICE

YEAR 2007

26 February 2007

CASE CONCERNING APPLICATION OF  
THE CONVENTION ON THE PREVENTION AND  
PUNISHMENT OF THE CRIME OF GENOCIDE

(BOSNIA AND HERZEGOVINA v. SERBIA AND MONTENEGRO)

JUDGMENT

*Present:* *President* HIGGINS; *Vice-President* AL-KHASAWNEH; *Judges* RANJEVA, SHI, KOROMA, OWADA, SIMMA, TOMKA, ABRAHAM, KEITH, SEPÚLVEDA-AMOR, BENNOUNA, SKOTNIKOV; *Judges ad hoc* MAHIOU, KREĆA; *Registrar* COUVREUR.

In the case concerning application of the Convention on the Prevention and Punishment of the Crime of Genocide,

*between*

Bosnia and Herzegovina,

represented by

Mr. Sakib Softić,

as Agent;

Mr. Phon van den Biesen, Attorney at Law, Amsterdam,

as Deputy Agent;

Mr. Alain Pellet, Professor at the University of Paris X-Nanterre, Member and former Chairman of the United Nations International Law Commission,

Mr. Thomas M. Franck, Professor Emeritus of Law, New York University School of Law,

Ms Brigitte Stern, Professor at the University of Paris I,

Mr. Luigi Condorelli, Professor at the Faculty of Law of the University of Florence,

Ms Magda Karagiannakis, B.Ec., LL.B., LL.M., Barrister at Law, Melbourne, Australia,

Ms Joanna Korner Q.C., Barrister at Law, London,

Ms Laura Dauban, LL.B. (Hons),

Mr. Antoine Ollivier, Temporary Lecturer and Research Assistant, University of Paris X-Nanterre,

as Counsel and Advocates;

Mr. Morten Torkildsen, BSc., MSc., Torkildsen Granskin og Rådgivning, Norway,

as Expert Counsel and Advocate;

H.E. Mr. Fuad Šabeta, Ambassador of Bosnia and Herzegovina to the Kingdom of the Netherlands,

Mr. Wim Muller, LL.M., M.A.,

Mr. Mauro Barelli, LL.M. (University of Bristol),

Mr. Ermin Sarajlija, LL.M.,

Mr. Amir Bajrić, LL.M.,

Ms Amra Mehmedić, LL.M.,

Ms Isabelle Moulier, Research Student in International Law, University of Paris I,

Mr. Paolo Palchetti, Associate Professor at the University of Macerata, Italy,

as Counsel,

*and*

Serbia and Montenegro,

represented by

H.E. Mr. Radoslav Stojanović, S.J.D., Head of the Law Council of the Ministry of Foreign Affairs of Serbia and Montenegro, Professor at the Belgrade University School of Law,

as Agent;

Mr. Saša Obradović, First Counsellor of the Embassy of Serbia and Montenegro in the Kingdom of the Netherlands,

Mr. Vladimir Cvetković, Second Secretary of the Embassy of Serbia and Montenegro in the Kingdom of the Netherlands,

as Co-Agents;

Mr. Tibor Varady, S.J.D. (Harvard), Professor of Law at the Central European University, Budapest, and Emory University, Atlanta,

Mr. Ian Brownlie, C.B.E., Q.C., F.B.A., Member of the International Law Commission, member of the English Bar, Distinguished Fellow of All Souls College, Oxford,

Mr. Xavier de Roux, Maîtrise de droit, avocat à la cour, Paris,

Ms Nataša Fauveau-Ivanović, avocat à la cour, Paris, member of the Council of the International Criminal Bar,

Mr. Andreas Zimmerman, LL.M. (Harvard), Professor of Law at the University of Kiel, Director of the Walther-Schücking Institute,

Mr. Vladimir Djerić, LL.M. (Michigan), Attorney at Law, Mikijelj, Janković & Bogdanović, Belgrade, President of the International Law Association of Serbia and Montenegro,  
 Mr. Igor Olujić, Attorney at Law, Belgrade,  
 as Counsel and Advocates;  
 Ms Sanja Djajić, S.J.D, Associate Professor at the Novi Sad University School of Law,  
 Ms Ivana Mroz, LL.M. (Minneapolis),  
 Mr. Svetislav Rabrenović, Expert-associate at the Office of the Prosecutor for War Crimes of the Republic of Serbia,  
 Mr. Aleksandar Djurdjić, LL.M., First Secretary at the Ministry of Foreign Affairs of Serbia and Montenegro,  
 Mr. Miloš Jastrebić, Second Secretary at the Ministry of Foreign Affairs of Serbia and Montenegro,  
 Mr. Christian J. Tams, LL.M., Ph.D. (Cambridge), Walther-Schücking Institute, University of Kiel,  
 Ms Dina Dobrkovic, LL.B.,  
 as Assistants,

THE COURT,

composed as above,  
 after deliberation,

*delivers the following Judgment:*

1. On 20 March 1993, the Government of the Republic of Bosnia and Herzegovina (with effect from 14 December 1995 “Bosnia and Herzegovina”) filed in the Registry of the Court an Application instituting proceedings against the Federal Republic of Yugoslavia (with effect from 4 February 2003, “Serbia and Montenegro” and with effect from 3 June 2006, the Republic of Serbia — see paragraphs 67 and 79 below) in respect of a dispute concerning alleged violations of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the General Assembly of the United Nations on 9 December 1948 (hereinafter “the Genocide Convention” or “the Convention”), as well as various matters which Bosnia and Herzegovina claimed were connected therewith. The Application invoked Article IX of the Genocide Convention as the basis of the jurisdiction of the Court.

2. Pursuant to Article 40, paragraph 2, of the Statute of the Court, the Application was immediately communicated to the Government of the Federal Republic of Yugoslavia (hereinafter “the FRY”) by the Registrar; and in accordance with paragraph 3 of that Article, all States entitled to appear before the Court were notified of the Application.

3. In conformity with Article 43 of the Rules of Court, the Registrar addressed the notification provided for in Article 63, paragraph 1, of the Statute to all the States appearing on the list of the parties to the Genocide Convention held by the Secretary-General of the United Nations as depositary. The Registrar also sent to the Secretary-General the notification provided for in Article 34, paragraph 3, of the Statute.

4. On 20 March 1993, immediately after the filing of its Application, Bosnia



and Herzegovina submitted a request for the indication of provisional measures pursuant to Article 73 of the Rules of Court. On 31 March 1993, Bosnia and Herzegovina filed in the Registry, and invoked as an additional basis of jurisdiction, the text of a letter dated 8 June 1992, addressed jointly by the President of the then Republic of Montenegro and the President of the then Republic of Serbia to the President of the Arbitration Commission of the International Conference for Peace in Yugoslavia. On 1 April 1993, the FRY submitted written observations on Bosnia and Herzegovina's request for provisional measures, in which it, in turn, recommended that the Court indicate provisional measures to be applied to Bosnia and Herzegovina. By an Order dated 8 April 1993, the Court, after hearing the Parties, indicated certain provisional measures with a view to the protection of rights under the Genocide Convention.

5. By an Order dated 16 April 1993, the President of the Court fixed 15 October 1993 as the time-limit for the filing of the Memorial of Bosnia and Herzegovina and 15 April 1994 as the time-limit for the filing of the Counter-Memorial of the FRY.

6. Since the Court included upon the Bench no judge of the nationality of the Parties, each of them exercised its right under Article 31, paragraph 3, of the Statute to choose a judge *ad hoc* to sit in the case: Bosnia and Herzegovina chose Mr. Elihu Lauterpacht and the FRY chose Mr. Milenko Kreća.

7. On 27 July 1993, Bosnia and Herzegovina submitted a new request for the indication of provisional measures. By letters of 6 August and 10 August 1993, the Agent of Bosnia and Herzegovina indicated that his Government wished to invoke additional bases of jurisdiction in the case: the Treaty between the Allied and Associated Powers and the Kingdom of the Serbs, Croats and Slovenes on the Protection of Minorities, signed at Saint-Germain-en-Laye on 10 September 1919, and customary and conventional international laws of war and international humanitarian law. By a letter of 13 August 1993, the Agent of Bosnia and Herzegovina confirmed his Government's intention also to rely on the above-mentioned letter from the Presidents of Montenegro and Serbia dated 8 June 1992 as an additional basis of jurisdiction (see paragraph 4).

8. On 10 August 1993, the FRY also submitted a request for the indication of provisional measures and on 10 August and 23 August 1993, it filed written observations on Bosnia and Herzegovina's new request. By an Order dated 13 September 1993, the Court, after hearing the Parties, reaffirmed the measures indicated in its Order of 8 April 1993 and stated that those measures should be immediately and effectively implemented.

9. By an Order dated 7 October 1993, the Vice-President of the Court, at the request of Bosnia and Herzegovina, extended the time-limit for the filing of the Memorial to 15 April 1994 and accordingly extended the time-limit for the filing of the Counter-Memorial to 15 April 1995. Bosnia and Herzegovina filed its Memorial within the time-limit thus extended. By a letter dated 9 May 1994, the Agent of the FRY submitted that the Memorial filed by Bosnia and Herzegovina failed to meet the requirements of Article 43 of the Statute and Articles 50 and 51 of the Rules of Court. By letter of 30 June 1994, the Registrar, acting on the instructions of the Court, requested Bosnia and Herzegovina, pursuant to Article 50, paragraph 2, of the Rules of Court, to file as annexes to its Memorial the extracts of the documents to which it referred therein. Bosnia and

Herzegovina accordingly filed Additional Annexes to its Memorial on 4 January 1995.

10. By an Order dated 21 March 1995, the President of the Court, at the request of the FRY, extended the time-limit for the filing of the Counter-Memorial to 30 June 1995. Within the time-limit thus extended, the FRY, referring to Article 79, paragraph 1, of the Rules of Court of 14 April 1978, raised preliminary objections concerning the Court's jurisdiction to entertain the case and to the admissibility of the Application. Accordingly, by an Order of 14 July 1995, the President of the Court noted that, by virtue of Article 79, paragraph 3, of the 1978 Rules of Court, the proceedings on the merits were suspended, and fixed 14 November 1995 as the time-limit within which Bosnia and Herzegovina might present a written statement of its observations and submissions on the preliminary objections raised by the FRY. Bosnia and Herzegovina filed such a statement within the time-limit thus fixed.

11. By a letter dated 2 February 1996, the Agent of the FRY submitted to the Court the text of the General Framework Agreement for Peace in Bosnia and Herzegovina and the annexes thereto, initialled in Dayton, Ohio, on 21 November 1995, and signed in Paris on 14 December 1995 (hereinafter the "Dayton Agreement").

12. Public hearings were held on preliminary objections between 29 April and 3 May 1996. By a Judgment of 11 July 1996, the Court dismissed the preliminary objections and found that it had jurisdiction to adjudicate on the dispute on the basis of Article IX of the Genocide Convention and that the Application was admissible.

13. By an Order dated 23 July 1996, the President fixed 23 July 1997 as the time-limit for the filing of the Counter-Memorial of the FRY. The Counter-Memorial, which was filed on 22 July 1997, contained counter-claims. By a letter dated 28 July 1997, Bosnia and Herzegovina, invoking Article 80 of the 1978 Rules of Court, challenged the admissibility of the counter-claims. On 22 September 1997, at a meeting held between the President of the Court and the Agents of the Parties, the Agents accepted that their respective Governments submit written observations on the question of the admissibility of the counter-claims. Bosnia and Herzegovina and the FRY submitted their observations to the Court on 10 October 1997 and 24 October 1997, respectively. By an Order dated 17 December 1997, the Court found that the counter-claims submitted by the FRY were admissible as such and formed part of the current proceedings since they fulfilled the conditions set out in Article 80, paragraphs 1 and 2, of the 1978 Rules of Court. The Court further directed Bosnia and Herzegovina to submit a Reply and the FRY to submit a Rejoinder relating to the claims of both Parties and fixed 23 January 1998 and 23 July 1998 as the respective time-limits for the filing of those pleadings. The Court also reserved the right of Bosnia and Herzegovina to present its views on the counter-claims of the FRY in an additional pleading.

14. By an Order dated 22 January 1998, the President, at the request of Bosnia and Herzegovina, extended the time-limit for the filing of the Reply of Bosnia and Herzegovina to 23 April 1998 and accordingly extended the time-limit for the filing of the Rejoinder of the FRY to 22 January 1999.

15. On 15 April 1998, the Co-Agent of the FRY filed "Additional Annexes

to the Counter-Memorial of the Federal Republic of Yugoslavia". By a letter dated 14 May 1998, the Deputy Agent of Bosnia and Herzegovina, referring to Articles 50 and 52 of the Rules of Court, objected to the admissibility of these documents in view of their late filing. On 22 September 1998, the Parties were informed that the Court had decided that the documents in question "[were] admissible as Annexes to the Counter-Memorial to the extent that they were established, in the original language, on or before the date fixed by the Order of 23 July 1996 for the filing of the Counter-Memorial" and that "[a]ny such document established after that date [would] have to be submitted as an Annex to the Rejoinder, if Yugoslavia so wishe[d]".

16. On 23 April 1998, within the time-limit thus extended, Bosnia and Herzegovina filed its Reply. By a letter dated 27 November 1998, the FRY requested the Court to extend the time-limit for the filing of its Rejoinder to 22 April 1999. By a letter dated 9 December 1998, Bosnia and Herzegovina objected to any extension of the time-limit fixed for the filing of the Rejoinder. By an Order of 11 December 1998, the Court, having regard to the fact that Bosnia and Herzegovina had been granted an extension of the time-limit for the filing of its Reply, extended the time-limit for the filing of the Rejoinder of the FRY to 22 February 1999. The FRY filed its Rejoinder within the time-limit thus extended.

17. On 19 April 1999, the President of the Court held a meeting with the representatives of the Parties in order to ascertain their views with regard to questions of procedure. Bosnia and Herzegovina indicated that it did not intend to file an additional pleading concerning the counter-claims made by the FRY and considered the case ready for oral proceedings. The Parties also expressed their views about the organization of the oral proceedings.

18. By a letter dated 9 June 1999, the then Chairman of the Presidency of Bosnia and Herzegovina, Mr. Zivko Radisić, informed the Court of the appointment of a Co-Agent, Mr. Svetozar Miletić. By a letter dated 10 June 1999, the thus appointed Co-Agent informed the Court that Bosnia and Herzegovina wished to discontinue the case. By a letter of 14 June 1999, the Agent of Bosnia and Herzegovina asserted that the Presidency of Bosnia and Herzegovina had taken no action to appoint a Co-Agent or to terminate the proceedings before the Court. By a letter of 15 June 1999, the Agent of the FRY stated that his Government accepted the discontinuance of the proceedings. By a letter of 21 June 1999, the Agent of Bosnia and Herzegovina reiterated that the Presidency had not made any decision to discontinue the proceedings and transmitted to the Court letters from two members of the Presidency, including the new Chairman of the Presidency, confirming that no such decision had been made.

19. By letters dated 30 June 1999 and 2 September 1999, the President of the Court requested the Chairman of the Presidency to clarify the position of Bosnia and Herzegovina regarding the pendency of the case. By a letter dated 3 September 1999, the Agent of the FRY submitted certain observations on this matter, concluding that there was an agreement between the Parties to discontinue the case. By a letter dated 15 September 1999, the Chairman of the Presidency of Bosnia and Herzegovina informed the Court that at its 58th session held on 8 September 1999, the Presidency had concluded that: (i) the Presidency "did not make a decision to discontinue legal proceedings before the International Court of Justice"; (ii) the Presidency "did not make a decision to name a Co-Agent in this case"; (iii) the Presidency would "inform [the Court] timely about any further decisions concerning this case".

20. By a letter of 20 September 1999, the President of the Court informed

the Parties that the Court intended to schedule hearings in the case beginning in the latter part of February 2000 and requested the Chairman of the Presidency of Bosnia and Herzegovina to confirm that Bosnia and Herzegovina's position was that the case should so proceed. By a letter of 4 October 1999, the Agent of Bosnia and Herzegovina confirmed that the position of his Government was that the case should proceed and he requested the Court to set a date for the beginning of the oral proceedings as soon as possible. By a letter dated 10 October 1999, the member of the Presidency of Bosnia and Herzegovina from the Republika Srpska informed the Court that the letter of 15 September 1999 from the Chairman of the Presidency was "without legal effects" *inter alia* because the National Assembly of the Republika Srpska, acting pursuant to the Constitution of Bosnia and Herzegovina, had declared the decision of 15 September "destructive of a vital interest" of the Republika Srpska. On 22 October 1999, the President informed the Parties that, having regard to the correspondence received on this matter, the Court had decided not to hold hearings in the case in February 2000.

21. By a letter dated 23 March 2000 transmitting to the Court a letter dated 20 March 2000 from the Chairman of the Presidency, the Agent of Bosnia and Herzegovina reaffirmed that the appointment of a Co-Agent by the former Chairman of the Presidency of Bosnia and Herzegovina on 9 June 1999 lacked any legal basis and that the communications of the Co-Agent did not reflect the position of Bosnia and Herzegovina. Further, the Agent asserted that, contrary to the claims of the member of the Presidency of Bosnia and Herzegovina from the Republic of Srpska, the letter of 15 September 1999 was not subject to the veto mechanism contained in the Constitution of Bosnia and Herzegovina. The Agent requested the Court to set a date for oral proceedings at its earliest convenience.

22. By a letter dated 13 April 2000, the Agent of the FRY transmitted to the Court a document entitled "Application for the Interpretation of the Decision of the Court on the Pendency of the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)", requesting an interpretation of the decision of the Court to which the President of the Court had referred in his letter dated 22 October 1999. By a letter dated 18 April 2000, the Registrar informed the Agent of the FRY that, according to Article 60 of the Statute, a request for interpretation could relate only to a judgment of the Court and therefore the document transmitted to the Court on 13 April 2000 could not constitute a request for interpretation and had not been entered on the Court's General List. The Registrar further explained that the sole decision to which reference was made in the letter of 22 October 1999 was that no hearings would be held in February 2000. The Registrar requested the Agent to transmit as soon as possible any comments he might have on the letter dated 23 March 2000 from the Agent of Bosnia and Herzegovina and the letter from the Chairman of the Presidency enclosed therewith. By a letter dated 25 April 2000, the Agent of the FRY submitted such comments to the Court and requested that the Court record and implement the agreement for the discontinuance of the case evidenced by the exchange of the letter of the Co-Agent of the Applicant dated 10 June 1999 and the letter of the Agent of the FRY dated 15 June 1999. By a letter dated 8 May 2000, the Agent of Bosnia and Herzegovina submitted certain observations regarding the letter dated 25 April 2000 from the Agent of the FRY and reiterated the wish of his Government to continue with the proceedings in the case. By letters dated 8 June, 26 June and 4 October 2000 from the

FRY and letters dated 9 June and 21 September 2000 from Bosnia and Herzegovina, the Agents of the Parties restated their positions.

23. By a letter dated 29 September 2000, Mr. Svetozar Miletić, who had purportedly been appointed Co-Agent on 9 June 1999 by the then Chairman of the Presidency of Bosnia and Herzegovina, reiterated his position that the case had been discontinued. By a letter dated 6 October 2000, the Agent of Bosnia and Herzegovina stated that this letter and the recent communication from the Agent of the FRY had not altered the commitment of the Government of Bosnia and Herzegovina to continue the proceedings.

24. By letters dated 16 October 2000 from the President of the Court and from the Registrar, the Parties were informed that, at its meeting of 10 October 2000, the Court, having examined all the correspondence received on this question, had found that Bosnia and Herzegovina had not demonstrated its will to withdraw the Application in an unequivocal manner. The Court had thus concluded that there had been no discontinuance of the case by Bosnia and Herzegovina. Consequently, in accordance with Article 54 of the Rules, the Court, after having consulted the Parties, would, at an appropriate time, fix a date for the opening of the oral proceedings.

25. By a letter dated 18 January 2001, the Minister for Foreign Affairs of the FRY requested the Court to grant a stay of the proceedings or alternatively to postpone the opening of the oral proceedings for a period of 12 months due, *inter alia*, to the change of Government of the FRY and the resulting fundamental change in the policies and international position of that State. By a letter dated 25 January 2001, the Agent of Bosnia and Herzegovina communicated the views of his Government on the request made by the FRY and reserved his Government's final judgment on the matter, indicating that, in the intervening period, Bosnia and Herzegovina's position continued to be that there should be an expedited resolution of the case.

26. By a letter dated 20 April 2001, the Agent of the FRY informed the Court that his Government wished to withdraw the counter-claims submitted by the FRY in its Counter-Memorial. The Agent also informed the Court that his Government was of the opinion that the Court did not have jurisdiction *ratione personae* over the FRY and further that the FRY intended to submit an application for revision of the Judgment of 11 July 1996. On 24 April 2001, the FRY filed in the Registry of the Court an Application instituting proceedings whereby, referring to Article 61 of the Statute, it requested the Court to revise the Judgment delivered on Preliminary Objections on 11 July 1996 (*Application for Revision of the Judgment of 11 July 1996 in the Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)*, Preliminary Objections (*Yugoslavia v. Bosnia and Herzegovina*), hereinafter referred to as "*the Application for Revision case*"). In the present case the Agent of the FRY submitted, under cover of a letter dated 4 May 2001, a document entitled "Initiative to the Court to Reconsider *ex officio* Jurisdiction over Yugoslavia", accompanied by one volume of annexes (hereinafter "*the Initiative*"). The Agent informed the Court that the Initiative was based on facts and arguments which were essentially identical to those submitted in the FRY's Application for revision of the Judgment of 11 July 1996 since his Government believed that these were both appropriate procedural avenues. In the Initiative, the FRY requested the Court to adjudge and declare that it had no jurisdiction *ratione personae* over the FRY, contending that it had not been a party to the Statute of the Court until its admission to the United Nations on 1 November 2000, that it had not been

and still was not a party to the Genocide Convention; it added moreover that its notification of accession to that Convention dated 8 March 2001 contained a reservation to Article IX thereof. The FRY asked the Court to suspend the proceedings on the merits until a decision was rendered on the Initiative.

27. By a letter dated 12 July 2001 and received in the Registry on 15 August 2001, Bosnia and Herzegovina informed the Court that it had no objection to the withdrawal of the counter-claims by the FRY and stated that it intended to submit observations regarding the Initiative. By an Order dated 10 September 2001, the President of the Court placed on record the withdrawal by the FRY of the counter-claims submitted in its Counter-Memorial.

28. By a letter dated 3 December 2001, Bosnia and Herzegovina provided the Court with its views regarding the Initiative and transmitted a memorandum on “differences between the Application for Revision of 23 April 2001 and the ‘Initiative’ of 4 May 2001” as well as a copy of the written observations and annexes filed by Bosnia and Herzegovina on 3 December 2001 in the *Application for Revision* case. In that letter, Bosnia and Herzegovina submitted that “there [was] no basis in fact nor in law to honour this so-called ‘Initiative’” and requested the Court *inter alia* to “respond in the negative to the request embodied in the ‘Initiative’”.

29. By a letter dated 22 February 2002 to the President of the Court, Judge *ad hoc* Lauterpacht resigned from the case.

30. Under cover of a letter of 18 April 2002, the Registrar, referring to Article 34, paragraph 3, of the Statute, transmitted copies of the written proceedings to the Secretary-General of the United Nations.

31. In its Judgment of 3 February 2003 in the *Application for Revision* case, the Court found that the FRY’s Application for revision, under Article 61 of the Statute of the Court, of the Judgment of 11 July 1996 on preliminary objections was inadmissible.

32. By a letter dated 5 February 2003, the FRY informed the Court that, following the adoption and promulgation of the Constitutional Charter of Serbia and Montenegro by the Assembly of the FRY on 4 February 2003, the name of the State had been changed from the “Federal Republic of Yugoslavia” to “Serbia and Montenegro”. The title of the case was duly changed and the name “Serbia and Montenegro” was used thereafter for all official purposes of the Court.

33. By a letter of 17 February 2003, Bosnia and Herzegovina reaffirmed its position with respect to the Initiative, as stated in the letter of 3 December 2001, and expressed its desire to proceed with the case. By a letter dated 8 April 2003, Serbia and Montenegro submitted that, due to major new developments since the filing of the last written pleading, additional written pleadings were necessary in order to make the oral proceedings more effective and less time-consuming. On 24 April 2003, the President of the Court held a meeting with the Agents of the Parties to discuss questions of procedure. Serbia and Montenegro stated that it maintained its request for the Court to rule on its Initiative while Bosnia and Herzegovina considered that there was no need for additional written pleadings. The possible dates and duration of the oral proceedings were also discussed.

34. By a letter dated 25 April 2003, Bosnia and Herzegovina chose Mr. Ahmed Mahiou to sit as judge *ad hoc* in the case.

35. By a letter of 12 June 2003, the Registrar informed Serbia and Montenegro that the Court could not accede to its request that the proceedings be suspended until a decision was rendered on the jurisdictional issues raised in the Initiative; however, should it wish to do so, Serbia and Montenegro would be free to present further argument on jurisdictional questions during the oral proceedings on the merits. In further letters of the same date, the Parties were informed that the Court, having considered Serbia and Montenegro's request, had decided not to authorize the filing of further written pleadings in the case.

36. In an exchange of letters in October and November 2003, the Agents of the Parties made submissions as to the scheduling of the oral proceedings.

37. Following a further exchange of letters between the Parties in March and April 2004, the President held a meeting with the Agents of the Parties on 25 June 2004, at which the Parties presented their views on, *inter alia*, the scheduling of the hearings and the calling of witnesses and experts.

38. By letters dated 26 October 2004, the Parties were informed that, after examining the list of cases before it ready for hearing and considering all the relevant circumstances, the Court had decided to fix Monday 27 February 2006 for the opening of the oral proceedings in the case.

39. On 14 March 2005, the President met with the Agents of the Parties in order to ascertain their views with regard to the organization of the oral proceedings. At this meeting, both Parties indicated that they intended to call witnesses and experts.

40. By letters dated 19 March 2005, the Registrar, referring to Articles 57 and 58 of the Rules of Court, requested the Parties to provide, by 9 September 2005, details of the witnesses, experts and witness-experts whom they intended to call and indications of the specific point or points to which the evidence of the witness, expert or witness-expert would be directed. By a letter of 8 September 2005, the Agent of Serbia and Montenegro transmitted to the Court a list of eight witnesses and two witness-experts whom his Government wished to call during the oral proceedings. By a further letter of the same date, the Agent of Serbia and Montenegro communicated a list of five witnesses whose attendance his Government requested the Court to arrange pursuant to Article 62, paragraph 2, of the Rules of Court. By a letter dated 9 September 2005, Bosnia and Herzegovina transmitted to the Court a list of three experts whom it wished to call at the hearings.

41. By a letter dated 5 October 2005, the Deputy Agent of Bosnia and Herzegovina informed the Registry of Bosnia and Herzegovina's views with regard to the time that it considered necessary for the hearing of the experts it wished to call and made certain submissions, *inter alia*, with respect to the request made by Serbia and Montenegro pursuant to Article 62, paragraph 2, of the Rules of Court. By letters of 4 and 11 October 2005, the Agent and the Co-Agent of Serbia and Montenegro, respectively, informed the Registry of the views of their Government with respect to the time necessary for the hearing of the witnesses and witness-experts whom it wished to call.

42. By letters of 15 November 2005, the Registrar informed the Parties, *inter alia*, that the Court had decided that it would hear the three experts and ten witnesses and witness-experts that Bosnia and Herzegovina and Serbia and Montenegro respectively wished to call and, moreover, that it had decided not to arrange for the attendance, pursuant to Article 62, paragraph 2, of the Rules



of Court, of the five witnesses proposed by Serbia and Montenegro. However, the Court reserved the right to exercise subsequently, if necessary, its powers under that provision to call persons of its choosing on its own initiative. The Registrar also requested the Parties to provide certain information related to the hearing of the witnesses, experts and witness-experts including, *inter alia*, the language in which each witness, expert or witness-expert would speak and, in respect of those speaking in a language other than English or French, the arrangements which the Party intended to make, pursuant to Article 70, paragraph 2, of the Rules of Court, for interpretation into one of the official languages of the Court. Finally the Registrar transmitted to the Parties the calendar for the oral proceedings as adopted by the Court.

43. By a letter dated 12 December 2005, the Agent of Serbia and Montenegro informed the Court, *inter alia*, that eight of the ten witnesses and witness-experts it wished to call would speak in Serbian and outlined the arrangements that Serbia and Montenegro would make for interpretation from Serbian to one of the official languages of the Court. By a letter dated 15 December 2005, the Deputy Agent of Bosnia and Herzegovina informed the Court, *inter alia*, that the three experts called by Bosnia and Herzegovina would speak in one of the official languages of the Court.

44. By a letter dated 28 December 2005, the Deputy Agent of Bosnia and Herzegovina, on behalf of the Government, requested that the Court call upon Serbia and Montenegro, under Article 49 of the Statute and Article 62, paragraph 1, of the Rules of Court, to produce a certain number of documents. By a letter dated 16 January 2006, the Agent of Serbia and Montenegro informed the Court of his Government's views on this request. By a letter dated 19 January 2006, the Registrar, acting on the instructions of the Court, asked Bosnia and Herzegovina to provide certain further information relating to its request under Article 49 of the Statute and Article 62, paragraph 2, of the Rules of Court. By letters dated 19 and 24 January 2006, the Deputy Agent of Bosnia and Herzegovina submitted additional information and informed the Court that Bosnia and Herzegovina had decided, for the time being, to restrict its request to the redacted sections of certain documents. By a letter dated 31 January 2006, the Co-Agent of Serbia and Montenegro communicated his Government's views regarding this modified request. By letters dated 2 February 2006, the Registrar informed the Parties that the Court had decided, at this stage of the proceedings, not to call upon Serbia and Montenegro to produce the documents in question. However, the Court reserved the right to exercise subsequently, if necessary, its powers under Article 49 of the Statute and Article 62, paragraph 1, of the Rules of Court, to request, *proprio motu*, the production by Serbia and Montenegro of the documents in question.

45. By a letter dated 16 January 2006, the Deputy Agent of Bosnia and Herzegovina transmitted to the Registry copies of new documents that Bosnia and Herzegovina wished to produce pursuant to Article 56 of the Rules of Court. Under cover of the same letter and of a letter dated 23 January 2006, the Deputy Agent of Bosnia and Herzegovina also transmitted to the Registry copies of video material, extracts of which Bosnia and Herzegovina intended to present at the oral proceedings. By a letter dated 31 January 2006, the Co-Agent of Serbia and Montenegro informed the Court that his Government did not object to the production of the new documents by Bosnia and Herzegovina. Nor did it object to the video material being shown at the oral proceedings. By

letters of 2 February 2006, the Registrar informed the Parties that, in view of the fact that no objections had been raised by Serbia and Montenegro, the Court had decided to authorize the production of the new documents by Bosnia and Herzegovina pursuant to Article 56 of the Rules of Court and that it had further decided that Bosnia and Herzegovina could show extracts of the video material at the hearings.

46. Under cover of a letter dated 18 January 2006 and received on 20 January 2006, the Agent of Serbia and Montenegro provided the Registry with copies of new documents which his Government wished to produce pursuant to Article 56 of the Rules of Court. By a letter of 1 February 2006, the Deputy Agent of Bosnia and Herzegovina informed the Court that Bosnia and Herzegovina did not object to the production of the said documents by Serbia and Montenegro. By a letter dated 2 February 2006, the Registrar informed the Parties that, in view of the fact that no objection had been raised by Bosnia and Herzegovina, the Court had decided to authorize the production of the new documents by Serbia and Montenegro. By a letter dated 9 February 2006, the Co-Agent of Serbia and Montenegro transmitted to the Court certain missing elements of the new documents submitted on 20 January 2006 and made a number of observations concerning the new documents produced by Bosnia and Herzegovina. By a letter dated 20 February 2006, the Deputy Agent of Bosnia and Herzegovina informed the Court that Bosnia and Herzegovina did not intend to make any observations regarding the new documents produced by Serbia and Montenegro.

47. Under cover of a letter dated 31 January 2006, the Co-Agent of Serbia and Montenegro transmitted to the Court a list of public documents that his Government would refer to in its first round of oral argument. By a further letter dated 14 February 2006, the Co-Agent of Serbia and Montenegro transmitted to the Court copies of folders containing the public documents referred to in the list submitted on 31 January 2006 and informed the Court that Serbia and Montenegro had decided not to submit the video materials included in that list. By a letter dated 20 February 2006, the Deputy Agent of Bosnia and Herzegovina informed the Court that Bosnia and Herzegovina had no observations to make regarding the list of public documents submitted by Serbia and Montenegro on 31 January 2006. He also stated that Bosnia and Herzegovina would refer to similar sources during its pleadings and was planning to provide the Court and the Respondent, at the end of the first round of its oral argument, with a CD-ROM containing materials it had quoted (see below, paragraph 54).

48. By a letter dated 26 January 2006, the Registrar informed the Parties of certain decisions taken by the Court with regard to the hearing of the witnesses, experts and witness-experts called by the Parties including, *inter alia*, that, exceptionally, the verbatim records of the sittings at which the witnesses, experts and witness-experts were heard would not be made available to the public or posted on the website of the Court until the end of the oral proceedings.

49. By a letter dated 13 February 2006, the Agent of Serbia and Montenegro informed the Court that his Government had decided not to call two of the witnesses and witness-experts included in the list transmitted to the Court on 8 September 2005 and that the order in which the remaining witnesses and witness-expert would be heard had been modified. By a letter dated 21 February 2006, the Agent of Serbia and Montenegro requested the Court's per-

mission for the examination of three of the witnesses called by his Government to be conducted in Serbian (namely, Mr. Dušan Mihajlović, Mr. Vladimir Milićević, Mr. Dragoljub Mićunović). By a letter dated 22 February 2006, the Registrar informed the Agent of Serbia and Montenegro that there was no objection to such a procedure being followed, pursuant to the provisions of Article 39, paragraph 3, of the Statute and Article 70 of the Rules of Court.

50. Pursuant to Article 53, paragraph 2, of the Rules, the Court, after ascertaining the views of the Parties, decided that copies of the pleadings and documents annexed would be made available to the public at the opening of the oral proceedings.

51. Public sittings were held from 27 February to 9 May 2006, at which the Court heard the oral arguments and replies of:

*For Bosnia and Herzegovina:* Mr. Sakib Softić,  
Mr. Phon van den Biesen,  
Mr. Alain Pellet,  
Mr. Thomas M. Franck,  
Ms Brigitte Stern,  
Mr. Luigi Condorelli,  
Ms Magda Karagiannakis,  
Ms Joanna Korner,  
Ms Laura Dauban,  
Mr. Antoine Ollivier,  
Mr. Morten Torkildsen.

*For Serbia and Montenegro:* H.E. Mr. Radoslav Stojanović,  
Mr. Saša Obradović,  
Mr. Vladimir Cvetković,  
Mr. Tibor Varady,  
Mr. Ian Brownlie,  
Mr. Xavier de Roux,  
Ms Nataša Fauveau-Ivanović,  
Mr. Andreas Zimmerman,  
Mr. Vladimir Djerić,  
Mr. Igor Olujić.

52. On 1 March 2006, the Registrar, on the instructions of the Court, requested Bosnia and Herzegovina to specify the precise origin of each of the extracts of video material and of the graphics, charts and photographs shown or to be shown at the oral proceedings. On 2 March 2006 Bosnia and Herzegovina provided the Court with certain information regarding the extracts of video material shown at the sitting on 1 March 2006 and those to be shown at the sittings on 2 March 2006 including the source of such video material. Under cover of a letter dated 5 March 2006, the Agent of Bosnia and Herzegovina transmitted to the Court a list detailing the origin of the extracts of video material, graphics, charts and photographs shown or to be shown by it during its first round of oral argument, as well as transcripts, in English and in French, of the above-mentioned extracts of video material.

53. By a letter dated 5 March 2006, the Agent of Bosnia and Herzegovina informed the Court that it wished to withdraw one of the experts it had intended to call. In that letter, the Agent of Bosnia and Herzegovina also asked the Court to request each of the Parties to provide a one-page outline per wit-

ness, expert or witness-expert detailing the topics which would be covered in his evidence or statement. By letters dated 7 March 2006, the Parties were informed that the Court requested them to provide, at least three days before the hearing of each witness, expert or witness-expert, a one-page summary of the latter's evidence or statement.

54. On 7 March 2006, Bosnia and Herzegovina provided the Court and the Respondent with a CD-ROM containing "ICTY Public Exhibits and other Documents cited by Bosnia and Herzegovina during its Oral Pleadings (07/03/2006)". By a letter dated 10 March 2006, Serbia and Montenegro informed the Court that it objected to the production of the CD-ROM on the grounds that the submission at such a late stage of so many documents "raise[d] serious concerns related to the respect for the Rules of Court and the principles of fairness and equality of the parties". It also pointed out that the documents included on the CD-ROM "appear[ed] questionable from the point of [view of] Article 56, paragraph 4, of the Rules [of Court]". By a letter dated 13 March 2006, the Agent of Bosnia and Herzegovina informed the Court of his Government's views regarding the above-mentioned objections raised by Serbia and Montenegro. In that letter, the Agent submitted, *inter alia*, that all the documents on the CD-ROM had been referred to by Bosnia and Herzegovina in its oral argument and were documents which were in the public domain and were readily available within the terms of Article 56, paragraph 4, of the Rules of Court. The Agent added that Bosnia and Herzegovina was prepared to withdraw the CD-ROM if the Court found it advisable. By a letter of 14 March 2006, the Registrar informed Bosnia and Herzegovina that, given that Article 56, paragraph 4, of the Rules of Court did not require or authorize the submission to the Court of the full text of a document to which reference was made during the oral proceedings pursuant to that provision and since it was difficult for the other Party and the Court to come to terms, at the late stage of the proceedings, with such an immense mass of documents, which in any case were in the public domain and could thus be consulted if necessary, the Court had decided that it was in the interests of the good administration of justice that the CD-ROM be withdrawn. By a letter dated 16 March 2006, the Agent of Bosnia and Herzegovina withdrew the CD-ROM which it had submitted on 7 March 2006.

55. On 17 March 2006, Bosnia and Herzegovina submitted a map for use during the statement to be made by one of its experts on the morning of 20 March 2006. On 20 March 2006, Bosnia and Herzegovina produced a folder of further documents to be used in the examination of that expert. Serbia and Montenegro objected strongly to the production of the documents at such a late stage since its counsel would not have time to prepare for cross-examination. On 20 March 2006, the Court decided that the map submitted on 17 March 2006 could not be used during the statement of the expert. Moreover, having consulted both Parties, the Court decided to cancel the morning sitting and instead hear the expert during an afternoon sitting in order to allow Serbia and Montenegro to be ready for cross-examination.

56. On 20 March 2006, Serbia and Montenegro informed the Court that one of the witnesses it had intended to call finally would not be giving evidence.

57. The following experts were called by Bosnia and Herzegovina and made their statements at public sittings on 17 and 20 March 2006: Mr. András J. Riedlmayer and General Sir Richard Dannatt. The experts were examined by

counsel for Bosnia and Herzegovina and cross-examined by counsel for Serbia and Montenegro. The experts were subsequently re-examined by counsel for Bosnia and Herzegovina. Questions were put to Mr. Riedlmayer by Judges Kreća, Tomka, Simma and the Vice-President and replies were given orally. Questions were put to General Dannatt by the President, Judge Koroma and Judge Tomka and replies were given orally.

58. The following witnesses and witness-expert were called by Serbia and Montenegro and gave evidence at public sittings on 23, 24, 27 and 28 March 2006: Mr. Vladimir Lukić; Mr. Vitomir Popović; General Sir Michael Rose; Mr. Jean-Paul Sardon (witness-expert); Mr. Dušan Mihajlović; Mr. Vladimir Miličević; Mr. Dragoljub Mićunović. The witnesses and witness-expert were examined by counsel for Serbia and Montenegro and cross-examined by counsel for Bosnia and Herzegovina. General Rose, Mr. Mihajlović and Mr. Miličević were subsequently re-examined by counsel for Serbia and Montenegro. Questions were put to Mr. Lukić by Judges Ranjeva, Simma, Tomka and Bennouna and replies were given orally. Questions were put to General Rose by the Vice-President and Judges Owada and Simma and replies were given orally.

59. With the exception of General Rose and Mr. Jean-Paul Sardon, the above-mentioned witnesses called by Serbia and Montenegro gave their evidence in Serbian and, in accordance with Article 39, paragraph 3, of the Statute and Article 70, paragraph 2, of the Rules of Court, Serbia and Montenegro made the necessary arrangements for interpretation into one of the official languages of the Court and the Registry verified this interpretation. Mr. Stojanović conducted his examination of Mr. Dragoljub Mićunović in Serbian in accordance with the exchange of correspondence between Serbia and Montenegro and the Court on 21 and 22 February 2006 (see paragraph 49 above).

60. In the course of the hearings, questions were put by Members of the Court, to which replies were given orally and in writing, pursuant to Article 61, paragraph 4, of the Rules of Court.

61. By a letter of 8 May 2006, the Agent of Bosnia and Herzegovina requested the Court to allow the Deputy Agent to take the floor briefly on 9 May 2006, in order to correct an assertion about one of the counsel of and one of the experts called by Bosnia and Herzegovina which had been made by Serbia and Montenegro in its oral argument. By a letter dated 9 May 2006, the Agent of Serbia and Montenegro communicated the views of his Government on that matter. On 9 May 2006, the Court decided, in the particular circumstances of the case, to authorize the Deputy Agent of Bosnia and Herzegovina to make a very brief statement regarding the assertion made about its counsel.

62. By a letter dated 3 May 2006, the Agent of Bosnia and Herzegovina informed the Court that there had been a number of errors in references included in its oral argument presented on 2 March 2006 and provided the Court with the corrected references. By a letter dated 8 May 2006, the Agent of Serbia and Montenegro, "in light of the belated corrections by the Applicant, and for the sake of the equality between the parties", requested the Court to accept a paragraph of its draft oral argument of 2 May 2006 which responded to one of the corrections made by Bosnia and Herzegovina but had been left out of the final version of its oral argument "in order to fit the schedule of [Serbia and Montenegro's] presentations". By a letter dated 7 June 2006, the Parties were informed that the Court had taken due note of both the explana-

tion given by the Agent of Bosnia and Herzegovina and the observations made in response by the Agent of Serbia and Montenegro.

63. In January 2007, Judge Parra-Aranguren, who had attended the oral proceedings in the case, and had participated in part of the deliberation, but had for medical reasons been prevented from participating in the later stages thereof, informed the President of the Court, pursuant to Article 24, paragraph 1, of the Statute, that he considered that he should not take part in the decision of the case. The President took the view that the Court should respect and accept Judge Parra-Aranguren's position, and so informed the Court.

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64. In its Application, the following requests were made by Bosnia and Herzegovina:

“Accordingly, while reserving the right to revise, supplement or amend this Application, and subject to the presentation to the Court of the relevant evidence and legal arguments, Bosnia and Herzegovina requests the Court to adjudge and declare as follows:

- (a) that Yugoslavia (Serbia and Montenegro) has breached, and is continuing to breach, its legal obligations toward the People and State of Bosnia and Herzegovina under Articles I, II (a), II (b), II (c), II (d), III (a), III (b), III (c), III (d), III (e), IV and V of the Genocide Convention;
- (b) that Yugoslavia (Serbia and Montenegro) has violated and is continuing to violate its legal obligations toward the People and State of Bosnia and Herzegovina under the four Geneva Conventions of 1949, their Additional Protocol I of 1977, the customary international laws of war including the Hague Regulations on Land Warfare of 1907, and other fundamental principles of international humanitarian law;
- (c) that Yugoslavia (Serbia and Montenegro) has violated and continues to violate Articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26 and 28 of the Universal Declaration of Human Rights with respect to the citizens of Bosnia and Herzegovina;
- (d) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has killed, murdered, wounded, raped, robbed, tortured, kidnapped, illegally detained, and exterminated the citizens of Bosnia and Herzegovina, and is continuing to do so;
- (e) that in its treatment of the citizens of Bosnia and Herzegovina, Yugoslavia (Serbia and Montenegro) has violated, and is continuing to violate, its solemn obligations under Articles 1 (3), 55 and 56 of the United Nations Charter;
- (f) that Yugoslavia (Serbia and Montenegro) has used and is continuing to use force and the threat of force against Bosnia and Herzegovina in violation of Articles 2 (1), 2 (2), 2 (3), 2 (4) and 33 (1), of the United Nations Charter;
- (g) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has used and is using force and the threat of force against Bosnia and Herzegovina;

- (*h*) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has violated and is violating the sovereignty of Bosnia and Herzegovina by:
  - armed attacks against Bosnia and Herzegovina by air and land;
  - aerial trespass into Bosnian airspace;
  - efforts by direct and indirect means to coerce and intimidate the Government of Bosnia and Herzegovina;
- (*i*) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has intervened and is intervening in the internal affairs of Bosnia and Herzegovina;
- (*j*) that Yugoslavia (Serbia and Montenegro), in recruiting, training, arming, equipping, financing, supplying and otherwise encouraging, supporting, aiding, and directing military and paramilitary actions in and against Bosnia and Herzegovina by means of its agents and surrogates, has violated and is violating its express charter and treaty obligations to Bosnia and Herzegovina and, in particular, its charter and treaty obligations under Article 2 (4), of the United Nations Charter, as well as its obligations under general and customary international law;
- (*k*) that under the circumstances set forth above, Bosnia and Herzegovina has the sovereign right to defend itself and its people under United Nations Charter Article 51 and customary international law, including by means of immediately obtaining military weapons, equipment, supplies and troops from other States;
- (*l*) that under the circumstances set forth above, Bosnia and Herzegovina has the sovereign right under United Nations Charter Article 51 and customary international law to request the immediate assistance of any State to come to its defence, including by military means (weapons, equipment, supplies, troops, etc.);
- (*m*) that Security Council resolution 713 (1991), imposing a weapons embargo upon the former Yugoslavia, must be construed in a manner that shall not impair the inherent right of individual or collective self-defence of Bosnia and Herzegovina under the terms of United Nations Charter Article 51 and the rules of customary international law;
- (*n*) that all subsequent Security Council resolutions that refer to or reaffirm resolution 713 (1991) must be construed in a manner that shall not impair the inherent right of individual or collective self-defence of Bosnia and Herzegovina under the terms of United Nations Charter Article 51 and the rules of customary international law;
- (*o*) that Security Council resolution 713 (1991) and all subsequent Security Council resolutions referring thereto or reaffirming thereof must not be construed to impose an arms embargo upon Bosnia and Herzegovina, as required by Articles 24 (1) and 51 of the United



Nations Charter and in accordance with the customary doctrine of *ultra vires*;

- (p) that pursuant to the right of collective self-defence recognized by United Nations Charter Article 51, all other States parties to the Charter have the right to come to the immediate defence of Bosnia and Herzegovina — at its request — including by means of immediately providing It with weapons, military equipment and supplies, and armed forces (soldiers, sailors, air-people, etc.);
- (q) that Yugoslavia (Serbia and Montenegro) and its agents and surrogates are under an obligation to cease and desist immediately from its breaches of the foregoing legal obligations, and is under a particular duty to cease and desist immediately:
  - from its systematic practice of so-called ‘ethnic cleansing’ of the citizens and sovereign territory of Bosnia and Herzegovina;
  - from the murder, summary execution, torture, rape, kidnapping, mayhem, wounding, physical and mental abuse, and detention of the citizens of Bosnia and Herzegovina;
  - from the wanton devastation of villages, towns, districts, cities, and religious institutions in Bosnia and Herzegovina;
  - from the bombardment of civilian population centres in Bosnia and Herzegovina, and especially its capital, Sarajevo;
  - from continuing the siege of any civilian population centres in Bosnia and Herzegovina, and especially its capital, Sarajevo;
  - from the starvation of the civilian population in Bosnia and Herzegovina;
  - from the interruption of, interference with, or harassment of humanitarian relief supplies to the citizens of Bosnia and Herzegovina by the international community;
  - from all use of force — whether direct or indirect, overt or covert — against Bosnia and Herzegovina, and from all threats of force against Bosnia and Herzegovina;
  - from all violations of the sovereignty, territorial integrity or political independence of Bosnia and Herzegovina, including all intervention, direct or indirect, in the internal affairs of Bosnia and Herzegovina;
  - from all support of any kind — including the provision of training, arms, ammunition, finances, supplies, assistance, direction or any other form of support — to any nation, group, organization, movement or individual engaged or planning to engage in military or paramilitary actions in or against Bosnia and Herzegovina;
- (r) that Yugoslavia (Serbia and Montenegro) has an obligation to pay Bosnia and Herzegovina, in its own right and as *parens patriae* for its citizens, reparations for damages to persons and property as well as to the Bosnian economy and environment caused by the foregoing violations of international law in a sum to be determined by the Court. Bosnia and Herzegovina reserves the right to introduce to the Court a precise evaluation of the damages caused by Yugoslavia (Serbia and Montenegro)."

65. In the written proceedings, the following submissions were presented by the Parties:

*On behalf of the Government of Bosnia and Herzegovina,*  
in the Memorial:

“On the basis of the evidence and legal arguments presented in this Memorial, the Republic of Bosnia and Herzegovina,

Requests the International Court of Justice to adjudge and declare,

1. That the Federal Republic of Yugoslavia (Serbia and Montenegro), directly, or through the use of its surrogates, has violated and is violating the Convention on the Prevention and Punishment of the Crime of Genocide, by destroying in part, and attempting to destroy in whole, national, ethnical or religious groups within the, but not limited to the, territory of the Republic of Bosnia and Herzegovina, including in particular the Muslim population, by

- killing members of the group;
- causing deliberate bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- imposing measures intended to prevent births within the group;

2. That the Federal Republic of Yugoslavia (Serbia and Montenegro) has violated and is violating the Convention on the Prevention and Punishment of the Crime of Genocide by conspiring to commit genocide, by complicity in genocide, by attempting to commit genocide and by incitement to commit genocide;

3. That the Federal Republic of Yugoslavia (Serbia and Montenegro) has violated and is violating the Convention on the Prevention and Punishment of the Crime of Genocide by aiding and abetting individuals and groups engaged in acts of genocide;

4. That the Federal Republic of Yugoslavia (Serbia and Montenegro) has violated and is violating the Convention on the Prevention and Punishment of the Crime of Genocide by virtue of having failed to prevent and to punish acts of genocide;

5. That the Federal Republic of Yugoslavia (Serbia and Montenegro) must immediately cease the above conduct and take immediate and effective steps to ensure full compliance with its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide;

6. That the Federal Republic of Yugoslavia (Serbia and Montenegro) must wipe out the consequences of its international wrongful acts and must restore the situation existing before the violations of the Convention on the Prevention and Punishment of the Crime of Genocide were committed;

7. That, as a result of the international responsibility incurred for the above violations of the Convention on the Prevention and Punishment of the Crime of Genocide, the Federal Republic of Yugoslavia (Serbia and Montenegro) is required to pay, and the Republic of Bosnia and Herzegovina is entitled to receive, in its own right and as *parens patriae* for its citizens, full compensation for the damages and losses caused, in the

amount to be determined by the Court in a subsequent phase of the proceedings in this case.

The Republic of Bosnia and Herzegovina reserves its right to supplement or amend its submissions in the light of further pleadings.

The Republic of Bosnia and Herzegovina also respectfully draws the attention of the Court to the fact that it has not reiterated, at this point, several of the requests it made in its Application, on the formal assumption that the Federal Republic of Yugoslavia (Serbia and Montenegro) has accepted the jurisdiction of this Court under the terms of the Convention on the Prevention and Punishment of the Crime of Genocide. If the Respondent were to reconsider its acceptance of the jurisdiction of the Court under the terms of that Convention — which it is, in any event, not entitled to do — the Government of Bosnia and Herzegovina reserves its right to invoke also all or some of the other existing titles of jurisdiction and to revive all or some of its previous submissions and requests.”

*On behalf of the Government of Serbia and Montenegro,*  
in the Counter-Memorial<sup>1</sup>:

“The Federal Republic of Yugoslavia requests the International Court of Justice to adjudge and declare:

1. In view of the fact that no obligations established by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide have been violated with regard to Muslims and Croats,

— since the acts alleged by the Applicant have not been committed at all, or not to the extent and in the way alleged by the Applicant, or

— if some have been committed, there was absolutely no intention of committing genocide, and/or

— they have not been directed specifically against the members of one ethnic or religious group, i.e. they have not been committed against individuals just because they belong to some ethnic or religious group, consequently, they cannot be qualified as acts of genocide or other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide; and/or

2. In view of the fact that the acts alleged by the Applicant in its submissions cannot be attributed to the Federal Republic of Yugoslavia,

— since they have not been committed by the organs of the Federal Republic of Yugoslavia,

— since they have not been committed on the territory of the Federal Republic of Yugoslavia,

— since they have not been committed by the order or under control of the organs of the Federal Republic of Yugoslavia,

— since there is no other grounds based on the rules of international law to consider them as acts of the Federal Republic of Yugoslavia,

<sup>1</sup> Submissions 3 to 6 relate to counter-claims which were subsequently withdrawn (see paragraphs 26 and 27 above).

therefore the Court rejects all claims of the Applicant; and

3. Bosnia and Herzegovina is responsible for the acts of genocide committed against the Serbs in Bosnia and Herzegovina and for other violations of the obligations established by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide,

- because it has incited acts of genocide by the ‘Islamic Declaration’, and in particular by the position contained in it that ‘there can be no peace or coexistence between “Islamic faith” and “non-Islamic” social and political institutions’,
- because it has incited acts of genocide by the *Novi Vox*, paper of the Muslim youth, and in particular by the verses of a ‘Patriotic Song’ which read as follows:

‘Dear mother, I’m going to plant willows,  
We’ll hang Serbs from them.  
Dear mother, I’m going to sharpen knives,  
We’ll soon fill pits again’;

- because it has incited acts of genocide by the paper *Zmaj od Bosne*, and in particular by the sentence in an article published in it that ‘Each Muslim must name a Serb and take oath to kill him’;
- because public calls for the execution of Serbs were broadcast on radio ‘Hajat’ and thereby acts of genocide were incited;
- because the armed forces of Bosnia and Herzegovina, as well as other organs of Bosnia and Herzegovina have committed acts of genocide and other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, against the Serbs in Bosnia and Herzegovina, which have been stated in Chapter Seven of the Counter-Memorial;
- because Bosnia and Herzegovina has not prevented the acts of genocide and other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, against the Serbs on its territory, which have been stated in Chapter Seven of the Counter-Memorial;

4. Bosnia and Herzegovina has the obligation to punish the persons held responsible for the acts of genocide and other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide;

5. Bosnia and Herzegovina is bound to take necessary measures so that the said acts would not be repeated in the future;

6. Bosnia and Herzegovina is bound to eliminate all consequences of the violation of the obligations established by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide and provide adequate compensation.”

*On behalf of the Government of Bosnia and Herzegovina,*  
in the Reply:

“Therefore the Applicant persists in its claims as presented to this Court on 14 April 1994, and recapitulates its Submissions in their entirety.

Bosnia and Herzegovina requests the International Court of Justice to adjudge and declare,

1. That the Federal Republic of Yugoslavia, directly, or through the use of its surrogates, has violated and is violating the Convention on the Prevention and Punishment of the Crime of Genocide, by destroying in part, and attempting to destroy in whole, national, ethnical or religious groups within the, but not limited to the, territory of Bosnia and Herzegovina, including in particular the Muslim population, by

- killing members of the group;
- causing deliberate bodily or mental harm to members of the group;
- deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- imposing measures intended to prevent births within the group;

2. That the Federal Republic of Yugoslavia has violated and is violating the Convention on the Prevention and Punishment of the Crime of Genocide by conspiring to commit genocide, by complicity in genocide, by attempting to commit genocide and by incitement to commit genocide;

3. That the Federal Republic of Yugoslavia has violated and is violating the Convention on the Prevention and Punishment of the Crime of Genocide by aiding and abetting individuals and groups engaged in acts of genocide;

4. That the Federal Republic of Yugoslavia has violated and is violating the Convention on the Prevention and Punishment of the Crime of Genocide by virtue of having failed to prevent and to punish acts of genocide;

5. That the Federal Republic of Yugoslavia must immediately cease the above conduct and take immediate and effective steps to ensure full compliance with its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide;

6. That the Federal Republic of Yugoslavia must wipe out the consequences of its international wrongful acts and must restore the situation existing before the violations of the Convention on the Prevention and Punishment of the Crime of Genocide were committed;

7. That, as a result of the international responsibility incurred for the above violations of the Convention on the Prevention and Punishment of the Crime of Genocide, the Federal Republic of Yugoslavia is required to pay, and Bosnia and Herzegovina is entitled to receive, in its own right and as *parens patriae* for its citizens, full compensation for the damages and losses caused, in the amount to be determined by the Court in a subsequent phase of the proceedings in this case.

Bosnia and Herzegovina reserves its right to supplement or amend its submissions in the light of further pleadings;

8. On the very same grounds the conclusions and submissions of the Federal Republic of Yugoslavia with regard to the submissions of Bosnia and Herzegovina need to be rejected;

9. With regard to the Respondent's counter-claims the Applicant comes to the following conclusion. There is no basis in fact and no basis in law

for the proposition that genocidal acts have been committed against Serbs in Bosnia and Herzegovina. There is no basis in fact and no basis in law for the proposition that any such acts, if proven, would have been committed under the responsibility of Bosnia and Herzegovina or that such acts, if proven, would be attributable to Bosnia and Herzegovina. Also, there is no basis in fact and no basis in law for the proposition that Bosnia and Herzegovina has violated any of its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide. On the contrary, Bosnia and Herzegovina has continuously done everything within its possibilities to adhere to its obligations under the Convention, and will continue to do so;

10. For these reasons, Bosnia and Herzegovina requests the International Court of Justice to reject the counter-claims submitted by the Respondent in its Counter-Memorial of 23 July 1997.”

*On behalf of the Government of Serbia and Montenegro,*

in the Rejoinder<sup>2</sup> :

“The Federal Republic of Yugoslavia requests the International Court of Justice to adjudge and declare:

1. In view of the fact that no obligations established by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide have been violated with regard to Muslims and Croats,

- since the acts alleged by the Applicant have not been committed at all, or not to the extent and in the way alleged by the Applicant, or
- if some have been committed, there was absolutely no intention of committing genocide, and/or
- they have not been directed specifically against the members of one ethnic or religious group, i.e. they have not been committed against individuals just because they belong to some ethnic or religious group,

consequently they cannot be qualified as acts of genocide or other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, and/or

2. In view of the fact that the acts alleged by the Applicant in its submissions cannot be attributed to the Federal Republic of Yugoslavia,

- since they have not been committed by the organs of the Federal Republic of Yugoslavia,
- since they have not been committed on the territory of the Federal Republic of Yugoslavia,
- since they have not been committed by the order or under control of the organs of the Federal Republic of Yugoslavia,
- since there are no other grounds based on the rules of international law to consider them as acts of the Federal Republic of Yugoslavia,

<sup>2</sup> Submissions 3 to 6 relate to counter-claims which were subsequently withdrawn (see paragraphs 26 and 27 above).

therefore the Court rejects all the claims of the Applicant, and

3. Bosnia and Herzegovina is responsible for the acts of genocide committed against Serbs in Bosnia and Herzegovina and for other violations of the obligations established by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide,

- because it has incited acts of genocide by the ‘Islamic Declaration’, and in particular by the position contained in it that ‘*there can be no peace or coexistence between “Islamic faith” and “non-Islamic” social and political institutions*’,
- because it has incited acts of genocide by the *Novi Vox*, paper of the Muslim youth, and in particular by the verses of a ‘Patriotic Song’ which read as follows:

‘Dear mother, I’m going to plant willows,  
We’ll hang Serbs from them.  
Dear mother, I’m going to sharpen knives,  
We’ll soon fill pits again’;

- because it has incited acts of genocide by the paper *Zmaj od Bosne*, and in particular by the sentence in an article published in it that ‘Each Muslim’ must name a Serb and take oath to kill him;
- because public calls for the execution of Serbs were broadcast on radio ‘Hajat’ and thereby acts of genocide were incited;
- because the armed forces of Bosnia and Herzegovina, as well as other organs of Bosnia and Herzegovina have committed acts of genocide and other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (enumerated in Article III), against Serbs in Bosnia and Herzegovina, which have been stated in Chapter Seven of the Counter-Memorial;
- because Bosnia and Herzegovina has not prevented the acts of genocide and other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (enumerated in Article III), against Serbs on its territory, which have been stated in Chapter Seven of the Counter-Memorial;

4. Bosnia and Herzegovina has the obligation to punish the persons held responsible for the acts of genocide and other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide;

5. Bosnia and Herzegovina is bound to take necessary measures so that the said acts would not be repeated in the future;

6. Bosnia and Herzegovina is bound to eliminate all the consequences of violation of the obligations established by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide and to provide adequate compensation.”

66. At the oral proceedings, the following final submissions were presented by the Parties:

*On behalf of the Government of Bosnia and Herzegovina,*  
at the hearing of 24 April 2006:



“Bosnia and Herzegovina requests the International Court of Justice to adjudge and declare:

1. That Serbia and Montenegro, through its organs or entities under its control, has violated its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide by intentionally destroying in part the non-Serb national, ethnical or religious group within, but not limited to, the territory of Bosnia and Herzegovina, including in particular the Muslim population, by

- killing members of the group;
- causing serious bodily or mental harm to members of the group;
- deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- imposing measures intended to prevent births within the group;
- forcibly transferring children of the group to another group;

2. Subsidiarily:

- (i) that Serbia and Montenegro has violated its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide by complicity in genocide as defined in paragraph 1, above; and/or
- (ii) that Serbia and Montenegro has violated its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide by aiding and abetting individuals, groups and entities engaged in acts of genocide, as defined in paragraph 1 above;

3. That Serbia and Montenegro has violated its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide by conspiring to commit genocide and by inciting to commit genocide, as defined in paragraph 1 above;

4. That Serbia and Montenegro has violated its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide for having failed to prevent genocide;

5. That Serbia and Montenegro has violated and is violating its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide for having failed and for failing to punish acts of genocide or any other act prohibited by the Convention on the Prevention and Punishment of the Crime of Genocide, and for having failed and for failing to transfer individuals accused of genocide or any other act prohibited by the Convention to the International Criminal Tribunal for the former Yugoslavia and to fully co-operate with this Tribunal;

6. That the violations of international law set out in submissions 1 to 5 constitute wrongful acts attributable to Serbia and Montenegro which entail its international responsibility, and, accordingly,

- (a) that Serbia and Montenegro shall immediately take effective steps to ensure full compliance with its obligation to punish acts of genocide under the Convention on the Prevention and Punishment of the Crime of Genocide or any other act prohibited by the Convention and to transfer individuals accused of genocide or any other act pro-

hibited by the Convention to the International Criminal Tribunal for the former Yugoslavia and to fully co-operate with this Tribunal;

- (b) that Serbia and Montenegro must redress the consequences of its international wrongful acts and, as a result of the international responsibility incurred for the above violations of the Convention on the Prevention and Punishment of the Crime of Genocide, must pay, and Bosnia and Herzegovina is entitled to receive, in its own right and as *parens patriae* for its citizens, full compensation for the damages and losses caused. That, in particular, the compensation shall cover any financially assessable damage which corresponds to:
  - (i) damage caused to natural persons by the acts enumerated in Article III of the Convention, including non-material damage suffered by the victims or the surviving heirs or successors and their dependants;
  - (ii) material damage caused to properties of natural or legal persons, public or private, by the acts enumerated in Article III of the Convention;
  - (iii) material damage suffered by Bosnia and Herzegovina in respect of expenditures reasonably incurred to remedy or mitigate damage flowing from the acts enumerated in Article III of the Convention;
- (c) that the nature, form and amount of the compensation shall be determined by the Court, failing agreement thereon between the Parties one year after the Judgment of the Court, and that the Court shall reserve the subsequent procedure for that purpose;
- (d) that Serbia and Montenegro shall provide specific guarantees and assurances that it will not repeat the wrongful acts complained of, the form of which guarantees and assurances is to be determined by the Court;

7. That in failing to comply with the Orders for indication of provisional measures rendered by the Court on 8 April 1993 and 13 September 1993 Serbia and Montenegro has been in breach of its international obligations and is under an obligation to Bosnia and Herzegovina to provide for the latter violation symbolic compensation, the amount of which is to be determined by the Court.”

*On behalf of the Government of Serbia and Montenegro,*

at the hearing of 9 May 2006:

“Serbia and Montenegro asks the Court to adjudge and declare:

- that this Court has no jurisdiction because the Respondent had no access to the Court at the relevant moment; or, in the alternative;
- that this Court has no jurisdiction over the Respondent because the Respondent never remained or became bound by Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide, and because there is no other ground on which jurisdiction over the Respondent could be based.

In case the Court determines that jurisdiction exists Serbia and Montenegro asks the Court to adjudge and declare:

- That the requests in paragraphs 1 to 6 of the Submissions of Bosnia

and Herzegovina relating to alleged violations of the obligations under the Convention on the Prevention and Punishment of the Crime of Genocide be rejected as lacking a basis either in law or in fact.

- In any event, that the acts and/or omissions for which the respondent State is alleged to be responsible are not attributable to the respondent State. Such attribution would necessarily involve breaches of the law applicable in these proceedings.
- Without prejudice to the foregoing, that the relief available to the applicant State in these proceedings, in accordance with the appropriate interpretation of the Convention on the Prevention and Punishment of the Crime of Genocide, is limited to the rendering of a declaratory judgment.
- Further, without prejudice to the foregoing, that any question of legal responsibility for alleged breaches of the Orders for the indication of provisional measures, rendered by the Court on 8 April 1993 and 13 September 1993, does not fall within the competence of the Court to provide appropriate remedies to an applicant State in the context of contentious proceedings, and, accordingly, the request in paragraph 7 of the Submissions of Bosnia and Herzegovina should be rejected.”

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## II. IDENTIFICATION OF THE RESPONDENT PARTY

67. The Court has first to consider a question concerning the identification of the Respondent Party before it in these proceedings. After the close of the oral proceedings, by a letter dated 3 June 2006, the President of the Republic of Serbia informed the Secretary-General of the United Nations that, following the Declaration of Independence adopted by the National Assembly of Montenegro on 3 June 2006, “the membership of the state union Serbia and Montenegro in the United Nations, including all organs and organisations of the United Nations system, [would be] continued by the Republic of Serbia on the basis of Article 60 of the Constitutional Charter of Serbia and Montenegro”. He further stated that “in the United Nations the name ‘Republic of Serbia’ [was] to be henceforth used instead of the name ‘Serbia and Montenegro’” and added that the Republic of Serbia “remain[ed] responsible in full for all the rights and obligations of the state union of Serbia and Montenegro under the UN Charter”.

68. By a letter of 16 June 2006, the Minister for Foreign Affairs of the Republic of Serbia informed the Secretary-General, *inter alia*, that “[t]he Republic of Serbia continue[d] to exercise its rights and honour its commitments deriving from international treaties concluded by Serbia and Montenegro” and requested that “the Republic of Serbia be considered a party to all international agreements in force, instead of Serbia and Montenegro”. By a letter addressed to the Secretary-General dated 30 June

2006, the Minister for Foreign Affairs confirmed the intention of the Republic of Serbia to continue to exercise its rights and honour its commitments deriving from international treaties concluded by Serbia and Montenegro. He specified that “all treaty actions undertaken by Serbia and Montenegro w[ould] continue in force with respect to the Republic of Serbia with effect from 3 June 2006”, and that, “all declarations, reservations and notifications made by Serbia and Montenegro w[ould] be maintained by the Republic of Serbia until the Secretary-General, as depositary, [were] duly notified otherwise”.

69. On 28 June 2006, by its resolution 60/264, the General Assembly admitted the Republic of Montenegro (hereinafter “Montenegro”) as a new Member of the United Nations.

70. By letters dated 19 July 2006, the Registrar requested the Agent of Bosnia and Herzegovina, the Agent of Serbia and Montenegro and the Foreign Minister of Montenegro to communicate to the Court the views of their Governments on the consequences to be attached to the above-mentioned developments in the context of the case. By a letter dated 26 July 2006, the Agent of Serbia and Montenegro explained that, in his Government’s opinion, “there [was] continuity between Serbia and Montenegro and the Republic of Serbia (on the grounds of Article 60 of the Constitutional Charter of Serbia and Montenegro)”. He noted that the entity which had been Serbia and Montenegro “ha[d] been replaced by two distinct States, one of them [was] Serbia, the other [was] Montenegro”. In those circumstances, the view of his Government was that “the Applicant ha[d] first to take a position, and to decide whether it wishe[d] to maintain its original claim encompassing both Serbia and Montenegro, or whether it [chose] to do otherwise”.

71. By a letter to the Registrar dated 16 October 2006, the Agent of Bosnia and Herzegovina referred to the letter of 26 July 2006 from the Agent of Serbia and Montenegro, and observed that Serbia’s definition of itself as the continuator of the former Serbia and Montenegro had been accepted both by Montenegro and the international community. He continued however as follows:

“this acceptance cannot have, and does not have, any effect on the applicable rules of state responsibility. Obviously, these cannot be altered bilaterally or retroactively. At the time when genocide was committed and at the time of the initiation of this case, Serbia and Montenegro constituted a single state. Therefore, Bosnia and Herzegovina is of the opinion that both Serbia and Montenegro, jointly and severally, are responsible for the unlawful conduct that constitute the cause of action in this case.”

72. By a letter dated 29 November 2006, the Chief State Prosecutor of Montenegro, after indicating her capacity to act as legal representative of the Republic of Montenegro, referred to the letter from the Agent of

Bosnia and Herzegovina dated 16 October 2006, quoted in the previous paragraph, expressing the view that “both Serbia and Montenegro, jointly and severally, are responsible for the unlawful conduct that constitute[s] the cause of action in this case”. The Chief State Prosecutor stated that the allegation concerned the liability in international law of the sovereign State of Montenegro, and that Montenegro regarded it as an attempt to have it become a participant in this way, without its consent, “i.e. to become a respondent in this procedure”. The Chief State Prosecutor drew attention to the fact that, following the referendum held in Montenegro on 21 May 2006, the National Assembly of Montenegro had adopted a decision pronouncing the independence of the Republic of Montenegro. In the view of the Chief State Prosecutor, the Republic of Montenegro had become “an independent state with full international legal personality within its existing administrative borders”, and she continued:

“The issue of international-law succession of [the] State union of Serbia and Montenegro is regulated in Article 60 of [the] Constitutional Charter, and according to [that] Article the legal successor of [the] State union of Serbia and Montenegro is the Republic of Serbia, which, as a sovereign state, [has] become [the] follower of all international obligations and successor in international organizations.”

The Chief State Prosecutor concluded that in the dispute before the Court, “the Republic of Montenegro may not have [the] capacity of respondent, [for the] above mentioned reasons”.

73. By a letter dated 11 December 2006, the Agent of Serbia referred to the letters from the Applicant and from Montenegro described in paragraphs 71 and 72 above, and observed that there was “an obvious contradiction between the position of the Applicant on the one hand and the position of Montenegro on the other regarding the question whether these proceedings may or may not yield a decision which would result in the international responsibility of Montenegro” for the unlawful conduct invoked by the Applicant. The Agent stated that “Serbia is of the opinion that this issue needs to be resolved by the Court”.

74. The Court observes that the facts and events on which the final submissions of Bosnia and Herzegovina are based occurred at a period of time when Serbia and Montenegro constituted a single State.

75. The Court notes that Serbia has accepted “continuity between Serbia and Montenegro and the Republic of Serbia” (paragraph 70 above), and has assumed responsibility for “its commitments deriving from international treaties concluded by Serbia and Montenegro” (paragraph 68 above), thus including commitments under the Genocide Convention. Montenegro, on the other hand, does not claim to be the continuator of Serbia and Montenegro.

76. The Court recalls a fundamental principle that no State may be subject to its jurisdiction without its consent; as the Court observed in the case of *Certain Phosphate Lands in Nauru (Nauru v. Australia)*, the Court's "jurisdiction depends on the consent of States and, consequently, the Court may not compel a State to appear before it . . ." (*Preliminary Objections, Judgment, I.C.J. Reports 1992*, p. 260, para. 53). In its Judgment of 11 July 1996 (see paragraph 12 above), the significance of which will be explained below, the Court found that such consent existed, for the purposes of the present case, on the part of the FRY, which subsequently assumed the name of Serbia and Montenegro, without however any change in its legal personality. The events related in paragraphs 67 to 69 above clearly show that the Republic of Montenegro does not continue the legal personality of Serbia and Montenegro; it cannot therefore have acquired, on that basis, the status of Respondent in the present case. It is also clear from the letter of 29 November 2006 quoted in paragraph 72 above that it does not give its consent to the jurisdiction of the Court over it for the purposes of the present dispute. Furthermore, the Applicant did not in its letter of 16 October 2006 assert that Montenegro is still a party to the present case; it merely emphasized its views as to the joint and several liability of Serbia and of Montenegro.

77. The Court thus notes that the Republic of Serbia remains a respondent in the case, and at the date of the present Judgment is indeed the only Respondent. Accordingly, any findings that the Court may make in the operative part of the present Judgment are to be addressed to Serbia.

78. That being said, it has to be borne in mind that any responsibility for past events determined in the present Judgment involved at the relevant time the State of Serbia and Montenegro.

79. The Court observes that the Republic of Montenegro is a party to the Genocide Convention. Parties to that Convention have undertaken the obligations flowing from it, in particular the obligation to co-operate in order to punish the perpetrators of genocide.

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### III. THE COURT'S JURISDICTION

#### (1) *Introduction: The Jurisdictional Objection of Serbia and Montenegro*

80. Notwithstanding the fact that in this case the stage of oral proceedings on the merits has been reached, and the fact that in 1996 the Court gave a judgment on preliminary objections to its jurisdiction (*Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections, Judgment, I.C.J. Reports 1996 (II)*, p. 595, hereinafter "the 1996 Judgment"), an important issue of a jurisdictional character has

since been raised by the Initiative, and the Court has been asked to rule upon it (see paragraphs 26-28 above). The basis of jurisdiction asserted by the Applicant, and found applicable by the Court by the 1996 Judgment, is Article IX of the Genocide Convention. The Socialist Federal Republic of Yugoslavia (hereinafter “the SFRY”) became a party to that Convention on 29 August 1950. In substance, the central question now raised by the Respondent is whether at the time of the filing of the Application instituting the present proceedings the Respondent was or was not the continuator of the SFRY. The Respondent now contends that it was not a continuator State, and that therefore not only was it not a party to the Genocide Convention when the present proceedings were instituted, but it was not then a party to the Statute of the Court by virtue of membership in the United Nations; and that, not being such a party, it did not have access to the Court, with the consequence that the Court had no jurisdiction *ratione personae* over it.

81. This contention was first raised, in the context of the present case, by the “Initiative to the Court to Reconsider *ex officio* Jurisdiction over Yugoslavia” filed by the Respondent on 4 May 2001 (paragraph 26 above). The circumstances underlying that Initiative will be examined in more detail below (paragraphs 88-99). Briefly stated, the situation was that the Respondent, after claiming that since the break-up of the SFRY in 1992 it was the continuator of that State, and as such maintained the membership of the SFRY in the United Nations, had on 27 October 2000 applied, “in light of the implementation of the Security Council resolution 777 (1992)”, to be admitted to the Organization as a new Member, thereby in effect relinquishing its previous claim. The Respondent contended that it had in 2000 become apparent that it had not been a Member of the United Nations in the period 1992-2000, and was thus not a party to the Statute at the date of the filing of the Application in this case; and that it was not a party to the Genocide Convention on that date. The Respondent concluded that “the Court has no jurisdiction over [the Respondent] *ratione personae*”. It requested the Court “to suspend proceedings regarding the merits of the Case until a decision on this Initiative is rendered”.

82. By a letter of 12 June 2003, the Registrar, acting on the instructions of the Court, informed the Respondent that the Court could not accede to the request made in that document, that the proceedings be suspended until a decision was rendered on the jurisdictional issues raised therein. The Respondent was informed, nevertheless, that the Court “w[ould] not give judgment on the merits in the present case unless it [was] satisfied that it ha[d] jurisdiction” and that, “[s]hould Serbia and Montenegro wish to present further argument to the Court on jurisdictional questions during the oral proceedings on the merits, it w[ould] be free to do so”. The Respondent accordingly raised, as an “issue of procedure”, the question whether the Respondent had access to the Court at the date of the Application, and each of the parties has now addressed



argument to the Court on that question. It has however at the same time been argued by the Applicant that the Court may not deal with the question, or that the Respondent is debarred from raising it at this stage of the proceedings. These contentions will be examined below.

83. Subsequently, on 15 December 2004, the Court delivered judgment in eight cases brought by Serbia and Montenegro against Member States of NATO (cases concerning the *Legality of Use of Force*). The Applications instituting proceedings in those cases had been filed on 29 April 1999, that is to say prior to the admission of Serbia and Montenegro (then known as the Federal Republic of Yugoslavia) to the United Nations on 1 November 2000. In each of these cases, the Court held that it had no jurisdiction to entertain the claims made in the Application (see, for example, *Legality of Use of Force (Serbia and Montenegro v. Belgium), Preliminary Objections, Judgment, I.C.J. Reports 2004*, p. 328, para. 129), on the grounds that “Serbia and Montenegro did not, at the time of the institution of the present proceedings, have access to the Court under either paragraph 1 or paragraph 2 of Article 35 of the Statute” (*ibid.*, p. 327, para. 127). It held, “in light of the legal consequences of the new development since 1 November 2000”, that “Serbia and Montenegro was not a Member of the United Nations, and in that capacity a State party to the Statute of the International Court of Justice, at the time of filing its Application . . .” (*ibid.*, p. 311, para. 79). No finding was made in those judgments on the question whether or not the Respondent was a party to the Genocide Convention at the relevant time.

84. Both Parties recognize that each of these Judgments has the force of *res judicata* in the specific case for the parties thereto; but they also recognize that these Judgments, not having been rendered in the present case, and involving as parties States not parties to the present case, do not constitute *res judicata* for the purposes of the present proceedings. In view however of the findings in the cases concerning the *Legality of Use of Force* as to the status of the FRY vis-à-vis the United Nations and the Court in 1999, the Respondent has invoked those decisions as supportive of its contentions in the present case.

85. The grounds upon which, according to Bosnia and Herzegovina, the Court should, at this late stage of the proceedings, decline to examine the questions raised by the Respondent as to the status of Serbia and Montenegro in relation to Article 35 of the Statute, and its status as a party to the Genocide Convention, are because the conduct of the Respondent in relation to the case has been such as to create a sort of *forum prorogatum*, or an estoppel, or to debar it, as a matter of good faith, from asserting at this stage of the proceedings that it had no access to the Court at the date the proceedings were instituted; and because the questions raised by the Respondent had already been resolved by the 1996 Judgment, with the authority of *res judicata*.

86. As a result of the Initiative of the Respondent (paragraph 81 above), and its subsequent argument on what it has referred to as an “issue of procedure”, the Court has before it what is essentially an objection by the Respondent to its jurisdiction, which is preliminary in the sense that, if it is upheld, the Court will not proceed to determine the merits. The Applicant objects in turn to the Court examining further the Respondent’s jurisdictional objection. These matters evidently require to be examined as preliminary points, and it was for this reason that the Court instructed the Registrar to write to the Parties the letter of 12 June 2003, referred to in paragraph 82 above. The letter was intended to convey that the Court would listen to any argument raised by the Initiative which might be put to it, but not as an indication of what its ruling might be on any such arguments.

87. In order to make clear the background to these issues, the Court will first briefly review the history of the relationship between the Respondent and the United Nations during the period from the break-up of the SFRY in 1992 to the admission of Serbia and Montenegro (then called the Federal Republic of Yugoslavia) to the United Nations on 1 November 2000. The previous decisions of the Court in this case, and in the *Application for Revision* case, have been briefly recalled above (paragraphs 4, 8, 12 and 31). They will be referred to more fully below (paragraphs 105-113) for the purpose of (in particular) an examination of the contentions of Bosnia and Herzegovina on the question of *res judicata*.

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(2) *History of the Status of the FRY with Regard to the United Nations*

88. In the early 1990s the SFRY, a founding Member State of the United Nations, made up of Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia and Slovenia, began to disintegrate. On 25 June 1991 Croatia and Slovenia both declared independence, followed by Macedonia on 17 September 1991 and Bosnia and Herzegovina on 6 March 1992. On 22 May 1992, Bosnia and Herzegovina, Croatia and Slovenia were admitted as Members to the United Nations; as was the former Yugoslav Republic of Macedonia on 8 April 1993.

89. On 27 April 1992 the “participants of the joint session of the SFRY Assembly, the National Assembly of the Republic of Serbia and the Assembly of the Republic of Montenegro” had adopted a declaration, stating in pertinent parts:

“ . . . . .

1. The Federal Republic of Yugoslavia, continuing the state, international legal and political personality of the Socialist Federal Republic of Yugoslavia, shall strictly abide by all the commitments that the SFR of Yugoslavia assumed internationally,

. . . . .

Remaining bound by all obligations to international organizations and institutions whose member it is . . .” (United Nations doc. A/46/915, Ann. II).

90. An official Note dated 27 April 1992 from the Permanent Mission of Yugoslavia to the United Nations, addressed to the Secretary-General of the United Nations, stated *inter alia* that:

“The Assembly of the Socialist Federal Republic of Yugoslavia, at its session held on 27 April 1992, promulgated the Constitution of the Federal Republic of Yugoslavia. Under the Constitution, on the basis of the continuing personality of Yugoslavia and the legitimate decisions by Serbia and Montenegro to continue to live together in Yugoslavia, the Socialist Federal Republic of Yugoslavia is transformed into the Federal Republic of Yugoslavia, consisting of the Republic of Serbia and the Republic of Montenegro.

Strictly respecting the continuity of the international personality of Yugoslavia, the Federal Republic of Yugoslavia shall continue to fulfil all the rights conferred to, and obligations assumed by, the Socialist Federal Republic of Yugoslavia in international relations, including its membership in all international organizations and participation in international treaties ratified or acceded to by Yugoslavia.” (United Nations doc. A/46/915, Ann. I.)

91. On 30 May 1992, the Security Council adopted resolution 757 (1992), in which, *inter alia*, it noted that “the claim by the Federal Republic of Yugoslavia (Serbia and Montenegro) to continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations has not been generally accepted”.

92. On 19 September 1992, the Security Council adopted resolution 777 (1992) which read as follows:

“*The Security Council,*

*Reaffirming* its resolution 713 (1991) of 25 September 1991 and all subsequent relevant resolutions,

*Considering* that the state formerly known as the Socialist Federal Republic of Yugoslavia has ceased to exist,

*Recalling* in particular resolution 757 (1992) which notes that ‘the claim by the Federal Republic of Yugoslavia (Serbia and Montenegro) to continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations has not been generally accepted’,

1. *Considers* that the Federal Republic of Yugoslavia (Serbia and Montenegro) cannot continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations; and therefore *recommends* to the General Assembly that it decide that the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for membership in the United Nations and that it shall not participate in the work of the General Assembly;

2. *Decides* to consider the matter again before the end of the main part of the forty-seventh session of the General Assembly.”

The resolution was adopted by 12 votes in favour, none against, and 3 abstentions.

93. On 22 September 1992 the General Assembly adopted resolution 47/1, according to which:

“*The General Assembly,*

*Having received* the recommendation of the Security Council of 19 September 1992 that the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for membership in the United Nations and that it shall not participate in the work of the General Assembly,

1. *Considers* that the Federal Republic of Yugoslavia (Serbia and Montenegro) cannot continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations; and therefore *decides* that the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for membership in the United Nations and that it shall not participate in the work of the General Assembly;

2. *Takes note* of the intention of the Security Council to consider the matter again before the end of the main part of the forty-seventh session of the General Assembly.”

The resolution was adopted by 127 votes to 6, with 26 abstentions.

94. On 25 September 1992, the Permanent Representatives of Bosnia and Herzegovina and Croatia addressed a letter to the Secretary-General, in which, with reference to Security Council resolution 777 (1992) and

General Assembly resolution 47/1, they stated their understanding as follows: “At this moment, there is no doubt that the Socialist Federal Republic of Yugoslavia is not a member of the United Nations any more. At the same time, the Federal Republic of Yugoslavia is clearly not yet a member.” They concluded that “[t]he flag flying in front of the United Nations and the name-plaque bearing the name ‘Yugoslavia’ do not represent anything or anybody any more” and “kindly request[ed] that [the Secretary-General] provide a legal explanatory statement concerning the questions raised” (United Nations doc. A/47/474).

95. In response, on 29 September 1992, the Under-Secretary-General and Legal Counsel of the United Nations addressed a letter to the Permanent Representatives of Bosnia and Herzegovina and Croatia, in which he stated that the “considered view of the United Nations Secretariat regarding the practical consequences of the adoption by the General Assembly of resolution 47/1” was as follows:

“While the General Assembly has stated unequivocally that the Federal Republic of Yugoslavia (Serbia and Montenegro) cannot automatically continue the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations and that the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for membership in the United Nations, the only practical consequence that the resolution draws is that the Federal Republic of Yugoslavia (Serbia and Montenegro) shall not *participate* in the work of the General Assembly. It is clear, therefore, that representatives of the Federal Republic of Yugoslavia (Serbia and Montenegro) can no longer *participate* in the work of the General Assembly, its subsidiary organs, nor conferences and meetings convened by it.

On the other hand, the resolution neither terminates nor suspends Yugoslavia’s *membership* in the Organization. Consequently, the seat and nameplate remain as before, but in Assembly bodies representatives of the Federal Republic of Yugoslavia (Serbia and Montenegro) cannot sit behind the sign ‘Yugoslavia’. Yugoslav missions at United Nations Headquarters and offices may continue to function and may receive and circulate documents. At Headquarters, the Secretariat will continue to fly the flag of the old Yugoslavia as it is the last flag of Yugoslavia used by the Secretariat. The resolution does not take away the right of Yugoslavia to participate in the work of organs other than Assembly bodies. The admission to the United Nations of a new Yugoslavia under Article 4 of the Charter will terminate the situation created by resolution 47/1.” (United Nations doc. A/47/485; emphasis in the original.)

96. On 29 April 1993, the General Assembly, upon the recommendation contained in Security Council resolution 821 (1993) (couched in terms similar to those of Security Council resolution 777 (1992)), adopted resolution 47/229 in which it decided that “the Federal Republic of Yugoslavia (Serbia and Montenegro) shall not participate in the work of the Economic and Social Council”.

97. In its Judgments in the cases concerning the *Legality of Use of Force* (paragraph 83 above), the Court commented on this sequence of events by observing that “all these events testify to the rather confused and complex state of affairs that obtained within the United Nations surrounding the issue of the legal status of the Federal Republic of Yugoslavia in the Organization during this period” (*Preliminary Objections, Judgment, I.C.J. Reports 2004*, p. 308, para. 73), and earlier the Court, in another context, had referred to the “*sui generis* position which the FRY found itself in” during the period between 1992 to 2000 (*loc. cit.*, citing *I.C.J. Reports 2003*, p. 31, para. 71).

98. This situation, however, came to an end with a new development in 2000. On 24 September 2000, Mr. Koštunica was elected President of the FRY. In that capacity, on 27 October 2000 he sent a letter to the Secretary-General requesting admission of the FRY to membership in the United Nations, in the following terms:

“In the wake of fundamental democratic changes that took place in the Federal Republic of Yugoslavia, in the capacity of President, I have the honour to request the admission of the Federal Republic of Yugoslavia to the United Nations *in light of the implementation of the Security Council resolution 777 (1992)*.” (United Nations doc. A/55/528-S/2000/1043; emphasis added.)

99. Acting upon this application by the FRY for membership in the United Nations, the Security Council on 31 October 2000 “*recommend[ed]*” to the General Assembly that the Federal Republic of Yugoslavia be admitted to membership in the United Nations” (United Nations doc. S/RES/1326). On 1 November 2000, the General Assembly, by resolution 55/12, “[*h*]aving received the recommendation of the Security Council of 31 October 2000” and “[*h*]aving considered the application for membership of the Federal Republic of Yugoslavia”, decided to “admit the Federal Republic of Yugoslavia to membership in the United Nations”.

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### (3) *The Response of Bosnia and Herzegovina*

100. The Court will now consider the Applicant’s response to the jurisdictional objection raised by the Respondent, that is to say the conten-

tion of Bosnia and Herzegovina that the Court should not examine the question, raised by the Respondent in its Initiative (paragraph 81 above), of the status of the Respondent at the date of the filing of the Application instituting proceedings. It is first submitted by Bosnia and Herzegovina that the Respondent was under a duty to raise the issue of whether the FRY (Serbia and Montenegro) was a Member of the United Nations at the time of the proceedings on the preliminary objections, in 1996, and that since it did not do so, the principle of *res judicata*, attaching to the Court's 1996 Judgment on those objections, prevents it from reopening the issue. Secondly, the Applicant argues that the Court itself, having decided in 1996 that it had jurisdiction in the case, would be in breach of the principle of *res judicata* if it were now to decide otherwise, and that the Court cannot call in question the authority of its decisions as *res judicata*.

101. The first contention, as to the alleged consequences of the fact that Serbia did not raise the question of access to the Court under Article 35 at the preliminary objection stage, can be dealt with succinctly. Bosnia and Herzegovina has argued that to uphold the Respondent's objection "would mean that a respondent, after having asserted one or more preliminary objections, could still raise others, to the detriment of the effective administration of justice, the smooth conduct of proceedings, and, in the present case, the doctrine of *res judicata*". It should however be noted that if a party to proceedings before the Court chooses not to raise an issue of jurisdiction by way of the preliminary objection procedure under Article 79 of the Rules, that party is not necessarily thereby debarred from raising such issue during the proceedings on the merits of the case. As the Court stated in the case of *Avena and Other Mexican Nationals (Mexico v. United States of America)*,

"There are of course circumstances in which the party failing to put forward an objection to jurisdiction might be held to have acquiesced in jurisdiction (*Appeal Relating to the Jurisdiction of the ICAO Council, Judgment, I.C.J. Reports 1972*, p. 52, para. 13). However, apart from such circumstances, a party failing to avail itself of the Article 79 procedure may forfeit the right to bring about a suspension of the proceedings on the merits, but can still argue the objection along with the merits." (*Judgment, I.C.J. Reports 2004*, p. 29, para. 24).

This first contention of Bosnia and Herzegovina must thus be understood as a claim that the Respondent, by its conduct in relation to the case, including the failure to raise the issue of the application of Article 35 of the Statute, by way of preliminary objection or otherwise, at an earlier stage of the proceedings, should be held to have acquiesced in jurisdiction. This contention is thus parallel to the argument mentioned above (paragraph 85), also advanced by Bosnia and Herzegovina, that the Respondent is debarred from asking the Court to examine that issue for



reasons of good faith, including estoppel and the principle *allegans contraria nemo audietur*.

102. The Court does not however find it necessary to consider here whether the conduct of the Respondent could be held to constitute an acquiescence in the jurisdiction of the Court. Such acquiescence, if established, might be relevant to questions of consensual jurisdiction, and in particular jurisdiction *ratione materiae* under Article IX of the Genocide Convention, but not to the question whether a State has the capacity under the Statute to be a party to proceedings before the Court.

The latter question may be regarded as an issue prior to that of jurisdiction *ratione personae*, or as one constitutive element within the concept of jurisdiction *ratione personae*. Either way, unlike the majority of questions of jurisdiction, it is not a matter of the consent of the parties. As the Court observed in the cases concerning the *Legality of Use of Force*,

“a distinction has to be made between a question of jurisdiction that relates to the consent of a party and the question of the right of a party to appear before the Court under the requirements of the Statute, which is not a matter of consent. The question is whether *as a matter of law* Serbia and Montenegro was entitled to seise the Court as a party to the Statute at the time when it instituted proceedings in these cases. Since that question is independent of the views or wishes of the Parties, even if they were now to have arrived at a shared view on the point, the Court would not have to accept that view as necessarily the correct one. The function of the Court to enquire into the matter and reach its own conclusion is thus mandatory upon the Court irrespective of the consent of the parties and is in no way incompatible with the principle that the jurisdiction of the Court depends on consent.” (*Legality of Use of Force (Serbia and Montenegro v. Belgium)*, *Preliminary Objections, Judgment*, *I.C.J. Reports 2004*, p. 295, para. 36; emphasis in the original.)

103. It follows that, whether or not the Respondent should be held to have acquiesced in the jurisdiction of the Court in this case, such acquiescence would in no way debar the Court from examining and ruling upon the question stated above. The same reasoning applies to the argument that the Respondent is estopped from raising the matter at this stage, or debarred from doing so by considerations of good faith. All such considerations can, at the end of the day, only amount to attributing to the Respondent an implied acceptance, or deemed consent, in relation to the jurisdiction of the Court; but, as explained above, *ad hoc* consent of a party is distinct from the question of its capacity to be a party to proceedings before the Court.

104. However Bosnia and Herzegovina’s second contention is that,

objectively and apart from any effect of the conduct of the Respondent, the question of the application of Article 35 of the Statute in this case has already been resolved as a matter of *res judicata*, and that if the Court were to go back on its 1996 decision on jurisdiction, it would disregard fundamental rules of law. In order to assess the validity of this contention, the Court will first review its previous decisions in the present case in which its jurisdiction, or specifically the question whether Serbia and Montenegro could properly appear before the Court, has been in issue.

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(4) *Relevant Past Decisions of the Court*

105. On 8 April 1993, the Court made an Order in this case indicating certain provisional measures. In that Order the Court briefly examined the circumstances of the break-up of the SFRY, and the claim of the Respondent (then known as “Yugoslavia (Serbia and Montenegro)”) to continuity with that State, and consequent entitlement to continued membership in the United Nations. It noted that “the solution adopted” within the United Nations was “not free from legal difficulties”, but concluded that “the question whether or not Yugoslavia is a Member of the United Nations and as such a party to the Statute of the Court is one which the Court does not need to determine definitively at the present stage of the proceedings” (*Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro))*, *Provisional Measures, Order of 8 April 1993*, *I.C.J. Reports 1993*, p. 14 para. 18). This conclusion was based in part on a provisional view taken by the Court as to the effect of the proviso to Article 35, paragraph 2, of the Statute (*ibid.*, para. 19). The Order contained the reservation, normally included in orders on requests for provisional measures, that “the decision given in the present proceedings in no way prejudices the question of the jurisdiction of the Court to deal with the merits of the case . . . and leaves unaffected the right of the Governments of Bosnia-Herzegovina and Yugoslavia to submit arguments in respect of [that question]” (*ibid.*, p. 23, para. 51). It is therefore evident that no question of *res judicata* arises in connection with the Order of 8 April 1993. A further Order on provisional measures was made on 13 September 1993, but contained nothing material to the question now being considered.

106. In 1995 the Respondent raised seven preliminary objections (one of which was later withdrawn), three of which invited the Court to find that it had no jurisdiction in the case. None of these objections were however founded on a contention that the FRY was not a party to the Statute at the relevant time; that was not a contention specifically advanced in the proceedings on the preliminary objections. At the time of those

proceedings, the FRY was persisting in the claim, that it was continuing the membership of the former SFRY in the United Nations; and while that claim was opposed by a number of States, the position taken by the various organs gave rise to a “confused and complex state of affairs . . . within the United Nations” (*Legality of Use of Force (Serbia and Montenegro v. Belgium)*, *Preliminary Objections, Judgment, I.C.J. Reports 2004*, p. 308, para. 73). Neither party raised the matter before the Court: Bosnia and Herzegovina as Applicant, while denying that the FRY was a Member of the United Nations as a continuator of the SFRY, was asserting before this Court that the FRY was nevertheless a party to the Statute, either under Article 35, paragraph 2, thereof, or on the basis of the declaration of 27 April 1992 (see paragraphs 89 to 90 above); and for the FRY to raise the issue would have involved undermining or abandoning its claim to be the continuator of the SFRY as the basis for continuing membership of the United Nations.

107. By the 1996 Judgment, the Court rejected the preliminary objections of the Respondent, and found that, “on the basis of Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide, it has jurisdiction to adjudicate upon the dispute” (*Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)*, *Preliminary Objections, Judgment, I.C.J. Reports 1996 (II)*, p. 623, para. 47 (2) (a)). It also found that the Application was admissible, and stated that “the Court may now proceed to consider the merits of the case . . .” (*ibid.*, p. 622, para. 46).

108. However, on 24 April 2001 Serbia and Montenegro (then known as the Federal Republic of Yugoslavia) filed an Application instituting proceedings seeking revision, under Article 61 of the Statute, of the 1996 Judgment on jurisdiction in this case. That Article requires that there exist “some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court . . .”. The FRY claimed in its Application that:

“The admission of the FRY to the United Nations as a new Member on 1 November 2000 is certainly a new fact . . .

. . . . .  
The admission of the FRY to the United Nations as a new Member clears ambiguities and sheds a different light on the issue of the membership of the FRY in the United Nations, in the Statute and in the Genocide Convention.” (*Application for Revision, I.C.J. Reports 2003*, p. 12, para. 18.)

Essentially the contention of the FRY was that its admission to membership in 2000 necessarily implied that it was not a Member of the United Nations and thus not a party to the Statute in 1993, when the proceed-

ings in the present case were instituted, so that the Court would have had no jurisdiction in the case.

109. The history of the relationship between the FRY and the United Nations, from the break-up of the SFRY in 1991-1992 up to the admission of the FRY as a new Member in 2000, has been briefly recalled in paragraphs 88 to 99 above. That history has been examined in detail on more than one occasion, both in the context of the Application for revision referred to in paragraph 108 and in the Court's Judgments in 2004 in the cases concerning the *Legality of Use of Force*. In its Judgment of 3 February 2003 on the Application for revision, the Court carefully studied that relationship; it also recalled the terms of its 1996 Judgment finding in favour of jurisdiction. The Court noted that

“the FRY claims that the facts which existed at the time of the 1996 Judgment and upon the discovery of which its request for revision of that Judgment is based ‘are that the FRY was *not* a party to the Statute, and that it did *not* remain bound by the Genocide Convention continuing the personality of the former Yugoslavia’. It argues that these ‘facts’ were ‘revealed’ by its admission to the United Nations on 1 November 2000 and by [a letter from the United Nations Legal Counsel] of 8 December 2000.

. . . . .

In the final version of its argument, the FRY claims that its admission to the United Nations and the Legal Counsel's letter of 8 December 2000 simply ‘revealed’ two facts which had existed in 1996 but had been unknown at the time: that it was not then a party to the Statute of the Court and that it was not bound by the Genocide Convention.” (*I.C.J. Reports 2003*, p. 30, paras. 66 and 69.)

110. The Court did not consider that the admission of the FRY to membership was itself a “new fact”, since it occurred after the date of the Judgment of which the revision was sought (*ibid.*, para. 68). As to the argument that facts on which an application for revision could be based were “revealed” by the events of 2000, the Court ruled as follows:

“In advancing this argument, the FRY does not rely on facts that existed in 1996. In reality, it bases its Application for revision on the legal consequences which it seeks to draw from facts subsequent to the Judgment which it is asking to have revised. Those consequences, even supposing them to be established, cannot be regarded as facts within the meaning of Article 61. The FRY's argument cannot accordingly be upheld.” (*Ibid.*, pp. 30-31, para. 69.)

111. The Court therefore found the Application for revision inadmissible. However, as the Court has observed in the cases concerning *Legal-*

ity of Use of Force, it did not, in its Judgment on the Application for revision,

“regard the alleged ‘decisive facts’ specified by Serbia and Montenegro as ‘facts that existed in 1996’ for the purpose of Article 61. The Court therefore did not have to rule on the question whether ‘the legal consequences’ could indeed legitimately be deduced from the later facts; in other words, it did not have to say whether it was correct that Serbia and Montenegro had not been a party to the Statute or to the Genocide Convention in 1996.” (*Legality of Use of Force (Serbia and Montenegro v. Belgium)*, *Preliminary Objections, Judgment*, *I.C.J. Reports 2004*, p. 313, para. 87.)

112. In a subsequent paragraph of the 2003 Judgment on the Application for revision of the 1996 Judgment, the Court had stated:

“It follows from the foregoing that it has not been established that the request of the FRY is based upon the discovery of ‘some fact’ which was ‘when the judgment was given, unknown to the Court and also to the party claiming revision’. The Court therefore concludes that one of the conditions for the admissibility of an application for revision prescribed by paragraph 1 of Article 61 of the Statute has not been satisfied.” (*I.C.J. Reports 2003*, p. 31, para. 72.)

In its 2004 decisions in the *Legality of Use of Force* cases the Court further commented on this finding:

“The Court thus made its position clear that there could have been no retroactive modification of the situation in 2000, which would amount to a new fact, and that therefore the conditions of Article 61 were not satisfied. This, however, did not entail any finding by the Court, in the revision proceedings, as to what that situation actually was.” (*Preliminary Objections, Judgment*, *I.C.J. Reports 2004*, p. 314, para. 89.)

113. For the purposes of the present case, it is thus clear that the Judgment of 2003 on the Application by the FRY for revision, while binding between the parties, and final and without appeal, did not contain any finding on the question whether or not that State had actually been a Member of the United Nations in 1993. The question of the status of the FRY in 1993 formed no part of the issues upon which the Court pronounced judgment when dismissing that Application.

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#### (5) *The Principle of Res Judicata*

114. The Court will now consider the principle of *res judicata*, and its application to the 1996 Judgment in this case. The Applicant asserts that the 1996 Judgment, whereby the Court found that it had jurisdiction

under the Genocide Convention, “enjoys the authority of *res judicata* and is not susceptible of appeal” and that “any ruling whereby the Court reversed the 1996 Judgment . . . would be incompatible both with the *res judicata* principle and with Articles 59, 60 and 61 of the Statute”. The Applicant submits that, like its judgments on the merits, “the Court’s decisions on jurisdiction are *res judicata*”. It further observes that, pursuant to Article 60 of the Statute, the Court’s 1996 Judgment is “final and without appeal” subject only to the possibility of a request for interpretation and revision; and the FRY’s request for revision was rejected by the Court in its Judgment of 3 February 2003. The Respondent contends that jurisdiction once upheld may be challenged by new objections; and considers that this does not contravene the principle of *res judicata* or the wording of Article 79 of the Rules of Court. It emphasizes “the right and duty of the Court to act *proprio motu*” to examine its jurisdiction, mentioned in the case of the *Appeal Relating to the Jurisdiction of the ICAO Council (India v. Pakistan)* (see paragraph 118 below), and contends that the Court cannot “forfeit” that right by not having itself raised the issue in the preliminary objections phase.

115. There is no dispute between the Parties as to the existence of the principle of *res judicata* even if they interpret it differently as regards judgments deciding questions of jurisdiction. The fundamental character of that principle appears from the terms of the Statute of the Court and the Charter of the United Nations. The underlying character and purposes of the principle are reflected in the judicial practice of the Court. That principle signifies that the decisions of the Court are not only binding on the parties, but are final, in the sense that they cannot be reopened by the parties as regards the issues that have been determined, save by procedures, of an exceptional nature, specially laid down for that purpose. Article 59 of the Statute, notwithstanding its negative wording, has at its core the positive statement that the parties are bound by the decision of the Court in respect of the particular case. Article 60 of the Statute provides that the judgment is final and without appeal; Article 61 places close limits of time and substance on the ability of the parties to seek the revision of the judgment. The Court stressed those limits in 2003 when it found inadmissible the Application made by Serbia and Montenegro for revision of the 1996 Judgment in the *Application for Revision* case (*I.C.J. Reports 2003*, p. 12, para. 17).

116. Two purposes, one general, the other specific, underlie the principle of *res judicata*, internationally as nationally. First, the stability of legal relations requires that litigation come to an end. The Court’s function, according to Article 38 of its Statute, is to “decide”, that is, to bring to an end, “such disputes as are submitted to it”. Secondly, it is in the interest of each party that an issue which has already been adjudicated in favour of that party be not argued again. Article 60 of the Statute articu-

lates this finality of judgments. Depriving a litigant of the benefit of a judgment it has already obtained must in general be seen as a breach of the principles governing the legal settlement of disputes.

117. It has however been suggested by the Respondent that a distinction may be drawn between the application of the principle of *res judicata* to judgments given on the merits of a case, and judgments determining the Court's jurisdiction, in response to preliminary objections; specifically, the Respondent contends that "decisions on preliminary objections do not and cannot have the same consequences as decisions on the merits". The Court will however observe that the decision on questions of jurisdiction, pursuant to Article 36, paragraph 6, of the Statute, is given by a judgment, and Article 60 of the Statute provides that "[t]he judgment is final and without appeal", without distinguishing between judgments on jurisdiction and admissibility, and judgments on the merits. In its Judgment of 25 March 1999 on the request for interpretation of the Judgment of 11 June 1998 in the case of the *Land and Maritime Boundary between Cameroon and Nigeria*, the Court expressly recognized that the 1998 Judgment, given on a number of preliminary objections to jurisdiction and admissibility, constituted *res judicata*, so that the Court could not consider a submission inconsistent with that judgment (*Judgment, I.C.J. Reports 1999 (I)*, p. 39, para. 16). Similarly, in its Judgment of 3 February 2003 in the *Application for Revision* case, the Court, when it began by examining whether the conditions for the opening of the revision procedure, laid down by Article 61 of the Statute, were satisfied, undoubtedly recognized that an application could be made for revision of a judgment on preliminary objections; this could in turn only derive from a recognition that such a judgment is "final and without appeal". Furthermore, the contention put forward by the Respondent would signify that the principle of *res judicata* would not prevent a judgment dismissing a preliminary objection from remaining open to further challenge indefinitely, while a judgment upholding such an objection, and putting an end to the case, would in the nature of things be final and determinative as regards that specific case.

118. The Court recalls that, as it has stated in the case of the *Appeal Relating to the Jurisdiction of the ICAO Council (India v. Pakistan)*, it "must however always be satisfied that it has jurisdiction, and must if necessary go into that matter *proprio motu*" (*Judgment, I.C.J. Reports 1972*, p. 52, para. 13). That decision in its context (in a case in which there was no question of reopening a previous decision of the Court) does not support the Respondent's contention. It does not signify that jurisdictional decisions remain reviewable indefinitely, nor that the Court may, *proprio motu* or otherwise, reopen matters already decided with the force of *res judicata*. The Respondent has argued that there is a principle that "an international court may consider or reconsider the issue of juris-



diction at any stage of the proceedings". It has referred in this connection both to the dictum just cited from the *Appeal Relating to the Jurisdiction of the ICAO Council (India v. Pakistan)*, and to the *Corfu Channel (United Kingdom v. Albania)* case. It is correct that the Court, having in the first phase of that case rejected Albania's preliminary objection to jurisdiction, and having decided that proceedings on the merits were to continue (*Preliminary Objection, Judgment, I.C.J. Reports 1947-1948*, p. 15), did at the merits stage consider and rule on a challenge to its jurisdiction, in particular whether it had jurisdiction to assess compensation (*I.C.J. Reports 1949*, pp. 23-26; 171). But no reconsideration at all by the Court of its earlier Judgment was entailed in this because, following that earlier Judgment, the Parties had concluded a special agreement submitting to the Court, *inter alia*, the question of compensation. The later challenge to jurisdiction concerned only the scope of the jurisdiction conferred by that subsequent agreement.

119. The Respondent also invokes certain international conventions and the rules of other international tribunals. It is true that the European Court of Human Rights may reject, at any stage of the proceedings, an application which it considers inadmissible; and the International Criminal Court may, in exceptional circumstances, permit the admissibility of a case or the jurisdiction of the Court to be challenged after the commencement of the trial. However, these specific authorizations in the instruments governing certain other tribunals reflect their particular admissibility procedures, which are not identical with the procedures of the Court in the field of jurisdiction. They thus do not support the view that there exists a general principle which would apply to the Court, whose Statute not merely contains no such provision, but declares, in Article 60, the *res judicata* principle without exception. The Respondent has also cited certain jurisprudence of the European Court of Human Rights, and an arbitral decision of the German-Polish Mixed Arbitral Tribunal (*von Tiedemann* case); but, in the view of the Court, these too, being based on their particular facts, and the nature of the jurisdictions involved, do not indicate the existence of a principle of sufficient generality and weight to override the clear provisions of the Court's Statute, and the principle of *res judicata*.

120. This does not however mean that, should a party to a case believe that elements have come to light subsequent to the decision of the Court which tend to show that the Court's conclusions may have been based on incorrect or insufficient facts, the decision must remain final, even if it is in apparent contradiction to reality. The Statute provides for only one procedure in such an event: the procedure under Article 61, which offers the possibility for the revision of judgments, subject to the restrictions stated in that Article. In the interests of the stability of legal relations, those restrictions must be rigorously applied. As noted above (para-

graph 110) the FRY's Application for revision of the 1996 Judgment in this case was dismissed, as not meeting the conditions of Article 61. Subject only to this possibility of revision, the applicable principle is *res judicata pro veritate habetur*, that is to say that the findings of a judgment are, for the purposes of the case and between the parties, to be taken as correct, and may not be reopened on the basis of claims that doubt has been thrown on them by subsequent events.

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(6) *Application of the Principle of Res Judicata to the 1996 Judgment*

121. In the light of these considerations, the Court reverts to the effect and significance of the 1996 Judgment. That Judgment was essentially addressed, so far as questions of jurisdiction were concerned, to the question of the Court's jurisdiction under the Genocide Convention. It resolved in particular certain questions that had been raised as to the status of Bosnia and Herzegovina in relation to the Convention; as regards the FRY, the Judgment stated simply as follows:

"the former Socialist Federal Republic of Yugoslavia . . . signed the Genocide Convention on 11 December 1948 and deposited its instrument of ratification, without reservation, on 29 August 1950. At the time of the proclamation of the Federal Republic of Yugoslavia, on 27 April 1992, a formal declaration was adopted on its behalf to the effect that:

'The Federal Republic of Yugoslavia, continuing the State, international legal and political personality of the Socialist Federal Republic of Yugoslavia, shall strictly abide by all the commitments that the Socialist Federal Republic of Yugoslavia assumed internationally.'

This intention thus expressed by Yugoslavia to remain bound by the international treaties to which the former Yugoslavia was party was confirmed in an official Note of 27 April 1992 from the Permanent Mission of Yugoslavia to the United Nations, addressed to the Secretary-General. The Court observes, furthermore, that it has not been contested that Yugoslavia was party to the Genocide Convention. Thus, Yugoslavia was bound by the provisions of the Convention on the date of the filing of the Application in the present case, namely, on 20 March 1993." (*Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia) Preliminary Objections, Judgment, I.C.J. Reports 1996 (II)*, p. 610, para. 17.)

122. Nothing was stated in the 1996 Judgment about the status of the FRY in relation to the United Nations, or the question whether it could participate in proceedings before the Court; for the reasons already mentioned above (paragraph 106), both Parties had chosen to refrain from asking for a decision on these matters. The Court however considers it necessary to emphasize that the question whether a State may properly come before the Court, on the basis of the provisions of the Statute, whether it be classified as a matter of capacity to be a party to the proceedings or as an aspect of jurisdiction *ratione personae*, is a matter which precedes that of jurisdiction *ratione materiae*, that is, whether that State has consented to the settlement by the Court of the specific dispute brought before it. The question is in fact one which the Court is bound to raise and examine, if necessary, *ex officio*, and if appropriate after notification to the parties. Thus if the Court considers that, in a particular case, the conditions concerning the capacity of the parties to appear before it are not satisfied, while the conditions of its jurisdiction *ratione materiae* are, it should, even if the question has not been raised by the parties, find that the former conditions are not met, and conclude that, for that reason, it could not have jurisdiction to decide the merits.

123. The operative part of a judgment of the Court possesses the force of *res judicata*. The operative part of the 1996 Judgment stated, in paragraph 47 (2) (a), that the Court found “that, on the basis of Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide, it has jurisdiction to decide upon the dispute”. That jurisdiction is thus established with the full weight of the Court’s judicial authority. For a party to assert today that, at the date the 1996 Judgment was given, the Court had no power to give it, because one of the parties can now be seen to have been unable to come before the Court is, for the reason given in the preceding paragraph, to call in question the force as *res judicata* of the operative clause of the Judgment. At first sight, therefore, the Court need not examine the Respondent’s objection to jurisdiction based on its contention as to its lack of status in 1993.

124. The Respondent has however advanced a number of arguments tending to show that the 1996 Judgment is not conclusive on the matter, and the Court will now examine these. The passage just quoted from the 1996 Judgment is of course not the sole provision of the operative clause of that Judgment: as, the Applicant has noted, the Court first dismissed *seriatim* the specific preliminary objections raised (and not withdrawn) by the Respondent; it then made the finding quoted in paragraph 123 above; and finally it dismissed certain additional bases of jurisdiction invoked by the Applicant. The Respondent suggests that, for the purposes of applying the principle of *res judicata* to a judgment of this kind on preliminary objections, the operative clause (*dispositif*) to be taken into account and given the force of *res judicata* is the decision rejecting specified preliminary objections, rather than “the broad ascertainment

upholding jurisdiction”. The Respondent has drawn attention to the provisions of Article 79, paragraph 7, of the 1978 Rules of Court, which provides that the judgment on preliminary objections shall, in respect of each objection “either uphold the objection, reject it, or declare that the objection does not possess, in the circumstances of the case, an exclusively preliminary character”. The Respondent suggests therefore that only the clauses of a judgment on preliminary objections that are directed to these ends have the force of *res judicata*, which is, it contends, consistent with the view that new objections may be raised subsequently.

125. The Court does not however consider that it was the purpose of Article 79 of the Rules of Court to limit the extent of the force of *res judicata* attaching to a judgment on preliminary objections, nor that, in the case of such judgment, such force is necessarily limited to the clauses of the *dispositif* specifically rejecting particular objections. There are many examples in the Court’s jurisprudence of decisions on preliminary objections which contain a general finding that the Court has jurisdiction, or that the application is admissible, as the case may be; and it would be going too far to suppose that all of these are necessarily superfluous conclusions. In the view of the Court, if any question arises as to the scope of *res judicata* attaching to a judgment, it must be determined in each case having regard to the context in which the judgment was given (cf. *Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* (*Tunisia v. Libyan Arab Jamahiriya*), *Judgment*, I.C.J. Reports 1985, pp. 218-219, para. 48).

126. For this purpose, in respect of a particular judgment it may be necessary to distinguish between, first, the issues which have been decided with the force of *res judicata*, or which are necessarily entailed in the decision of those issues; secondly any peripheral or subsidiary matters, or *obiter dicta*; and finally matters which have not been ruled upon at all. Thus an application for interpretation of a judgment under Article 60 of the Statute may well require the Court to settle “[a] difference of opinion [between the parties] as to whether a particular point has or has not been decided with binding force” (*Interpretation of Judgments Nos. 7 and 8 (Factory at Chorzów)*, *Judgment No. 11*, 1927, P.C.I.J. Series A, No. 13, pp. 11-12). If a matter has not in fact been determined, expressly or by necessary implication, then no force of *res judicata* attaches to it; and a general finding may have to be read in context in order to ascertain whether a particular matter is or is not contained in it.

127. In particular, the fact that a judgment may, in addition to rejecting specific preliminary objections, contain a finding that “the Court has jurisdiction” in the case does not necessarily prevent subsequent examination of any jurisdictional issues later arising that have not been resolved, with the force of *res judicata*, by such judgment. The Parties have each referred in this connection to the successive decisions in the *Corfu Chan-*

*nel* case, which the Court has already considered above (paragraph 118). Mention may also be made of the judgments on the merits in the two cases concerning *Fisheries Jurisdiction (United Kingdom v. Iceland)* (*Federal Republic of Germany v. Iceland*) (*I.C.J. Reports 1974*, p. 20, para. 42; pp. 203-204, para. 74), which dealt with minor issues of jurisdiction despite an express finding of jurisdiction in previous judgments (*I.C.J. Reports 1973*, p. 22, para. 46; p. 66, para. 46). Even where the Court has, in a preliminary judgment, specifically reserved certain matters of jurisdiction for later decision, the judgment may nevertheless contain a finding that “the Court has jurisdiction” in the case, this being understood as being subject to the matters reserved (see *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, *Jurisdiction and Admissibility, Judgment*, *I.C.J. Reports 1984*, p. 442, para. 113 (1) (c), and pp. 425-426, para. 76; cf. also, in connection with an objection to admissibility, *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)* (*Libyan Arab Jamahiriya v. United States of America*), *I.C.J. Reports 1998*, p. 29, para. 51, and pp. 30-31, paras. 53 (2) (b) and 53 (3); p. 134, para. 50, and p. 156, paras. 53 (2) (b) and 53 (3)).

128. On the other hand, the fact that the Court has in these past cases dealt with jurisdictional issues after having delivered a judgment on jurisdiction does not support the contention that such a judgment can be reopened at any time, so as to permit reconsideration of issues already settled with the force of *res judicata*. The essential difference between the cases mentioned in the previous paragraph and the present case is this: the jurisdictional issues examined at a late stage in those cases were such that the decision on them would not contradict the finding of jurisdiction made in the earlier judgment. In the *Fisheries Jurisdiction* cases, the issues raised related to the extent of the jurisdiction already established in principle with the force of *res judicata*; in the *Military and Paramilitary Activities* case, the Court had clearly indicated in the 1984 Judgment that its finding in favour of jurisdiction did not extend to a definitive ruling on the interpretation of the United States reservation to its optional clause declaration. By contrast, the contentions of the Respondent in the present case would, if upheld, effectively reverse the 1996 Judgment; that indeed is their purpose.

129. The Respondent has contended that the issue whether the FRY had access to the Court under Article 35 of the Statute has in fact never been decided in the present case, so that no barrier of *res judicata* would prevent the Court from examining that issue at the present stage of the

proceedings. It has drawn attention to the fact that when commenting on the 1996 Judgment, in its 2004 Judgments in the cases concerning the *Legality of Use of Force*, the Court observed that “[t]he question of the status of the Federal Republic of Yugoslavia in relation to Article 35 of the Statute was not raised and the Court saw no reason to examine it” (see, for example, *Legality of Use of Force (Serbia and Montenegro v. Belgium)*, *I.C.J. Reports 2004*, p. 311, para. 82), and that “in its pronouncements in incidental proceedings” in the present case, the Court “did not commit itself to a definitive position on the issue of the legal status of the Federal Republic of Yugoslavia in relation to the Charter and the Statute” (*ibid.*, pp. 308-309, para. 74).

130. That does not however signify that in 1996 the Court was unaware of the fact that the solution adopted in the United Nations to the question of continuation of the membership of the SFRY “[was] not free from legal difficulties”, as the Court had noted in its Order of 8 April 1993 indicating provisional measures in the case (*I.C.J. Reports 1993*, p. 14, para. 18; above, paragraph 105). The FRY was, at the time of the proceedings on its preliminary objections culminating in the 1996 Judgment, maintaining that it was the continuator State of the SFRY. As the Court indicated in its Judgments in the cases concerning the *Legality of Use of Force*,

“No specific assertion was made in the Application [of 1993, in the present case] that the Court was open to Serbia and Montenegro under Article 35, paragraph 1, of the Statute of the Court, but it was later made clear that the Applicant claimed to be a Member of the United Nations and thus a party to the Statute of the Court, by virtue of Article 93, paragraph 1, of the Charter, at the time of filing of the Application . . . [T]his position was expressly stated in the Memorial filed by Serbia and Montenegro on 4 January 2000 . . .” (*Legality of Use of Force (Serbia and Montenegro v. Belgium)*, *Preliminary Objections, Judgment, I.C.J. Reports 2004*, p. 299, para. 47.)

The question whether the FRY was a continuator or a successor State of the SFRY was mentioned in the Memorial of Bosnia and Herzegovina. The view of Bosnia and Herzegovina was that, while the FRY was not a Member of the United Nations, as a successor State of the SFRY which had expressly declared that it would abide by the international commitments of the SFRY, it was nevertheless a party to the Statute. It is also essential, when examining the text of the 1996 Judgment, to take note of the context in which it was delivered, in particular as regards the contemporary state of relations between the Respondent and the United Nations, as recounted in paragraphs 88 to 99 above.

131. The “legal difficulties” referred to were finally dissipated when in 2000 the FRY abandoned its former insistence that it was the continuator of the SFRY, and applied for membership in the United Nations (paragraph 98 above). As the Court observed in its 2004 Judgments in the cases concerning the *Legality of Use of Force*,

“the significance of this new development in 2000 is that it has clarified the thus far amorphous legal situation concerning the status of the Federal Republic of Yugoslavia vis-à-vis the United Nations. It is in that sense that the situation that the Court now faces in relation to Serbia and Montenegro is manifestly different from that which it faced in 1999. If, at that time, the Court had had to determine definitively the status of the Applicant vis-à-vis the United Nations, its task of giving such a determination would have been complicated by the legal situation, which was shrouded in uncertainties relating to that status. However, from the vantage point from which the Court now looks at the legal situation, and in light of the legal consequences of the new development since 1 November 2000, the Court is led to the conclusion that Serbia and Montenegro was not a Member of the United Nations, and in that capacity a State party to the Statute of the International Court of Justice, at the time of filing its Application to institute the present proceedings before the Court on 29 April 1999.” (*Legality of Use of Force (Serbia and Montenegro v. Belgium)*, *Preliminary Objections, Judgment*, *I.C.J. Reports 2004*, pp. 310-311, para. 79.)

As the Court here recognized, in 1999 — and even more so in 1996 — it was by no means so clear as the Court found it to be in 2004 that the Respondent was not a Member of the United Nations at the relevant time. The inconsistencies of approach expressed by the various United Nations organs are apparent from the passages quoted in paragraphs 91 to 96 above.

132. As already noted, the legal complications of the position of the Respondent in relation to the United Nations were not specifically mentioned in the 1996 Judgment. The Court stated, as mentioned in paragraph 121 above, that “Yugoslavia was bound by the provisions of the [Genocide] Convention on the date of the filing of the Application in the present case” (*Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)*, *Preliminary Objections, Judgment*, *I.C.J. Reports 1996 (II)*, p. 610, para. 17), and found that “on the basis of Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide, it has jurisdiction to adjudicate upon the dispute” (*ibid.*, p. 623, para. 47 (2) (a)). Since, as observed above, the question of a State’s capacity to be a party to proceedings is a matter which precedes that of jurisdiction *ratione materiae*, and one which the Court must, if necessary, raise *ex officio* (see



paragraph 122 above), this finding must as a matter of construction be understood, by necessary implication, to mean that the Court at that time perceived the Respondent as being in a position to participate in cases before the Court. On that basis, it proceeded to make a finding on jurisdiction which would have the force of *res judicata*. The Court does not need, for the purpose of the present proceedings, to go behind that finding and consider on what basis the Court was able to satisfy itself on the point. Whether the Parties classify the matter as one of “access to the Court” or of “jurisdiction *ratione personae*”, the fact remains that the Court could not have proceeded to determine the merits unless the Respondent had had the capacity under the Statute to be a party to proceedings before the Court.

133. In the view of the Court, the express finding in the 1996 Judgment that the Court had jurisdiction in the case *ratione materiae*, on the basis of Article IX of the Genocide Convention, seen in its context, is a finding which is only consistent, in law and logic, with the proposition that, in relation to both Parties, it had jurisdiction *ratione personae* in its comprehensive sense, that is to say, that the status of each of them was such as to comply with the provisions of the Statute concerning the capacity of States to be parties before the Court. As regards Bosnia and Herzegovina, there was no question but that it was a party to the Statute at the date of filing its Application instituting proceedings; and in relation to the Convention, the Court found that it “could . . . become a party to the Convention” from the time of its admission to the United Nations (*I.C.J. Reports 1996 (II)*, p. 611, para. 19), and had in fact done so. As regards the FRY, the Court found that it “was bound by the provisions of the Convention”, i.e. was a party thereto, “on the date of the filing of the Application” (*ibid.*, p. 610, para. 17); in this respect the Court took note of the declaration made by the FRY on 27 April 1992, set out in paragraph 89 above, whereby the FRY “continuing the State, international legal and political personality” of the SFRY, declared that it would “strictly abide by” the international commitments of the SFRY. The determination by the Court that it had jurisdiction under the Genocide Convention is thus to be interpreted as incorporating a determination that all the conditions relating to the capacity of the Parties to appear before it had been met.

134. It has been suggested by the Respondent that the Court’s finding of jurisdiction in the 1996 Judgment was based merely upon an assumption: an assumption of continuity between the SFRY and the FRY. It has drawn attention to passages, already referred to above (paragraph 129), in the Judgments in the *Legality of Use of Force* cases, to the effect that in 1996 the Court saw no reason to examine the question of access, and that, in its pronouncements in incidental proceedings, the Court did not commit itself to a definitive position on the issue of the legal status of the Respondent.

135. That the FRY had the capacity to appear before the Court in

accordance with the Statute was an element in the reasoning of the 1996 Judgment which can — and indeed must — be read into the Judgment as a matter of logical construction. That element is not one which can at any time be reopened and re-examined, for the reasons already stated above. As regards the passages in the 2004 Judgments relied on by the Respondent, it should be borne in mind that the concern of the Court was not then with the scope of *res judicata* of the 1996 Judgment, since in any event such *res judicata* could not extend to the proceedings in the cases that were then before it, between different parties. It was simply appropriate in 2004 for the Court to consider whether there was an expressly stated finding in another case that would throw light on the matters before it. No such express finding having been shown to exist, the Court in 2004 did not, as it has in the present case, have to go on to consider what might be the unstated foundations of a judgment given in another case, between different parties.

136. The Court thus considers that the 1996 Judgment contained a finding, whether it be regarded as one of jurisdiction *ratione personae*, or as one anterior to questions of jurisdiction, which was necessary as a matter of logical construction, and related to the question of the FRY's capacity to appear before the Court under the Statute. The force of *res judicata* attaching to that judgment thus extends to that particular finding.

137. However it has been argued by the Respondent that even were that so,

“the fundamental nature of access as a precondition for the exercise of the Court's judicial function means that positive findings on access cannot be taken as definitive and final until the final judgment is rendered in proceedings, because otherwise it would be possible that the Court renders its final decision with respect to a party over which it cannot exercise [its] judicial function. In other words, access is so fundamental that, until the final judgment, it overrides the principle of *res judicata*. Thus, even if the 1996 Judgment had made a finding on access, *quod non*, that would not be a bar for the Court to re-examine this issue until the end of the proceedings.”

A similar argument advanced by the Respondent is based on the principle that the jurisdiction of the Court derives from a treaty, namely the Statute of the Court; the Respondent questions whether the Statute could have endowed the 1996 Judgment with any effects at all, since the Respondent was, it alleges, not a party to the Statute. Counsel for the Respondent argued that

“Today it is known that in 1996 when the decision on preliminary objections was rendered, the Respondent was not a party to the Statute. Thus, there was no foothold, Articles 36 (6), 59, and 60 did

not represent a binding treaty provision providing a possible basis for deciding on jurisdiction with *res judicata* effects.”

138. It appears to the Court that these contentions are inconsistent with the nature of the principle of *res judicata*. That principle signifies that once the Court has made a determination, whether on a matter of the merits of a dispute brought before it, or on a question of its own jurisdiction, that determination is definitive both for the parties to the case, in respect of the case (Article 59 of the Statute), and for the Court itself in the context of that case. However fundamental the question of the capacity of States to be parties in cases before the Court may be, it remains a question to be determined by the Court, in accordance with Article 36, paragraph 6, of the Statute, and once a finding in favour of jurisdiction has been pronounced with the force of *res judicata*, it is not open to question or re-examination, except by way of revision under Article 61 of the Statute. There is thus, *as a matter of law*, no possibility that the Court might render “its final decision with respect to a party over which it cannot exercise its judicial function”, because the question whether a State is or is not a party subject to the jurisdiction of the Court is one which is reserved for the sole and authoritative decision of the Court.

139. Counsel for the Respondent contended further that, in the circumstances of the present case, reliance on the *res judicata* principle “would justify the Court’s *ultra vires* exercise of its judicial functions contrary to the mandatory requirements of the Statute”. However, the operation of the “mandatory requirements of the Statute” falls to be determined by the Court in each case before it; and once the Court has determined, with the force of *res judicata*, that it has jurisdiction, then for the purposes of that case no question of *ultra vires* action can arise, the Court having sole competence to determine such matters under the Statute. For the Court *res judicata pro veritate habetur*, and the judicial truth within the context of a case is as the Court has determined it, subject only to the provision in the Statute for revision of judgments. This result is required by the nature of the judicial function, and the universally recognized need for stability of legal relations.

\* \*

(7) *Conclusion: Jurisdiction Affirmed*

140. The Court accordingly concludes that, in respect of the contention that the Respondent was not, on the date of filing of the Application instituting proceedings, a State having the capacity to come before the Court under the Statute, the principle of *res judicata* precludes any reopening of the decision embodied in the 1996 Judgment. The Respondent

has however also argued that the 1996 Judgment is not *res judicata* as to the further question whether the FRY was, at the time of institution of proceedings, a party to the Genocide Convention, and has sought to show that at that time it was not, and could not have been, such a party. The Court however considers that the reasons given above for holding that the 1996 Judgment settles the question of jurisdiction in this case with the force of *res judicata* are applicable *a fortiori* as regards this contention, since on this point the 1996 Judgment was quite specific, as it was not on the question of capacity to come before the Court. The Court does not therefore find it necessary to examine the argument of the Applicant that the failure of the Respondent to advance at the time the reasons why it now contends that it was not a party to the Genocide Convention might raise considerations of estoppel, or *forum prorogatum* (cf. paragraphs 85 and 101 above). The Court thus concludes that, as stated in the 1996 Judgment, it has jurisdiction, under Article IX of the Genocide Convention, to adjudicate upon the dispute brought before it by the Application filed on 20 March 1993. It follows from the above that the Court does not find it necessary to consider the questions, extensively addressed by the Parties, of the status of the Respondent under the Charter of the United Nations and the Statute of the Court, and its position in relation to the Genocide Convention at the time of the filing of the Application.

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141. There has been some reference in the Parties' arguments before the Court to the question whether Article 35, paragraphs 1 and 2, of the Statute apply equally to applicants and to respondents. This matter, being one of interpretation of the Statute, would be one for the Court to determine. However, in the light of the conclusion that the Court has reached as to the *res judicata* status of the 1996 decision, it does not find at present the necessity to do so.

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#### IV. THE APPLICABLE LAW: THE CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

##### (1) *The Convention in Brief*

142. The Contracting Parties to the Convention, adopted on 9 December 1948, offer the following reasons for agreeing to its text:

“The Contracting Parties,

Having considered the declaration made by the General Assembly of the United Nations in its resolution 96 (I) dated 11 December 1946 that genocide is a crime under international law, contrary

to the spirit and aims of the United Nations and condemned by the civilized world,

Recognizing that at all periods of history genocide has inflicted great losses on humanity, and

Being convinced that, in order to liberate mankind from such an odious scourge, international co-operation is required,

Hereby agree as hereinafter provided . . .”

143. Under Article I “[t]he Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish”. Article II defines genocide in these terms:

“In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.”

Article III provides as follows:

“The following acts shall be punishable:

- (a) Genocide;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;
- (e) Complicity in genocide.”

144. According to Article IV, persons committing any of those acts shall be punished whether they are constitutionally responsible rulers, public officials or private individuals. Article V requires the parties to enact the necessary legislation to give effect to the Convention, and, in particular, to provide effective penalties for persons guilty of genocide or other acts enumerated in Article III. Article VI provides that

“[p]ersons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction”.

Article VII provides for extradition.

## 145. Under Article VIII

“Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in Article III.”

## 146. Article IX provides for certain disputes to be submitted to the Court:

“Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in Article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.”

The remaining ten Articles are final clauses dealing with such matters as parties to the Convention and its entry into force.

147. The jurisdiction of the Court in this case is based solely on Article IX of the Convention. All the other grounds of jurisdiction invoked by the Applicant were rejected in the 1996 Judgment on jurisdiction (*I.C.J. Reports 1996 (II)*), pp. 617-621, paras. 35-41). It follows that the Court may rule only on the disputes between the Parties to which that provision refers. The Parties disagree on whether the Court finally decided the scope and meaning of that provision in its 1996 Judgment and, if it did not, on the matters over which the Court has jurisdiction under that provision. The Court rules on those two matters in following sections of this Judgment. It has no power to rule on alleged breaches of other obligations under international law, not amounting to genocide, particularly those protecting human rights in armed conflict. That is so even if the alleged breaches are of obligations under peremptory norms, or of obligations which protect essential humanitarian values, and which may be owed *erga omnes*.

148. As it has in other cases, the Court recalls the fundamental distinction between the existence and binding force of obligations arising under international law and the existence of a court or tribunal with jurisdiction to resolve disputes about compliance with those obligations. The fact that there is not such a court or tribunal does not mean that the obligations do not exist. They retain their validity and legal force. States are required to fulfil their obligations under international law, including international humanitarian law, and they remain responsible for acts contrary to international law which are attributable to them (e.g. case concerning *Armed Activities on the Territory of the Congo (New Appli-*

cation: 2002) (*Democratic Republic of the Congo v. Rwanda*), *Jurisdiction of the Court and Admissibility of the Application, Judgment, I.C.J. Reports 2006*, pp. 52-53, para. 127).

149. The jurisdiction of the Court is founded on Article IX of the Convention, and the disputes subject to that jurisdiction are those “relating to the interpretation, application or fulfilment” of the Convention, but it does not follow that the Convention stands alone. In order to determine whether the Respondent breached its obligation under the Convention, as claimed by the Applicant, and, if a breach was committed, to determine its legal consequences, the Court will have recourse not only to the Convention itself, but also to the rules of general international law on treaty interpretation and on responsibility of States for internationally wrongful acts.

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(2) *The Court’s 1996 Decision about the Scope and Meaning of Article IX*

150. According to the Applicant, the Court in 1996 at the preliminary objections stage decided that it had jurisdiction under Article IX of the Convention to adjudicate upon the responsibility of the respondent State, as indicated in that Article, “for genocide or any of the other acts enumerated in article III”, and that that reference “does not exclude any form of State responsibility”. The issue, it says, is *res judicata*. The Respondent supports a narrower interpretation of the Convention: the Court’s jurisdiction is confined to giving a declaratory judgment relating to breaches of the duties to prevent and punish the commission of genocide by individuals.

151. The Respondent accepts that the first, wider, interpretation “was preferred by the majority of the Court in the preliminary objections phase” and quotes the following passage in the Judgment:

“The Court now comes to the second proposition advanced by Yugoslavia [in support of one of its preliminary objections], regarding the type of State responsibility envisaged in Article IX of the Convention. According to Yugoslavia, that Article would only cover the responsibility flowing from the failure of a State to fulfil its obligations of prevention and punishment as contemplated by Articles V, VI and VII; on the other hand, the responsibility of a State for an act of genocide perpetrated by the State itself would be excluded from the scope of the Convention.

*The Court would observe that the reference to Article IX to ‘the responsibility of a State for genocide or for any of the other acts enumerated in Article III’, does not exclude any form of State responsibility.*

*Nor is the responsibility of a State for acts of its organs excluded*



*by Article IV of the Convention, which contemplates the commission of an act of genocide by 'rulers' or 'public officials'.*

In the light of the foregoing, the Court considers that it must reject the fifth preliminary objection of Yugoslavia. It would moreover observe that it is sufficiently apparent from the very terms of that objection that the Parties not only differ with respect to the facts of the case, their imputability and the applicability to them of the provisions of the Genocide Convention, but are moreover in disagreement with respect to the meaning and legal scope of several of those provisions, including Article IX. For the Court, there is accordingly no doubt that there exists a dispute between them relating to 'the interpretation, application or fulfilment of the . . . Convention, including . . . the responsibility of a State for genocide . . .', according to the form of words employed by that latter provision (cf. *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947, Advisory Opinion, I.C.J. Reports 1988*, pp. 27-32).<sup>152</sup> (*Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections, Judgment, I.C.J. Reports 1996 (II)*, pp. 616-617, paras. 32-33; emphasis now added to 1996 text.)

The Applicant relies in particular on the sentences in paragraph 32 which have been emphasized in the above quotation. The Respondent submits that

"this expression of opinion is of marked brevity and is contingent upon the dismissal of the preliminary objection based upon the existence or otherwise of a dispute relating to the interpretation of the Genocide Convention. The interpretation adopted in this provisional mode by the Court is not buttressed by any reference to the substantial preparatory work of the Convention.

In the circumstances, there is no reason of principle or consideration of common sense indicating that the issue of interpretation is no longer open."

While submitting that the Court determined the issue and spoke emphatically on the matter in 1996 the Applicant also says that this present phase of the case

"will provide an additional opportunity for this Court to rule on [the] important matter, not only for the guidance of the Parties here before you, but for the benefit of future generations that should not have to fear the immunity of States from responsibility for their genocidal acts".

152. The Court has already examined above the question of the authority of *res judicata* attaching to the 1996 Judgment, and indicated that it cannot reopen issues decided with that authority. Whether or not the issue now raised by the Respondent falls in that category, the Court

observes that the final part of paragraph 33 of that Judgment, quoted above, must be taken as indicating that “the meaning and legal scope” of Article IX and of other provisions of the Convention remain in dispute. In particular a dispute “exists” about whether the only obligations of the Contracting Parties for the breach of which they may be held responsible under the Convention are to legislate, and to prosecute or extradite, or whether the obligations extend to the obligation not to commit genocide and the other acts enumerated in Article III. That dispute “exists” and was left by the Court for resolution at the merits stage. In these circumstances, and taking into account the positions of the Parties, the Court will determine at this stage whether the obligations of the Parties under the Convention do so extend. That is to say, the Court will decide “the meaning and legal scope” of several provisions of the Convention, including Article IX with its reference to “the responsibility of a State for genocide or any of the other acts enumerated in Article III”.

\* \*

(3) *The Court’s 1996 Decision about the Territorial Scope of the Convention*

153. A second issue about the *res judicata* effect of the 1996 Judgment concerns the territorial limits, if any, on the obligations of the States parties to prevent and punish genocide. In support of one of its preliminary objections the Respondent argued that it did not exercise jurisdiction over the Applicant’s territory at the relevant time. In the final sentence of its reasons for rejecting this argument the Court said this: “[t]he Court notes that the obligation each State thus has to prevent and to punish the crime of genocide is not territorially limited by the Convention” (*I.C.J. Reports 1996 (II)*, p. 616, para. 31).

154. The Applicant suggests that the Court in that sentence ruled that the obligation extends without territorial limit. The Court does not state the obligation in that positive way. The Court does not say that the obligation is “territorially unlimited by the Convention”. Further, earlier in the paragraph, it had quoted from Article VI (about the obligation of any State in the territory of which the act was committed to prosecute) as “the only provision relevant to” territorial “problems” related to the application of the Convention. The quoted sentence is therefore to be understood as relating to the undertaking stated in Article I. The Court did not in 1996 rule on the territorial scope of each particular obligation arising under the Convention. Accordingly the Court has still to rule on that matter. It is not *res judicata*.

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*(4) The Obligations Imposed by the Convention  
on the Contracting Parties*

155. The Applicant, in the words of its Agent, contends that “[t]his case is about State responsibility and seeks to establish the responsibilities of a State which, through its leadership, through its organs, committed the most brutal violations of one of the most sacred instruments of international law”. The Applicant has emphasized that in its view, the Genocide Convention “created a universal, treaty-based concept of State responsibility”, and that “[i]t is State responsibility for genocide that this legal proceeding is all about”. It relies in this respect on Article IX of the Convention, which, it argues, “quite explicitly impose[s] on States a direct responsibility themselves not to commit genocide or to aid in the commission of genocide”. As to the obligation of prevention under Article I, a breach of that obligation, according to the Applicant, “is established — it might be said is ‘eclipsed’ — by the fact that [the Respondent] is *itself* responsible for the genocide committed; . . . a State which commits genocide has not fulfilled its commitment to prevent it” (emphasis in the original). The argument moves on from alleged breaches of Article I to “violations [by the Respondent] of its obligations under Article III . . . to which express reference is made in Article IX, violations which stand at the heart of our case. This fundamental provision establishes the obligations whose violation engages the responsibility of States parties.” It follows that, in the contention of the Applicant, the Court has jurisdiction under Article IX over alleged violations by a Contracting Party of those obligations.

156. The Respondent contends to the contrary that

“the Genocide Convention does not provide for the responsibility of States for acts of genocide as such. The duties prescribed by the Convention relate to ‘the prevention and punishment of the crime of genocide’ when this crime is committed by individuals: and the provisions of Articles V and VI [about enforcement and prescription] . . . make this abundantly clear.”

It argues that the Court therefore does not have jurisdiction *ratione materiae* under Article IX; and continues:

“[t]hese provisions [Articles I, V, VI and IX] do not extend to the responsibility of a Contracting Party as such for acts of genocide but [only] to responsibility for failure to prevent or to punish acts of genocide committed by individuals within its territory or . . . its control”.

The sole remedy in respect of that failure would, in the Respondent’s view, be a declaratory judgment.

157. As a subsidiary argument, the Respondent also contended that

“for a State to be responsible under the Genocide Convention, the facts must first be established. As genocide is a crime, it can only be established in accordance with the rules of criminal law, under which the first requirement to be met is that of individual responsibility. The State can incur responsibility only when the existence of genocide has been established beyond all reasonable doubt. In addition, it must then be shown that the person who committed the genocide can engage the responsibility of the State . . .”

(This contention went on to mention responsibility based on breach of the obligation to prevent and punish, matters considered later in this Judgment.)

158. The Respondent has in addition presented what it refers to as “alternative arguments concerning solely State responsibility for breaches of Articles II and III”. Those arguments addressed the necessary conditions, especially of intent, as well as of attribution. When presenting those alternative arguments, counsel for the Respondent repeated the principal submission set out above that “the Convention does not suggest in any way that States themselves can commit genocide”.

159. The Court notes that there is no disagreement between the Parties that the reference in Article IX to disputes about “the responsibility of a State” as being among the disputes relating to the interpretation, application or fulfilment of the Convention which come within the Court’s jurisdiction, indicates that provisions of the Convention do impose obligations on States in respect of which they may, in the event of breach, incur responsibility. Articles V, VI and VII requiring legislation, in particular providing effective penalties for persons guilty of genocide and the other acts enumerated in Article III, and for the prosecution and extradition of alleged offenders are plainly among them. Because those provisions regulating punishment also have a deterrent and therefore a preventive effect or purpose, they could be regarded as meeting and indeed exhausting the undertaking to prevent the crime of genocide stated in Article I and mentioned in the title. On that basis, in support of the Respondent’s principal position, that Article would rank as merely hortatory, introductory or purposive and as preambular to those specific obligations. The remaining specific provision, Article VIII about competent organs of the United Nations taking action, may be seen as completing the system by supporting both prevention and suppression, in this case at the political level rather than as a matter of legal responsibility.

160. The Court observes that what obligations the Convention imposes upon the parties to it depends on the ordinary meaning of the terms of

the Convention read in their context and in the light of its object and purpose. To confirm the meaning resulting from that process or to remove ambiguity or obscurity or a manifestly absurd or unreasonable result, the supplementary means of interpretation to which recourse may be had include the preparatory work of the Convention and the circumstances of its conclusion. Those propositions, reflected in Articles 31 and 32 of the Vienna Convention on the Law of Treaties, are well recognized as part of customary international law: see *Legal Consequences of the Construction of a Wall in Occupied Palestinian Territory, Advisory Opinion*, *I.C.J. Reports 2004*, p. 174, para. 94; case concerning *Avena and Other Mexican Nationals (Mexico v. United States of America)*, *Judgment*, *I.C.J. Reports 2004*, p. 48, para. 83; *LaGrand (Germany v. United States of America)*, *Judgment*, *I.C.J. Reports 2001*, p. 501, para. 99; and *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)*, *Judgment*, *I.C.J. Reports 2002*, p. 645, para. 37, and the other cases referred to in those decisions.

161. To determine what are the obligations of the Contracting Parties under the Genocide Convention, the Court will begin with the terms of its Article I. It contains two propositions. The first is the affirmation that genocide is a crime under international law. That affirmation is to be read in conjunction with the declaration that genocide is a crime under international law, unanimously adopted by the General Assembly two years earlier in its resolution 96 (I), and referred to in the Preamble to the Convention (paragraph 142, above). The affirmation recognizes the existing requirements of customary international law, a matter emphasized by the Court in 1951:

“The origins of the Convention show that it was the intention of the United Nations to condemn and punish genocide as ‘a crime under international law’ involving a denial of the right of existence of entire human groups, a denial which shocks the conscience of mankind and results in great losses to humanity, and which is contrary to moral law and to the spirit and aims of the United Nations (Resolution 96 (I) of the General Assembly, December 11th 1946). The first consequence arising from this conception is that the principles underlying the Convention are principles which are recognized by civilized nations as binding on States, even without any conventional obligation. A second consequence is the universal character both of the condemnation of genocide and of the co-operation required ‘in order to liberate mankind from such an odious scourge’ (Preamble to the Convention) . . .

The objects of such a convention must also be considered. The Convention was manifestly adopted for a purely humanitarian and civilizing purpose. It is indeed difficult to imagine a convention that might have this dual character to a greater degree, since its object on the one hand is to safeguard the very existence of certain human

groups and on the other to confirm and endorse the most elementary principles of morality.” (*Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, Advisory Opinion, I.C.J. Reports 1951*, p. 23.)

Later in that Opinion, the Court referred to “the moral and humanitarian principles which are its basis” (*ibid.*, p. 24). In earlier phases of the present case the Court has also recalled resolution 96 (I) (*I.C.J. Reports 1993*, p. 23; see also pp. 348 and 440) and has quoted the 1951 statement (*I.C.J. Reports 1996 (II)*, p. 616). The Court reaffirmed the 1951 and 1996 statements in its Judgment of 3 February 2006 in the case concerning *Armed Activities on the Territory of the Congo (New Application 2002) (Democratic Republic of the Congo v. Rwanda)*, paragraph 64, when it added that the norm prohibiting genocide was assuredly a peremptory norm of international law (*jus cogens*).

162. Those characterizations of the prohibition on genocide and the purpose of the Convention are significant for the interpretation of the second proposition stated in Article I — the undertaking by the Contracting Parties to prevent and punish the crime of genocide, and particularly in this context the undertaking to prevent. Several features of that undertaking are significant. The ordinary meaning of the word “undertake” is to give a formal promise, to bind or engage oneself, to give a pledge or promise, to agree, to accept an obligation. It is a word regularly used in treaties setting out the obligations of the Contracting Parties (cf., for example, International Convention on the Elimination of All Forms of Racial Discrimination (7 March 1966), Art. 2, para. 1; International Covenant on Civil and Political Rights (16 December 1966), Art. 2, para. 1, and 3, for example). It is not merely hortatory or purposive. The undertaking is unqualified (a matter considered later in relation to the scope of the obligation of prevention); and it is not to be read merely as an introduction to later express references to legislation, prosecution and extradition. Those features support the conclusion that Article I, in particular its undertaking to prevent, creates obligations distinct from those which appear in the subsequent Articles. That conclusion is also supported by the purely humanitarian and civilizing purpose of the Convention.

163. The conclusion is confirmed by two aspects of the preparatory work of the Convention and the circumstances of its conclusion as referred to in Article 32 of the Vienna Convention. In 1947 the United Nations General Assembly, in requesting the Economic and Social Council to submit a report and a draft convention on genocide to the Third Session of the Assembly, declared “that genocide is an international crime entailing national and international responsibility on the part of individuals and States” (A/RES/180 (II)). That duality of responsibilities

is also to be seen in two other associated resolutions adopted on the same day, both directed to the newly established International Law Commission (hereinafter “the ILC”): the first on the formulation of the Nuremberg principles, concerned with the rights (Principle V) and duties of individuals, and the second on the draft declaration on the rights and duties of States (A/RES/177 and A/RES/178 (II)). The duality of responsibilities is further considered later in this Judgment (paragraphs 173-174).

164. The second feature of the drafting history emphasizes the operative and non-preambular character of Article I. The Preamble to the draft Convention, prepared by the *Ad Hoc* Committee on Genocide for the Third Session of the General Assembly and considered by its Sixth Committee, read in part as follows:

“The High Contracting Parties

Being convinced that the prevention and punishment of genocide requires international co-operation,

*Hereby agree to prevent and punish the crime as hereinafter provided.”*

The first Article would have provided “[g]enocide is a crime under international law whether committed in time of peace or in time of war” (report of the *Ad Hoc* Committee on Genocide, 5 April to 10 May 1948, United Nations, *Official Records of the Economic and Social Council, Seventh Session, Supplement No. 6*, doc. E/794, pp. 2, 18).

Belgium was of the view that the undertaking to prevent and punish should be made more effective by being contained in the operative part of the Convention rather than in the Preamble and proposed the following Article I to the Sixth Committee of the General Assembly: “The High Contracting Parties undertake to prevent and punish the crime of genocide.” (United Nations doc. A/C.6/217.) The Netherlands then proposed a new text of Article I combining the *Ad Hoc* Committee draft and the Belgian proposal with some changes: “The High Contracting Parties reaffirm that genocide is a crime under international law, which they undertake to prevent and to punish, in accordance with the following articles.” (United Nations docs. A/C.6/220; United Nations, *Official Records of the General Assembly, Third Session, Part I, Sixth Committee*, Summary Records of the 68th meeting, p. 45.) The Danish representative thought that Article I should be worded more effectively and proposed the deletion of the final phrase — “in accordance with the following articles” (*ibid.*, p. 47). The Netherlands representative agreed with that suggestion (*ibid.*, pp. 49-50). After the USSR’s proposal to delete Article I was rejected by 36 votes to 8 with 5 abstentions and its proposal to transfer its various points to the Preamble was rejected by 40 votes to 8, and the phrase “whether committed in time of peace or of



war” was inserted by 30 votes to 7 with 6 abstentions, the amended text of Article I was adopted by 37 votes to 3 with 2 abstentions (*ibid.*, pp. 51 and 53).

165. For the Court both changes — the movement of the undertaking from the Preamble to the first operative Article and the removal of the linking clause (“in accordance with the following articles”) — confirm that Article I does impose distinct obligations over and above those imposed by other Articles of the Convention. In particular, the Contracting Parties have a direct obligation to prevent genocide.

166. The Court next considers whether the Parties are also under an obligation, by virtue of the Convention, not to commit genocide themselves. It must be observed at the outset that such an obligation is not expressly imposed by the actual terms of the Convention. The Applicant has however advanced as its main argument that such an obligation is imposed by Article IX, which confers on the Court jurisdiction over disputes “including those relating to the responsibility of a State for genocide or any of the other acts enumerated in Article III”. Since Article IX is essentially a jurisdictional provision, the Court considers that it should first ascertain whether the substantive obligation on States not to commit genocide may flow from the other provisions of the Convention. Under Article I the States parties are bound to prevent such an act, which it describes as “a crime under international law”, being committed. The Article does not *expressis verbis* require States to refrain from themselves committing genocide. However, in the view of the Court, taking into account the established purpose of the Convention, the effect of Article I is to prohibit States from themselves committing genocide. Such a prohibition follows, first, from the fact that the Article categorizes genocide as “a crime under international law”: by agreeing to such a categorization, the States parties must logically be undertaking not to commit the act so described. Secondly, it follows from the expressly stated obligation to prevent the commission of acts of genocide. That obligation requires the States parties, *inter alia*, to employ the means at their disposal, in circumstances to be described more specifically later in this Judgment, to prevent persons or groups not directly under their authority from committing an act of genocide or any of the other acts mentioned in Article III. It would be paradoxical if States were thus under an obligation to prevent, so far as within their power, commission of genocide by persons over whom they have a certain influence, but were not forbidden to commit such acts through their own organs, or persons over whom they have such firm control that their conduct is attributable to the State concerned under international law. In short, the obligation to prevent genocide necessarily implies the prohibition of the commission of genocide.

167. The Court accordingly concludes that Contracting Parties to the Convention are bound not to commit genocide, through the actions of their organs or persons or groups whose acts are attributable to them. That conclusion must also apply to the other acts enumerated in Article III. Those acts are forbidden along with genocide itself in the list included in Article III. They are referred to equally with genocide in Article IX and without being characterized as “punishable”; and the “purely humanitarian and civilizing purpose” of the Convention may be seen as being promoted by the fact that States are subject to that full set of obligations, supporting their undertaking to prevent genocide. It is true that the concepts used in paragraphs *(b)* to *(e)* of Article III, and particularly that of “complicity”, refer to well known categories of criminal law and, as such, appear particularly well adapted to the exercise of penal sanctions against individuals. It would however not be in keeping with the object and purpose of the Convention to deny that the international responsibility of a State — even though quite different in nature from criminal responsibility — can be engaged through one of the acts, other than genocide itself, enumerated in Article III.

168. The conclusion that the Contracting Parties are bound in this way by the Convention not to commit genocide and the other acts enumerated in Article III is confirmed by one unusual feature of the wording of Article IX. But for that unusual feature and the addition of the word “fulfilment” to the provision conferring on the Court jurisdiction over disputes as to the “interpretation and application” of the Convention (an addition which does not appear to be significant in this case), Article IX would be a standard dispute settlement provision.

169. The unusual feature of Article IX is the phrase “including those [disputes] relating to the responsibility of a State for genocide or any of the other acts enumerated in Article III”. The word “including” tends to confirm that disputes relating to the responsibility of Contracting Parties for genocide, and the other acts enumerated in Article III to which it refers, are comprised within a broader group of disputes relating to the interpretation, application or fulfilment of the Convention. The responsibility of a party for genocide and the other acts enumerated in Article III arises from its failure to comply with the obligations imposed by the other provisions of the Convention, and in particular, in the present context, with Article III read with Articles I and II. According to the English text of the Convention, the responsibility contemplated is responsibility “for genocide” (in French, “responsabilité . . . en matière de génocide”), not merely responsibility “for failing to prevent or punish genocide”. The particular terms of the phrase as a whole confirm that Contracting Parties may be responsible for genocide and the other acts enumerated in Article III of the Convention.

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170. The Court now considers three arguments, advanced by the Respondent which may be seen as contradicting the proposition that the Convention imposes a duty on the Contracting Parties not to commit genocide and the other acts enumerated in Article III. The first is that, as a matter of general principle, international law does not recognize the criminal responsibility of the State, and the Genocide Convention does not provide a vehicle for the imposition of such criminal responsibility. On the matter of principle the Respondent calls attention to the rejection by the ILC of the concept of international crimes when it prepared the final draft of its Articles on State Responsibility, a decision reflecting the strongly negative reactions of a number of States to any such concept. The Applicant accepts that general international law does not recognize the criminal responsibility of States. It contends, on the specific issue, that the obligation for which the Respondent may be held responsible, in the event of breach, in proceedings under Article IX, is simply an obligation arising under international law, in this case the provisions of the Convention. The Court observes that the obligations in question in this case, arising from the terms of the Convention, and the responsibilities of States that would arise from breach of such obligations, are obligations and responsibilities under international law. They are not of a criminal nature. This argument accordingly cannot be accepted.

171. The second argument of the Respondent is that the nature of the Convention is such as to exclude from its scope State responsibility for genocide and the other enumerated acts. The Convention, it is said, is a standard international criminal law convention focused essentially on the criminal prosecution and punishment of individuals and not on the responsibility of States. The emphasis of the Convention on the obligations and responsibility of individuals excludes any possibility of States being liable and responsible in the event of breach of the obligations reflected in Article III. In particular, it is said, that possibility cannot stand in the face of the references, in Article III to punishment (of individuals), and in Article IV to individuals being punished, and the requirement, in Article V for legislation in particular for effective penalties for persons guilty of genocide, the provision in Article VI for the prosecution of persons charged with genocide, and requirement in Article VII for extradition.

172. The Court is mindful of the fact that the famous sentence in the Nuremberg Judgment that “[c]rimes against international law are committed by men, not by abstract entities . . .” (Judgment of the International Military Tribunal, Trial of the Major War Criminals, 1947, *Official Documents*, Vol. 1, p. 223) might be invoked in support of the proposition that only individuals can breach the obligations set out in Article III. But the Court notes that that Tribunal was answering the argument that “international law is concerned with the actions of sov-

foreign States, and provides no punishment for individuals” (Judgment of the International Military Tribunal, *op. cit.*, p. 222), and that thus States alone were responsible under international law. The Tribunal rejected that argument in the following terms: “[t]hat international law imposes duties and liabilities upon individuals as well as upon States has long been recognized” (*ibid.*, p. 223; the phrase “as well as upon States” is missing in the French text of the Judgment).

173. The Court observes that that duality of responsibility continues to be a constant feature of international law. This feature is reflected in Article 25, paragraph 4, of the Rome Statute for the International Criminal Court, now accepted by 104 States: “No provision in this Statute relating to individual criminal responsibility shall affect the responsibility of States under international law.” The Court notes also that the ILC’s Articles on the Responsibility of States for Internationally Wrongful Acts (Annex to General Assembly resolution 56/83, 12 December 2001), to be referred to hereinafter as “the ILC Articles on State Responsibility”, affirm in Article 58 the other side of the coin: “These articles are without prejudice to any question of the individual responsibility under international law of any person acting on behalf of a State.” In its Commentary on this provision, the Commission said:

“Where crimes against international law are committed by State officials, it will often be the case that the State itself is responsible for the acts in question or for failure to prevent or punish them. In certain cases, in particular aggression, the State will by definition be involved. Even so, the question of individual responsibility is in principle distinct from the question of State responsibility. The State is not exempted from its own responsibility for internationally wrongful conduct by the prosecution and punishment of the State officials who carried it out.” (ILC Commentary on the Draft Articles on Responsibility of States for Internationally Wrongful Acts, ILC Report A/56/10, 2001, Commentary on Article 58, para. 3.)

The Commission quoted Article 25, paragraph 4, of the Rome Statute, and concluded as follows:

“Article 58 . . . [makes] it clear that the Articles do not address the question of the individual responsibility under international law of any person acting on behalf of a State. The term ‘individual responsibility’ has acquired an accepted meaning in light of the Rome Statute and other instruments; it refers to the responsibility of individual persons, including State officials, under certain rules of international law for conduct such as genocide, war crimes and crimes against humanity.”

174. The Court sees nothing in the wording or the structure of the provisions of the Convention relating to individual criminal liability which would displace the meaning of Article I, read with paragraphs (a) to (e) of Article III, so far as these provisions impose obligations on States distinct from the obligations which the Convention requires them to place on individuals. Furthermore, the fact that Articles V, VI and VII focus on individuals cannot itself establish that the Contracting Parties may not be subject to obligations not to commit genocide and the other acts enumerated in Article III.

175. The third and final argument of the Respondent against the proposition that the Contracting Parties are bound by the Convention not to commit genocide is based on the preparatory work of the Convention and particularly of Article IX. The Court has already used part of that work to confirm the operative significance of the undertaking in Article I (see paragraphs 164 and 165 above), an interpretation already determined from the terms of the Convention, its context and purpose.

176. The Respondent, claiming that the Convention and in particular Article IX is ambiguous, submits that the drafting history of the Convention, in the Sixth Committee of the General Assembly, shows that “there was no question of direct responsibility of the State for acts of genocide”. It claims that the responsibility of the State was related to the “key provisions” of Articles IV-VI: the Convention is about the criminal responsibility of individuals supported by the civil responsibility of States to prevent and punish. This argument against any wider responsibility for the Contracting Parties is based on the records of the discussion in the Sixth Committee, and is, it is contended, supported by the rejection of United Kingdom amendments to what became Articles IV and VI. Had the first amendment been adopted, Article IV, concerning the punishment of individuals committing genocide or any of the acts enumerated in Article III, would have been extended by the following additional sentence: “[Acts of genocide] committed by or on behalf of States or governments constitute a breach of the present Convention.” (A/C.6/236 and Corr. 1.) That amendment was defeated (United Nations, *Official Records of the General Assembly, Third Session, Part I, Sixth Committee, Summary Records of the 96th Meeting*, p. 355). What became Article VI would have been replaced by a provision conferring jurisdiction on the Court if an act of genocide is or is alleged to be the act of a State or government or its organs. The United Kingdom in response to objections that the proposal was out of order (because it meant going back on a decision already taken) withdrew the amendment in favour of the joint amendment to what became Article IX, submitted by the United Kingdom and Belgium (*ibid.*, 100th Meeting, p. 394). In speaking to that joint amendment the United Kingdom delegate acknowledged that the debate had clearly shown the Committee’s decision to confine what is now Article VI to the responsibility of individuals (*ibid.*, 100th Meeting, p. 430). The United Kingdom/Belgium amendment would have added

the words “including disputes relating to the responsibility of a State for any of the acts enumerated in Articles II and IV [as the Convention was then drafted]”. The United Kingdom delegate explained that what was involved was civil responsibility, not criminal responsibility (United Nations, *Official Records of the General Assembly, op. cit.*, 103rd Meeting, p. 440). A proposal to delete those words failed and the provision was adopted (*ibid.*, 104th Meeting, p. 447), with style changes being made by the Drafting Committee.

177. At a later stage a Belgium/United Kingdom/United States proposal which would have replaced the disputed phrase by including “disputes arising from a charge by a Contracting Party that the crime of genocide or any other of the acts enumerated in article III has been committed within the jurisdiction of another Contracting Party” was ruled by the Chairman of the Sixth Committee as a change of substance and the Committee did not adopt the motion (which required a two-thirds majority) for reconsideration (A/C.6/305). The Chairman gave the following reason for his ruling which was not challenged:

“it was provided in article IX that those disputes, among others, which concerned the responsibility of a State for genocide or for any of the acts enumerated in article III, should be submitted to the International Court of Justice. According to the joint amendment, on the other hand, the disputes would not be those which concerned the responsibility of the State but those which resulted from an accusation to the effect that the crime had been committed in the territory of one of the contracting parties.” (United Nations, *Official Records of the General Assembly, Third Session, Part I, Sixth Committee, Summary Records of the 131st Meeting*, p. 690.)

By that time in the deliberations of the Sixth Committee it was clear that only individuals could be held criminally responsible under the draft Convention for genocide. The Chairman was plainly of the view that the Article IX, as it had been modified, provided for State responsibility for genocide.

178. In the view of the Court, two points may be drawn from the drafting history just reviewed. The first is that much of it was concerned with proposals supporting the criminal responsibility of States; but those proposals were *not* adopted. The second is that the amendment which was adopted — to Article IX — is about jurisdiction in respect of the responsibility of States *simpliciter*. Consequently, the drafting history may be seen as supporting the conclusion reached by the Court in paragraph 167 above.

179. Accordingly, having considered the various arguments, the Court

affirms that the Contracting Parties are bound by the obligation under the Convention not to commit, through their organs or persons or groups whose conduct is attributable to them, genocide and the other acts enumerated in Article III. Thus if an organ of the State, or a person or group whose acts are legally attributable to the State, commits any of the acts proscribed by Article III of the Convention, the international responsibility of that State is incurred.

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(5) *Question Whether the Court May Make a Finding of Genocide by a State in the Absence of a Prior Conviction of an Individual for Genocide by a Competent Court*

180. The Court observes that if a State is to be responsible because it has breached its obligation not to commit genocide, it must be shown that genocide as defined in the Convention has been committed. That will also be the case with conspiracy under Article III, paragraph (b), and complicity under Article III, paragraph (e); and, as explained below (paragraph 431) for purposes of the obligation to prevent genocide. The Respondent has raised the question whether it is necessary, as a matter of law, for the Court to be able to uphold a claim of the responsibility of a State for an act of genocide, or any other act enumerated in Article III, that there should have been a finding of genocide by a court or tribunal exercising criminal jurisdiction. According to the Respondent, the condition *sine qua non* for establishing State responsibility is the prior establishment, according to the rules of criminal law, of the individual responsibility of a perpetrator engaging the State's responsibility.

181. The different procedures followed by, and powers available to, this Court and to the courts and tribunals trying persons for criminal offences, do not themselves indicate that there is a legal bar to the Court itself finding that genocide or the other acts enumerated in Article III have been committed. Under its Statute the Court has the capacity to undertake that task, while applying the standard of proof appropriate to charges of exceptional gravity (paragraphs 209-210 below). Turning to the terms of the Convention itself, the Court has already held that it has jurisdiction under Article IX to find a State responsible if genocide or other acts enumerated in Article III are committed by its organs, or persons or groups whose acts are attributable to it.

182. Any other interpretation could entail that there would be no legal recourse available under the Convention in some readily conceivable circumstances: genocide has allegedly been committed within a State by its leaders but they have not been brought to trial because, for instance, they are still very much in control of the powers of the State including the

police, prosecution services and the courts and there is no international penal tribunal able to exercise jurisdiction over the alleged crimes; or the responsible State may have acknowledged the breach. The Court accordingly concludes that State responsibility can arise under the Convention for genocide and complicity, without an individual being convicted of the crime or an associated one.

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*(6) The Possible Territorial Limits of the Obligations*

183. The substantive obligations arising from Articles I and III are not on their face limited by territory. They apply to a State wherever it may be acting or may be able to act in ways appropriate to meeting the obligations in question. The extent of that ability in law and fact is considered, so far as the obligation to prevent the crime of genocide is concerned, in the section of the Judgment concerned with that obligation (cf. paragraph 430 below). The significant relevant condition concerning the obligation not to commit genocide and the other acts enumerated in Article III is provided by the rules on attribution (paragraphs 379 ff. below).

184. The obligation to prosecute imposed by Article VI is by contrast subject to an express territorial limit. The trial of persons charged with genocide is to be in a competent tribunal of the State in the territory of which the act was committed (cf. paragraph 442 below), or by an international penal tribunal with jurisdiction (paragraphs 443 ff. below).

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*(7) The Applicant's Claims in Respect of Alleged Genocide Committed Outside Its Territory against Non-Nationals*

185. In its final submissions the Applicant requests the Court to make rulings about acts of genocide and other unlawful acts allegedly committed against "non-Serbs" outside its own territory (as well as within it) by the Respondent. Insofar as that request might relate to non-Bosnian victims, it could raise questions about the legal interest or standing of the Applicant in respect of such matters and the significance of the *jus cogens* character of the relevant norms, and the *erga omnes* character of the relevant obligations. For the reasons explained in paragraphs 368 and 369 below, the Court will not however need to address those questions of law.

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(8) *The Question of Intent to Commit Genocide*

186. The Court notes that genocide as defined in Article II of the Convention comprises “acts” and an “intent”. It is well established that the acts —

- “(a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group; [and]
- (e) Forcibly transferring children of the group to another group” —

themselves include mental elements. “Killing” must be intentional, as must “causing serious bodily or mental harm”. Mental elements are made explicit in paragraphs (c) and (d) of Article II by the words “deliberately” and “intended”, quite apart from the implications of the words “inflicting” and “imposing”; and forcible transfer too requires deliberate intentional acts. The acts, in the words of the ILC, are by their very nature conscious, intentional or volitional acts (Commentary on Article 17 of the 1996 Draft Code of Crimes against the Peace and Security of Mankind, ILC Report 1996, *Yearbook of the International Law Commission*, 1996, Vol. II, Part Two, p. 44, para. 5).

187. In addition to those mental elements, Article II requires a further mental element. It requires the establishment of the “intent to destroy, in whole or in part, . . . [the protected] group, as such”. It is not enough to establish, for instance in terms of paragraph (a), that deliberate unlawful killings of members of the group have occurred. The additional intent must also be established, and is defined very precisely. It is often referred to as a special or specific intent or *dolus specialis*; in the present Judgment it will usually be referred to as the “specific intent (*dolus specialis*)”. It is not enough that the members of the group are targeted because they belong to that group, that is because the perpetrator has a discriminatory intent. Something more is required. The acts listed in Article II must be done with intent to destroy the group as such in whole or in part. The words “as such” emphasize that intent to destroy the protected group.

188. The specificity of the intent and its particular requirements are highlighted when genocide is placed in the context of other related criminal acts, notably crimes against humanity and persecution, as the Trial Chamber of the International Criminal Tribunal for the former Yugoslavia (hereinafter “ICTY” or “the Tribunal”) did in the *Kupreškić et al.* case:

“the *mens rea* requirement for persecution is higher than for ordinary crimes against humanity, although lower than for genocide. In this context the Trial Chamber wishes to stress that persecution as a crime against humanity is an offence belonging to the same *genus* as genocide. Both persecution and genocide are crimes perpetrated against persons that belong to a particular group and who are targeted because of such belonging. In both categories what matters is the intent to discriminate: to attack persons on account of their ethnic, racial, or religious characteristics (as well as, in the case of persecution, on account of their political affiliation). While in the case of persecution the discriminatory intent can take multifarious inhuman forms and manifest itself in a plurality of actions including murder, in the case of genocide that intent must be accompanied by the intention to destroy, in whole or in part, the group to which the victims of the genocide belong. Thus, it can be said that, from the viewpoint of *mens rea*, genocide is an extreme and most inhuman form of persecution. To put it differently, when persecution escalates to the extreme form of wilful and deliberate acts designed to destroy a group or part of a group, it can be held that such persecution amounts to genocide.” (IT-95-16-T, Judgment, 14 January 2000, para. 636.)

189. The specific intent is also to be distinguished from other reasons or motives the perpetrator may have. Great care must be taken in finding in the facts a sufficiently clear manifestation of that intent.

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#### (9) *Intent and “Ethnic Cleansing”*

190. The term “ethnic cleansing” has frequently been employed to refer to the events in Bosnia and Herzegovina which are the subject of this case; see, for example, Security Council resolution 787 (1992), para. 2; resolution 827 (1993), Preamble; and the Report with that title attached as Annex IV to the Final Report of the United Nations Commission of Experts (S/1994/674/Add.2) (hereinafter “Report of the Commission of Experts”). General Assembly resolution 47/121 referred in its Preamble to “the abhorrent policy of ‘ethnic cleansing’, which is a form of genocide”, as being carried on in Bosnia and Herzegovina. It will be convenient at this point to consider what legal significance the expression may have. It is in practice used, by reference to a specific region or area, to mean “rendering an area ethnically homogeneous by using force or intimidation to remove persons of given groups from the area” (S/35374 (1993), para. 55, Interim Report by the Commission of Experts). It does not appear in the Genocide Convention; indeed, a proposal

during the drafting of the Convention to include in the definition “measures intended to oblige members of a group to abandon their homes in order to escape the threat of subsequent ill-treatment” was not accepted (A/C.6/234). It can only be a form of genocide within the meaning of the Convention, if it corresponds to or falls within one of the categories of acts prohibited by Article II of the Convention. Neither the intent, as a matter of policy, to render an area “ethnically homogeneous”, nor the operations that may be carried out to implement such policy, can *as such* be designated as genocide: the intent that characterizes genocide is “to destroy, in whole or in part” a particular group, and deportation or displacement of the members of a group, even if effected by force, is not necessarily equivalent to destruction of that group, nor is such destruction an automatic consequence of the displacement. This is not to say that acts described as “ethnic cleansing” may never constitute genocide, if they are such as to be characterized as, for example, “deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part”, contrary to Article II, paragraph (c), of the Convention, provided such action is carried out with the necessary specific intent (*dolus specialis*), that is to say with a view to the destruction of the group, as distinct from its removal from the region. As the ICTY has observed, while “there are obvious similarities between a genocidal policy and the policy commonly known as ‘ethnic cleansing’” (*Krstić*, IT-98-33-T, Trial Chamber Judgment, 2 August 2001, para. 562), yet “[a] clear distinction must be drawn between physical destruction and mere dissolution of a group. The expulsion of a group or part of a group does not in itself suffice for genocide.” (*Stakić*, IT-97-24-T, Trial Chamber Judgment, 31 July 2003, para. 519.) In other words, whether a particular operation described as “ethnic cleansing” amounts to genocide depends on the presence or absence of acts listed in Article II of the Genocide Convention, and of the intent to destroy the group as such. In fact, in the context of the Convention, the term “ethnic cleansing” has no legal significance of its own. That said, it is clear that acts of “ethnic cleansing” may occur in parallel to acts prohibited by Article II of the Convention, and may be significant as indicative of the presence of a specific intent (*dolus specialis*) inspiring those acts.

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*(10) Definition of the Protected Group*

191. When examining the facts brought before the Court in support of the accusations of the commission of acts of genocide, it is necessary to have in mind the identity of the group against which genocide may be considered to have been committed. The Court will therefore next consider the application in this case of the requirement of Article II of the Genocide Convention, as an element of genocide, that the proscribed acts be “committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such”. The Parties disagreed on aspects of the definition of the “group”. The Applicant in its final submission refers to “the non-Serb national, ethnical or religious group within, but not limited to, the territory of Bosnia and Herzegovina, including in particular the Muslim population” (paragraph 66 above). It thus follows what is termed the negative approach to the definition of the group in question. The Respondent sees two legal problems with that formulation:

“First, the group targeted is not sufficiently well defined as such, since, according to the Applicant’s allegation, that group consists of the non-Serbs, thus an admixture of all the individuals living in Bosnia and Herzegovina except the Serbs, but more particularly the Muslim population, which accounts for only a part of the non-Serb population. Second, the intent to destroy concerned only a part of the non-Serb population, but the Applicant failed to specify which part of the group was targeted.”

In addition to those issues of the negative definition of the group and its geographic limits (or their lack), the Parties also discussed the choice between subjective and objective approaches to the definition. The Parties essentially agree that international jurisprudence accepts a combined subjective-objective approach. The issue is not in any event significant on the facts of this case and the Court takes it no further.

192. While the Applicant has employed the negative approach to the definition of a protected group, it places major, for the most part exclusive, emphasis on the Bosnian Muslims as the group being targeted. The Respondent, for instance, makes the point that the Applicant did not mention the Croats in its oral arguments relating to sexual violence, Srebrenica and Sarajevo, and that other groups including “the Jews, Roma and Yugoslavs” were not mentioned. The Applicant does however maintain the negative approach to the definition of the group in its final submissions and the Court accordingly needs to consider it.

193. The Court recalls first that the essence of the intent is to destroy the protected group, in whole or in part, as such. It is a group which must have particular positive characteristics — national, ethnical, racial or religious — and not the lack of them. The intent must also relate to the group “as such”. That means that the crime requires an intent to destroy

a collection of people who have a particular group identity. It is a matter of who those people are, not who they are not. The etymology of the word — killing a group — also indicates a positive definition; and Raphael Lemkin has explained that he created the word from the Greek *genos*, meaning race or tribe, and the termination “-cide”, from the Latin *caedere*, to kill (*Axis Rule in Occupied Europe* (1944), p. 79). In 1945 the word was used in the Nuremberg indictment which stated that the defendants “conducted deliberate and systematic genocide, viz., the extermination of racial and national groups . . . in order to destroy particular races and classes of people and national, racial or religious groups . . .” (Indictment, Trial of the Major War Criminals before the International Military Tribunal, *Official Documents*, Vol. 1, pp. 43 and 44). As the Court explains below (paragraph 198), when part of the group is targeted, that part must be significant enough for its destruction to have an impact on the group as a whole. Further, each of the acts listed in Article II require that the proscribed action be against members of the “group”.

194. The drafting history of the Convention confirms that a positive definition must be used. Genocide as “the denial of the existence of entire human groups” was contrasted with homicide, “the denial of the right to live of individual human beings” by the General Assembly in its 1946 resolution 96 (I) cited in the Preamble to the Convention. The drafters of the Convention also gave close attention to the positive identification of groups with specific distinguishing characteristics in deciding which groups they would include and which (such as political groups) they would exclude. The Court spoke to the same effect in 1951 in declaring as an object of the Convention the safeguarding of “the very existence of certain human groups” (*Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, Advisory Opinion, I.C.J. Reports 1951*, p. 23). Such an understanding of genocide requires a positive identification of the group. The rejection of proposals to include within the Convention political groups and cultural genocide also demonstrates that the drafters were giving close attention to the positive identification of groups with specific distinguishing well-established, some said immutable, characteristics. A negatively defined group cannot be seen in that way.

195. The Court observes that the ICTY Appeals Chamber in the *Stakić* case (IT-97-24-A, Judgment, 22 March 2006, paras. 20-28) also came to the conclusion that the group must be defined positively, essentially for the same reasons as the Court has given.

196. Accordingly, the Court concludes that it should deal with the matter on the basis that the targeted group must in law be defined posi-

tively, and thus not negatively as the “non-Serb” population. The Applicant has made only very limited reference to the non-Serb populations of Bosnia and Herzegovina other than the Bosnian Muslims, e.g. the Croats. The Court will therefore examine the facts of the case on the basis that genocide may be found to have been committed if an intent to destroy the Bosnian Muslims, as a group, in whole or in part, can be established.

197. The Parties also addressed a specific question relating to the impact of geographic criteria on the group as identified positively. The question concerns in particular the atrocities committed in and around Srebrenica in July 1995, and the question whether in the circumstances of that situation the definition of genocide in Article II was satisfied so far as the intent of destruction of the “group” “in whole or in part” requirement is concerned. This question arises because of a critical finding in the *Krstić* case. In that case the Trial Chamber was “ultimately satisfied that murders and infliction of serious bodily or mental harm were committed with the intent to kill all the Bosnian Muslim men of military age at Srebrenica” (IT-98-33, Judgment, 2 August 2001, para. 546). Those men were systematically targeted whether they were civilians or soldiers (*ibid.*). The Court addresses the facts of that particular situation later (paragraphs 278-297). For the moment, it considers how as a matter of law the “group” is to be defined, in territorial and other respects.

198. In terms of that question of law, the Court refers to three matters relevant to the determination of “part” of the “group” for the purposes of Article II. In the first place, the intent must be to destroy at least a substantial part of the particular group. That is demanded by the very nature of the crime of genocide: since the object and purpose of the Convention as a whole is to prevent the intentional destruction of groups, the part targeted must be significant enough to have an impact on the group as a whole. That requirement of substantiality is supported by consistent rulings of the ICTY and the International Criminal Tribunal for Rwanda (ICTR) and by the Commentary of the ILC to its Articles in the draft Code of Crimes against the Peace and Security of Mankind (e.g. *Krstić*, IT-98-33-A, Appeals Chamber Judgment, 19 April 2004, paras. 8-11 and the cases of *Kayishema*, *Byilishema*, and *Semanza* there referred to; and *Yearbook of the International Law Commission*, 1996, Vol. II, Part Two, p. 45, para. 8 of the Commentary to Article 17).

199. Second, the Court observes that it is widely accepted that genocide may be found to have been committed where the intent is to destroy the group within a geographically limited area. In the words of the ILC, “it is not necessary to intend to achieve the complete annihilation of a group from every corner of the globe” (*ibid.*). The area of the perpetrator’s activity and control are to be considered. As the ICTY Appeals

Chamber has said, and indeed as the Respondent accepts, the opportunity available to the perpetrators is significant (*Krstić*, IT-98-33-A, Judgment, 19 April 2004, para. 13). This criterion of opportunity must however be weighed against the first and essential factor of substantiality. It may be that the opportunity available to the alleged perpetrator is so limited that the substantiality criterion is not met. The Court observes that the ICTY Trial Chamber has indeed indicated the need for caution, lest this approach might distort the definition of genocide (*Stakić*, IT-97-24-T, Judgment, 31 July 2003, para. 523). The Respondent, while not challenging this criterion, does contend that the limit militates against the existence of the specific intent (*dolus specialis*) at the national or State level as opposed to the local level — a submission which, in the view of the Court, relates to attribution rather than to the “group” requirement.

200. A third suggested criterion is qualitative rather than quantitative. The Appeals Chamber in the *Krstić* case put the matter in these carefully measured terms:

“The number of individuals targeted should be evaluated not only in absolute terms, but also in relation to the overall size of the entire group. In addition to the numeric size of the targeted portion, its prominence within the group can be a useful consideration. If a specific part of the group is emblematic of the overall group, or is essential to its survival, that may support a finding that the part qualifies as substantial within the meaning of Article 4 [of the Statute which exactly reproduces Article II of the Convention].” (IT-98-33-A, Judgment, 19 April 2004, para. 12; footnote omitted.)

Establishing the “group” requirement will not always depend on the substantiality requirement alone although it is an essential starting point. It follows in the Court’s opinion that the qualitative approach cannot stand alone. The Appeals Chamber in *Krstić* also expresses that view.

201. The above list of criteria is not exhaustive, but, as just indicated, the substantiality criterion is critical. They are essentially those stated by the Appeals Chamber in the *Krstić* case, although the Court does give this first criterion priority. Much will depend on the Court’s assessment of those and all other relevant factors in any particular case.

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#### V. QUESTIONS OF PROOF: BURDEN OF PROOF, THE STANDARD OF PROOF, METHODS OF PROOF

202. When turning to the facts of the dispute, the Court must note that many allegations of fact made by the Applicant are disputed by the

Respondent. That is so notwithstanding increasing agreement between the Parties on certain matters through the course of the proceedings. The disputes relate to issues about the facts, for instance the number of rapes committed by Serbs against Bosnian Muslims, and the day-to-day relationships between the authorities in Belgrade and the authorities in Pale, and the inferences to be drawn from, or the evaluations to be made of, facts, for instance about the existence or otherwise of the necessary specific intent (*dolus specialis*) and about the attributability of the acts of the organs of Republika Srpska and various paramilitary groups to the Respondent. The allegations also cover a very wide range of activity affecting many communities and individuals over an extensive area and over a long period. They have already been the subject of many accounts, official and non-official, by many individuals and bodies. The Parties drew on many of those accounts in their pleadings and oral argument.

203. Accordingly, before proceeding to an examination of the alleged facts underlying the claim in this case, the Court first considers, in this section of the Judgment, in turn the burden or onus of proof, the standard of proof, and the methods of proof.

204. On the burden or onus of proof, it is well established in general that the applicant must establish its case and that a party asserting a fact must establish it; as the Court observed in the case of *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua v. United States of America*), “it is the litigant seeking to establish a fact who bears the burden of proving it” (*Jurisdiction and Admissibility, Judgment, I.C.J. Reports 1984*, p. 437, para. 101). While the Applicant accepts that approach as a general proposition, it contends that in certain respects the onus should be reversed, especially in respect of the attributability of alleged acts of genocide to the Respondent, given the refusal of the Respondent to produce the full text of certain documents.

205. The particular issue concerns the “redacted” sections of documents of the Supreme Defence Council of the Respondent, i.e. sections in which parts of the text had been blacked out so as to be illegible. The documents had been classified, according to the Co-Agent of the Respondent, by decision of the Council as a military secret, and by a confidential decision of the Council of Ministers of Serbia and Montenegro as a matter of national security interest. The Applicant contends that the Court should draw its own conclusions from the failure of the Respondent to produce complete copies of the documents. It refers to the power of the Court, which it had invoked earlier (paragraph 44 above), to call for documents under Article 49 of the Statute, which provides that “[f]ormal note shall be taken of any refusal”. In the second round of oral argument the Applicant’s Deputy Agent submitted that

“Serbia and Montenegro should not be allowed to respond to our quoting the redacted SDC reports if it does not provide at the very same time the Applicant and the Court with copies of entirely



unredacted versions of *all* the SDC shorthand records and of *all* of the minutes of the same. Otherwise, Serbia and Montenegro would have an overriding advantage over Bosnia and Herzegovina with respect to documents, which are apparently, and not in the last place in the Respondent's eyes, of direct relevance to winning or losing the present case. We explicitly, Madam President, request the Court to instruct the Respondent accordingly." (Emphasis in the original.)

206. On this matter, the Court observes that the Applicant has extensive documentation and other evidence available to it, especially from the readily accessible ICTY records. It has made very ample use of it. In the month before the hearings it submitted what must be taken to have been a careful selection of documents from the very many available from the ICTY. The Applicant called General Sir Richard Dannatt, who, drawing on a number of those documents, gave evidence on the relationship between the authorities in the Federal Republic of Yugoslavia and those in the Republika Srpska and on the matter of control and instruction. Although the Court has not agreed to either of the Applicant's requests to be provided with unedited copies of the documents, it has not failed to note the Applicant's suggestion that the Court may be free to draw its own conclusions.

207. On a final matter relating to the burden of proof, the Applicant contends that the Court should draw inferences, notably about specific intent (*dolus specialis*), from established facts, i.e., from what the Applicant refers to as a "pattern of acts" that "speaks for itself". The Court considers that matter later in the Judgment (paragraphs 370-376 below).

208. The Parties also differ on the second matter, the standard of proof. The Applicant, emphasizing that the matter is not one of criminal law, says that the standard is the balance of evidence or the balance of probabilities, inasmuch as what is alleged is breach of treaty obligations. According to the Respondent, the proceedings "concern the most serious issues of State responsibility and . . . a charge of such exceptional gravity against a State requires a proper degree of certainty. The proofs should be such as to leave no room for reasonable doubt."

209. The Court has long recognized that claims against a State involving charges of exceptional gravity must be proved by evidence that is fully conclusive (cf. *Corfu Channel (United Kingdom v. Albania)*, Judgment, I.C.J. Reports 1949, p. 17). The Court requires that it be fully convinced that allegations made in the proceedings, that the crime of genocide or the other acts enumerated in Article III have been committed, have been clearly established. The same standard applies to the proof of attribution for such acts.

210. In respect of the Applicant's claim that the Respondent has breached its undertakings to prevent genocide and to punish and extradite persons charged with genocide, the Court requires proof at a high level of certainty appropriate to the seriousness of the allegation.

211. The Court now turns to the third matter — the method of proof. The Parties submitted a vast array of material, from different sources, to the Court. It included reports, resolutions and findings by various United Nations organs, including the Secretary-General, the General Assembly, the Security Council and its Commission of Experts, and the Commission on Human Rights, the Sub-Commission on the Prevention of Discrimination and Protection of Minorities and the Special Rapporteur on Human Rights in the former Yugoslavia; documents from other inter-governmental organizations such as the Conference for Security and Co-operation in Europe; documents, evidence and decisions from the ICTY; publications from governments; documents from non-governmental organizations; media reports, articles and books. They also called witnesses, experts and witness-experts (paragraphs 57-58 above).

212. The Court must itself make its own determination of the facts which are relevant to the law which the Applicant claims the Respondent has breached. This case does however have an unusual feature. Many of the allegations before this Court have already been the subject of the processes and decisions of the ICTY. The Court considers their significance later in this section of the Judgment.

213. The assessment made by the Court of the weight to be given to a particular item of evidence may lead to the Court rejecting the item as unreliable, or finding it probative, as appears from the practice followed for instance in the case concerning *United States Diplomatic and Consular Staff in Tehran*, Judgment, *I.C.J. Reports 1980*, pp. 9-10, paras. 11-13; *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Merits, Judgment, *I.C.J. Reports 1986*, pp. 39-41, paras. 59-73; and *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Judgment, *I.C.J. Reports 2005*, pp. 200-201, paras. 57-61. In the most recent case the Court said this:

“The Court will treat with caution evidentiary materials specially prepared for this case and also materials emanating from a single source. It will prefer contemporaneous evidence from persons with direct knowledge. It will give particular attention to reliable evidence acknowledging facts or conduct unfavourable to the State represented by the person making them (*Military and Paramilitary Activi-*

*ties in and against Nicaragua (Nicaragua v. United States of America)*, *Merits, Judgment, I.C.J. Reports 1986*, p. 41, para. 64). The Court will also give weight to evidence that has not, even before this litigation, been challenged by impartial persons for the correctness of what it contains. The Court moreover notes that evidence obtained by examination of persons directly involved, and who were subsequently cross-examined by judges skilled in examination and experienced in assessing large amounts of factual information, some of it of a technical nature, merits special attention. The Court thus will give appropriate consideration to the Report of the Porter Commission, which gathered evidence in this manner. The Court further notes that, since its publication, there has been no challenge to the credibility of this Report, which has been accepted by both Parties.” (*Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, *Judgment, I.C.J. Reports 2005*, p. 35, para. 61. See also paras. 78-79, 114 and 237-242.)

214. The fact-finding process of the ICTY falls within this formulation, as “evidence obtained by examination of persons directly involved”, tested by cross-examination, the credibility of which has not been challenged subsequently. The Court has been referred to extensive documentation arising from the Tribunal’s processes, including indictments by the Prosecutor, various interlocutory decisions by judges and Trial Chambers, oral and written evidence, decisions of the Trial Chambers on guilt or innocence, sentencing judgments following a plea agreement and decisions of the Appeals Chamber.

215. By the end of the oral proceedings the Parties were in a broad measure of agreement on the significance of the ICTY material. The Applicant throughout has given and gives major weight to that material. At the written stage the Respondent had challenged the reliability of the Tribunal’s findings, the adequacy of the legal framework under which it operates, the adequacy of its procedures and its neutrality. At the stage of the oral proceedings, its position had changed in a major way. In its Agent’s words, the Respondent now based itself on the jurisprudence of the Tribunal and had “in effect” distanced itself from the opinions about the Tribunal expressed in its Rejoinder. The Agent was however careful to distinguish between different categories of material:

“[W]e do not regard all the material of the Tribunal for the former Yugoslavia as having the same relevance or probative value. We have primarily based ourselves upon the judgments of the Tribunal’s Trial and Appeals Chambers, given that only the judgments can be

regarded as establishing the facts about the crimes in a credible way.”

And he went on to point out that the Tribunal has not so far, with the exception of Srebrenica, held that genocide was committed in any of the situations cited by the Applicant. He also called attention to the criticisms already made by Respondent’s counsel of the relevant judgment concerning General Krstić who was found guilty of aiding and abetting genocide at Srebrenica.

216. The Court was referred to actions and decisions taken at various stages of the ICTY processes:

- (1) The Prosecutor’s decision to include or not certain changes in an indictment;
- (2) The decision of a judge on reviewing the indictment to confirm it and issue an arrest warrant or not;
- (3) If such warrant is not executed, a decision of a Trial Chamber (of three judges) to issue an international arrest warrant, provided the Chamber is satisfied that there are reasonable grounds for believing that the accused has committed all or any of the crimes charged;
- (4) The decision of a Trial Chamber on the accused’s motion for acquittal at the end of the prosecution case;
- (5) The judgment of a Trial Chamber following the full hearings;
- (6) The sentencing judgment of a Trial Chamber following a guilty plea.

The Court was also referred to certain decisions of the Appeals Chamber.

217. The Court will consider these stages in turn. The Applicant placed some weight on indictments filed by the Prosecutor. But the claims made by the Prosecutor in the indictments are just that — allegations made by one party. They have still to proceed through the various phases outlined earlier. The Prosecutor may, instead, decide to withdraw charges of genocide or they may be dismissed at trial. Accordingly, as a general proposition the inclusion of charges in an indictment cannot be given weight. What may however be significant is the decision of the Prosecutor, either initially or in an amendment to an indictment, not to include or to exclude a charge of genocide.

218. The second and third stages, relating to the confirmation of the indictment, issues of arrest warrants and charges, are the responsibility of the judges (one in the second stage and three in the third) rather than the Prosecutor, and witnesses may also be called in the third, but the accused is generally not involved. Moreover, the grounds for a judge to act are, at the second stage, that a *prima facie* case has been established, and at the

third, that reasonable grounds exist for belief that the accused has committed crimes charged.

219. The accused does have a role at the fourth stage — motions for acquittal made by the defence at the end of the prosecution's case and after the defence has had the opportunity to cross-examine the prosecution's witnesses, on the basis that "there is no evidence capable of supporting a conviction". This stage is understood to require a decision, not that the Chamber trying the facts *would* be satisfied beyond reasonable doubt by the prosecution's evidence (if accepted), but rather that it *could* be so satisfied (*Jelisić*, IT-95-10-A, Appeals Chamber Judgment, 5 July 2001, para. 37). The significance of that lesser standard for present purposes appears from one case on which the Applicant relied. The Trial Chamber in August 2005 in *Krajišnik* dismissed the defence motion that the accused who was charged with genocide and other crimes had no case to answer (IT-00-39-T, transcript of 19 August 2005, pp. 17112-17132). But following the full hearing the accused was found not guilty of genocide nor of complicity in genocide. While the *actus reus* of genocide was established, the specific intent (*dolus specialis*) was not (Trial Chamber Judgment, 27 September 2006, paras. 867-869). Because the judge or the Chamber does not make definitive findings at any of the four stages described, the Court does not consider that it can give weight to those rulings. The standard of proof which the Court requires in this case would not be met.

220. The processes of the Tribunal at the fifth stage, leading to a judgment of the Trial Chamber following the full hearing are to be contrasted with those earlier stages. The processes of the Tribunal leading to final findings are rigorous. Accused are presumed innocent until proved guilty beyond reasonable doubt. They are entitled to listed minimum guarantees (taken from the International Covenant on Civil and Political Rights), including the right to counsel, to examine witness against them, to obtain the examination of witness on their behalf, and not to be compelled to testify against themselves or to confess guilt. The Tribunal has powers to require Member States of the United Nations to co-operate with it, among other things, in the taking of testimony and the production of evidence. Accused are provided with extensive pre-trial disclosure including materials gathered by the prosecution and supporting the indictment, relevant witness statements and the pre-trial brief summarizing the evidence against them. The prosecutor is also to disclose exculpatory material to the accused and to make available in electronic form the collections of relevant material which the prosecution holds.

221. In practice, now extending over ten years, the trials, many of important military or political figures for alleged crimes committed over long periods and involving complex allegations, usually last for months, even years, and can involve thousands of documents and numerous witnesses. The Trial Chamber may admit any relevant evidence which has probative value. The Chamber is to give its reasons in writing and separate and dissenting opinions may be appended.

222. Each party has a right of appeal from the judgment of the Trial Chamber to the Appeals Chamber on the grounds of error of law invalidating the decision or error of fact occasioning a miscarriage of justice. The Appeals Chamber of five judges does not rehear the evidence, but it does have power to hear additional evidence if it finds that it was not available at trial, is relevant and credible and could have been a decisive factor in the trial. It too is to give a reasoned opinion in writing to which separate or dissenting opinions may be appended.

223. In view of the above, the Court concludes that it should in principle accept as highly persuasive relevant findings of fact made by the Tribunal at trial, unless of course they have been upset on appeal. For the same reasons, any evaluation by the Tribunal based on the facts as so found for instance about the existence of the required intent, is also entitled to due weight.

224. There remains for consideration the sixth stage, that of sentencing judgments given following a guilty plea. The process involves a statement of agreed facts and a sentencing judgment. Notwithstanding the guilty plea the Trial Chamber must be satisfied that there is sufficient factual basis for the crime and the accused's participation in it. It must also be satisfied that the guilty plea has been made voluntarily, is informed and is not equivocal. Accordingly the agreed statement and the sentencing judgment may when relevant be given a certain weight.

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225. The Court will now comment in a general way on some of the other evidence submitted to it. Some of that evidence has been produced to prove that a particular statement was made so that the Party may make use of its content. In many of these cases the accuracy of the document as a record is not in doubt; rather its significance is. That is often the case for instance with official documents, such as the record of parliamentary bodies and budget and financial statements. Another instance is when the statement was recorded contemporaneously on audio or videotape. Yet another is the evidence recorded by the ICTY.

226. In some cases the account represents the speaker's own knowledge of the fact to be determined or evaluated. In other cases the account may set out the speaker's opinion or understanding of events after they have occurred and in some cases the account will not be based on direct observation but may be hearsay. In fact the Parties rarely disagreed about the authenticity of such material but rather about whether it was being accurately presented (for instance with contention that passages were being taken out of context) and what weight or significance should be given to it.

227. The Court was also referred to a number of reports from official or independent bodies, giving accounts of relevant events. Their value depends, among other things, on (1) the source of the item of evidence (for instance partisan, or neutral), (2) the process by which it has been generated (for instance an anonymous press report or the product of a careful court or court-like process), and (3) the quality or character of the item (such as statements against interest, and agreed or uncontested facts).

228. One particular instance is the comprehensive report, "The Fall of Srebrenica", which the United Nations Secretary-General submitted in November 1999 to the General Assembly (United Nations doc. A/54/549). It was prepared at the request of the General Assembly, and covered the events from the establishing by the Security Council of the "safe area" on 16 April 1993 (Security Council resolution 819 (1993)) until the endorsement by the Security Council on 15 December 1995 of the Dayton Agreement. Member States and others concerned had been encouraged to provide relevant information. The Secretary-General was in a very good position to prepare a comprehensive report, some years after the events, as appears in part from this description of the method of preparation:

"This report has been prepared on the basis of archival research within the United Nations system, as well as on the basis of interviews with individuals who, in one capacity or another, participated in or had knowledge of the events in question. In the interest of gaining a clearer understanding of these events, I have taken the exceptional step of entering into the public record information from the classified files of the United Nations. In addition, I would like to record my thanks to those Member States, organizations and individuals who provided information for this report. A list of persons interviewed in this connection is attached as annex 1. While that list is fairly extensive, time, as well as budgetary and other constraints, precluded interviewing many other individuals who would be in a position to offer important perspectives on the subject at hand. In most cases, the interviews were conducted on a non-attribution basis to encourage as candid a disclosure as possible. I have also honoured the request of those individuals who provided informa-

tion for this report on the condition that they not be identified.” (A/54/549, para. 8.)

229. The chapter, “Fall of Srebrenica: 6-11 July 1995”, is preceded by this note:

“The United Nations has hitherto not publicly disclosed the full details of the attack carried out on Srebrenica from 6 to 11 July 1995. The account which follows has now been reconstructed mainly from reports filed at that time by Dutchbat and the United Nations military observers. The accounts provided have also been supplemented with information contained in the Netherlands report on the debriefing of Dutchbat, completed in October 1995, and by information provided by Bosniac, Bosnian Serb and international sources. In order to independently examine the information contained in various secondary sources published over the past four years, as well to corroborate key information contained in the Netherlands debriefing report, interviews were conducted during the preparation of this report with a number of key personnel who were either in Srebrenica at the time, or who were involved in decision-making at higher levels in the United Nations chain of command.” (A/54/549, Chap. VII, p. 57.)

The introductory note to the next chapter, “The Aftermath of the fall of Srebrenica: 12-20 July 1995”, contains this description of the sources:

“The following section attempts to describe in a coherent narrative how thousands of men and boys were summarily executed and buried in mass graves within a matter of days while the international community attempted to negotiate access to them. It details how evidence of atrocities taking place gradually came to light, but too late to prevent the tragedy which was unfolding. In 1995, the details of the tragedy were told in piecemeal fashion, as survivors of the mass executions began to provide accounts of the horrors they had witnessed; satellite photos later gave credence to their accounts.

The first official United Nations report which signalled the possibility of mass executions having taken place was the report of the Special Rapporteur of the Commission on Human Rights, dated 22 August 1995 (E/CN.4/1996/9). It was followed by the Secretary-General’s reports to the Security Council, pursuant to resolution 1010 (1995), of 30 August (S/1995/755) and 27 November 1995 (S/1995/988). Those reports included information obtained from governmental and non-governmental organizations, as well as information that had appeared in the international and local press. By the end of 1995, however, the International Tribunal for the Former



Yugoslavia had still not been granted access to the area to corroborate the allegations of mass executions with forensic evidence.

The Tribunal first gained access to the crime scenes in January 1996. The details of many of their findings were made public in July 1996, during testimony under rule 60 of the Tribunal's rules of procedure, in the case against Ratko [sic: Ratko] Mladić and Radovan Karadžić. Between that time and the present, the Tribunal has been able to conduct further investigations in the areas where the executions were reported to have taken place and where the primary and secondary mass graves were reported to have been located. On the basis of the forensic evidence obtained during those investigations, the Tribunal has now been able to further corroborate much of the testimony of the survivors of the massacres. On 30 October 1998, the Tribunal indicted Radislav Krstić, Commander of the BSA's Drina Corps, for his alleged involvement in those massacres. The text of the indictment provides a succinct summary of the information obtained to date on where and when the mass executions took place.

The aforementioned sources of information, coupled with certain additional confidential information that was obtained during the preparation of this report, form the basis of the account which follows. Sources are purposely not cited in those instances where such disclosure could potentially compromise the Tribunal's ongoing work." (A/54/549, Chap. VIII, p. 77.)

230. The care taken in preparing the report, its comprehensive sources and the independence of those responsible for its preparation all lend considerable authority to it. As will appear later in this Judgment, the Court has gained substantial assistance from this report.

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## VI. THE FACTS INVOKED BY THE APPLICANT, IN RELATION TO ARTICLE II

### (1) *The Background*

231. In this case the Court is seized of a dispute between two sovereign States, each of which is established in part of the territory of the former State known as the Socialist Federal Republic of Yugoslavia, concerning the application and fulfilment of an international convention to which they are parties, the Convention on the Prevention and Punishment of the Crime of Genocide. The task of the Court is to deal with the legal claims and factual allegations advanced by Bosnia and Herzegovina against Serbia and Montenegro; the counter-claim advanced earlier in the proceedings by Serbia and Montenegro against Bosnia and Herzegovina has been withdrawn.

232. Following the death on 4 May 1980 of President Tito, a rotating presidency was implemented in accordance with the 1974 Constitution of the SFRY. After almost ten years of economic crisis and the rise of nationalism within the republics and growing tension between different ethnic and national groups, the SFRY began to break up. On 25 June 1991, Slovenia and Croatia declared independence, followed by Macedonia on 17 September 1991. (Slovenia and Macedonia are not concerned in the present proceedings; Croatia has brought a separate case against Serbia and Montenegro, which is still pending on the General List.) On the eve of the war in Bosnia and Herzegovina which then broke out, according to the last census (31 March 1991), some 44 per cent of the population of the country described themselves as Muslims, some 31 per cent as Serbs and some 17 per cent as Croats (*Krajišnik*, IT-00-39-T and 40-T, Trial Chamber Judgment, 27 September 2006, para. 15).

233. By a “sovereignty” resolution adopted on 14 October 1991, the Parliament of Bosnia and Herzegovina declared the independence of the Republic. The validity of this resolution was contested at the time by the Serbian community of Bosnia and Herzegovina (Opinion No. 1 of the Arbitration Commission of the Conference on Yugoslavia (the Badinter Commission), p. 3). On 24 October 1991, the Serb Members of the Bosnian Parliament proclaimed a separate Assembly of the Serb Nation/Assembly of the Serb People of Bosnia and Herzegovina. On 9 January 1992, the Republic of the Serb People of Bosnia and Herzegovina (subsequently renamed the Republika Srpska on 12 August 1992) was declared with the proviso that the declaration would come into force upon international recognition of the Republic of Bosnia and Herzegovina. On 28 February 1992, the Constitution of the Republic of the Serb People of Bosnia and Herzegovina was adopted. The Republic of the Serb People of Bosnia and Herzegovina (and subsequently the Republika Srpska) was not and has not been recognized internationally as a State; it has however enjoyed some *de facto* independence.

234. On 29 February and 1 March 1992, a referendum was held on the question of independence in Bosnia and Herzegovina. On 6 March 1992, Bosnia and Herzegovina officially declared its independence. With effect from 7 April 1992, Bosnia and Herzegovina was recognized by the European Community. On 7 April 1992, Bosnia and Herzegovina was recognized by the United States. On 27 April 1992, the Constitution of the Federal Republic of Yugoslavia was adopted consisting of the Republic of Serbia and the Republic of Montenegro. As explained above (paragraph 67), Montenegro declared its independence on 3 June 2006. All three States have been admitted to membership of the United Nations: Bosnia and Herzegovina on 22 May 1992; Serbia and Montenegro, under the name of the Federal Republic of Yugoslavia on 1 November 2000; and the Republic of Montenegro on 28 June 2006.

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(2) *The Entities Involved in the Events Complained of*

235. It will be convenient next to define the institutions, organizations or groups that were the actors in the tragic events that were to unfold in Bosnia and Herzegovina. Of the independent sovereign States that had emerged from the break-up of the SFRY, two are concerned in the present proceedings: on the one side, the FRY (later to be called Serbia and Montenegro), which was composed of the two constituent republics of Serbia and Montenegro; on the other, the Republic of Bosnia and Herzegovina. At the time when the latter State declared its independence (15 October 1991), the independence of two other entities had already been declared: in Croatia, the Republika Srpska Krajina, on 26 April 1991, and the Republic of the Serb People of Bosnia and Herzegovina, later to be called the Republika Srpska, on 9 January 1992 (paragraph 233 above). The Republika Srpska never attained international recognition as a sovereign State, but it had *de facto* control of substantial territory, and the loyalty of large numbers of Bosnian Serbs.

236. The Parties both recognize that there were a number of entities at a lower level the activities of which have formed part of the factual issues in the case, though they disagree as to the significance of those activities. Of the military and paramilitary units active in the hostilities, there were in April 1992 five types of armed formations involved in Bosnia: first, the Yugoslav People's Army (JNA), subsequently the Yugoslav Army (VJ); second, volunteer units supported by the JNA and later by the VJ, and the Ministry of the Interior (MUP) of the FRY; third, municipal Bosnian Serb Territorial Defence (TO) detachments; and, fourth, police forces of the Bosnian Serb Ministry of the Interior. The MUP of the Republika Srpska controlled the police and the security services, and operated, according to the Applicant, in close co-operation and co-ordination with the MUP of the FRY. On 15 April 1992, the Bosnian Government established a military force, based on the former Territorial Defence of the Republic, the Army of the Republic of Bosnia and Herzegovina (ARBiH), merging several non-official forces, including a number of paramilitary defence groups, such as the Green Berets, and the Patriotic League, being the military wing of the Muslim Party of Democratic Action. The Court does not overlook the evidence suggesting the existence of Muslim organizations involved in the conflict, such as foreign Mujahideen, although as a result of the withdrawal of the Respondent's counter-claims, the activities of these bodies are not the subject of specific claims before the Court.

237. The Applicant has asserted the existence of close ties between the Government of the Respondent and the authorities of the Republika Srpska, of a political and financial nature, and also as regards administra-

tion and control of the army of the Republika Srpska (VRS). The Court observes that insofar as the political sympathies of the Respondent lay with the Bosnian Serbs, this is not contrary to any legal rule. It is however argued by the Applicant that the Respondent, under the guise of protecting the Serb population of Bosnia and Herzegovina, in fact conceived and shared with them the vision of a "Greater Serbia", in pursuit of which it gave its support to those persons and groups responsible for the activities which allegedly constitute the genocidal acts complained of. The Applicant bases this contention first on the "Strategic Goals" articulated by President Karadžić at the 16th Session of the FRY Assembly on 12 May 1992, and subsequently published in the *Official Gazette* of the Republika Srpska (paragraph 371), and secondly on the consistent conduct of the Serb military and paramilitary forces vis-à-vis the non-Serb Bosnians showing, it is suggested, an overall specific intent (*dolus specialis*). These activities will be examined below.

238. As regards the relationship between the armies of the FRY and the Republika Srpska, the Yugoslav Peoples' Army (JNA) of the SFRY had, during the greater part of the period of existence of the SFRY, been effectively a federal army, composed of soldiers from all the constituent republics of the Federation, with no distinction between different ethnic and religious groups. It is however contended by the Applicant that even before the break-up of the SFRY arrangements were being made to transform the JNA into an effectively Serb army. The Court notes that on 8 May 1992, all JNA troops who were not of Bosnian origin were withdrawn from Bosnia-Herzegovina. However, JNA troops of Bosnian Serb origin who were serving in Bosnia and Herzegovina were transformed into, or joined, the army of the Republika Srpska (the VRS) which was established on 12 May 1992, or the VRS Territorial Defence. Moreover, Bosnian Serb soldiers serving in JNA units elsewhere were transferred to Bosnia and Herzegovina and subsequently joined the VRS. The remainder of the JNA was transformed into the Yugoslav army (VJ) and became the army of the Federal Republic of Yugoslavia. On 15 May 1992 the Security Council, by resolution 752, demanded that units of the JNA in Bosnia and Herzegovina "be withdrawn, or be subject to the authority of the Government of Bosnia and Herzegovina, or be disbanded and disarmed". On 19 May 1992, the Yugoslav army was officially withdrawn from Bosnia and Herzegovina. The Applicant contended that from 1993 onwards, around 1,800 VRS officers were "administered" by the 30th Personnel Centre of the VJ in Belgrade; this meant that matters like their payment, promotions, pensions, etc., were handled, not by the Republika Srpska, but by the army of the Respondent. According to the Respondent, the importance of this fact was greatly exaggerated by the Applicant: the VRS had around 14,000 officers and thus only a small number of them were dealt with by the 30th Personnel Centre; this Centre only gave a certain degree of assistance to the VRS. The Applicant maintains that all VRS officers remained members of the

FRY army — only the label changed; according to the Respondent, there is no evidence for this last allegation. The Court takes note however of the comprehensive description of the processes involved set out in paragraphs 113 to 117 of the Judgment of 7 May 1997 of the ICTY Trial Chamber in the *Tadić* case (IT-94-I-T) quoted by the Applicant which mainly corroborate the account given by the latter. Insofar as the Respondent does not deny the fact of these developments, it insists that they were normal reactions to the threat of civil war, and there was no pre-meditated plan behind them.

239. The Court further notes the submission of the Applicant that the VRS was armed and equipped by the Respondent. The Applicant contends that when the JNA formally withdrew on 19 May 1992, it left behind all its military equipment which was subsequently taken over by the VRS. This claim is supported by the Secretary-General's report of 3 December 1992 in which he concluded that "[t]hrough the JNA has completely withdrawn from Bosnia and Herzegovina, former members of Bosnian Serb origin have been left behind with their equipment and constitute the Army of the 'Serb Republic'" (A/47/747, para. 11). Moreover, the Applicant submits that Belgrade actively supplied the VRS with arms and equipment throughout the war in Bosnia and Herzegovina. On the basis of evidence produced before the ICTY, the Applicant contended that up to 90 per cent of the material needs of the VRS were supplied by Belgrade. General Dannatt, one of the experts called by the Applicant (paragraph 57 above), testified that, according to a "consumption review" given by General Mladić at the Bosnian Serb Assembly on 16 April 1995, 42.2 per cent of VRS supplies of infantry ammunition were inherited from the former JNA and 47 per cent of VRS requirements were supplied by the VJ. For its part, the Respondent generally denies that it supplied and equipped the VRS but maintains that, even if that were the case, such assistance "is very familiar and is an aspect of numerous treaties of mutual security, both bilateral and regional". The Respondent adds that moreover it is a matter of public knowledge that the armed forces of Bosnia and Herzegovina received external assistance from friendly sources. However, one of the witnesses called by the Respondent, Mr. Vladimir Lukić, who was the Prime Minister of the Republika Srpska from 20 January 1993 to 18 August 1994 testified that the army of the Republika Srpska was supplied from different sources "including but not limited to the Federal Republic of Yugoslavia" but asserted that the Republika Srpska "mainly paid for the military materiel which it obtained" from the States that supplied it.

240. As regards effective links between the two Governments in the financial sphere, the Applicant maintains that the economies of the FRY, the Republika Srpska, and the Republika Srpska Krajina were integrated through the creation of a single economic entity, thus enabling the FRY Government to finance the armies of the two other bodies in addition to its own. The Applicant argued that the National Banks of the

Republika Srpska and of the Republika Srpska Krajina were set up as under the control of, and directly subordinate to, the National Bank of Yugoslavia in Belgrade. The national budget of the FRY was to a large extent financed through primary issues from the National Bank of Yugoslavia, which was said to be entirely under governmental control, i.e. in effect through creating money by providing credit to the FRY budget for the use of the JNA. The same was the case for the budgets of the Republika Srpska and the Republika Srpska Krajina, which according to the Applicant had virtually no independent sources of income; the Respondent asserts that income was forthcoming from various sources, but has not specified the extent of this. The National Bank of Yugoslavia was making available funds (80 per cent of those available from primary issues) for "special purposes", that is to say "to avoid the adverse effects of war on the economy of the Serbian Republic of Bosnia and Herzegovina". The Respondent has denied that the budget deficit of the Republika Srpska was financed by the FRY but has not presented evidence to show how it was financed. Furthermore, the Respondent emphasizes that any financing supplied was simply on the basis of credits, to be repaid, and was therefore quite normal, particularly in view of the economic isolation of the FRY, the Republika Srpska and the Republika Srpska Krajina; it also suggested that any funds received would have been under the sole control of the recipient, the Republika Srpska or the Republika Srpska Krajina.

241. The Court finds it established that the Respondent was thus making its considerable military and financial support available to the Republika Srpska, and had it withdrawn that support, this would have greatly constrained the options that were available to the Republika Srpska authorities.

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### (3) *Examination of Factual Evidence: Introduction*

242. The Court will therefore now examine the facts alleged by the Applicant, in order to satisfy itself, first, whether the alleged atrocities occurred; secondly, whether such atrocities, if established, fall within the scope of Article II of the Genocide Convention, that is to say whether the facts establish the existence of an intent, on the part of the perpetrators of those atrocities, to destroy, in whole or in part, a defined group (*dolus specialis*). The group taken into account for this purpose will, for the reasons explained above (paragraphs 191-196), be that of the Bosnian Muslims; while the Applicant has presented evidence said to relate to the wider group of non-Serb Bosnians, the Bosnian Muslims formed such a substantial part of this wider group that that evidence appears to have equal probative value as regards the facts, in relation to the more restricted

group. The Court will also consider the facts alleged in the light of the question whether there is persuasive and consistent evidence for a pattern of atrocities, as alleged by the Applicant, which would constitute evidence of *dolus specialis* on the part of the Respondent. For this purpose it is not necessary to examine every single incident reported by the Applicant, nor is it necessary to make an exhaustive list of the allegations; the Court finds it sufficient to examine those facts that would illuminate the question of intent, or illustrate the claim by the Applicant of a pattern of acts committed against members of the group, such as to lead to an inference from such pattern of the existence of a specific intent (*dolus specialis*).

243. The Court will examine the evidence following the categories of prohibited acts to be found in Article II of the Genocide Convention. The nature of the events to be described is however such that there is considerable overlap between these categories: thus, for example, the conditions of life in the camps to which members of the protected group were confined have been presented by the Applicant as violations of Article II, paragraph (c), of the Convention (the deliberate infliction of destructive conditions of life), but since numerous inmates of the camps died, allegedly as a result of those conditions, or were killed there, the camps fall to be mentioned also under paragraph (a), killing of members of the protected group.

244. In the evidentiary material submitted to the Court, and that referred to by the ICTY, frequent reference is made to the actions of “Serbs” or “Serb forces”, and it is not always clear what relationship, if any, the participants are alleged to have had with the Respondent. In some cases it is contended, for example, that the JNA, as an organ *de jure* of the Respondent, was involved; in other cases it seems clear that the participants were Bosnian Serbs, with no *de jure* link with the Respondent, but persons whose actions are, it is argued, attributable to the Respondent on other grounds. Furthermore, as noted in paragraph 238 above, it appears that JNA troops of Bosnian Serb origin were transformed into, or joined the VRS. At this stage of the present Judgment, the Court is not yet concerned with the question of the attributability to the Respondent of the atrocities described; it will therefore use the terms “Serb” and “Serb forces” purely descriptively, without prejudice to the status they may later, in relation to each incident, be shown to have had. When referring to documents of the ICTY, or to the Applicant’s pleadings or oral argument, the Court will use the terminology of the original.

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(4) *Article II (a): Killing Members of the Protected Group*

245. Article II (a) of the Convention deals with acts of killing members of the protected group. The Court will first examine the evidence of killings of members of the protected group in the principal areas of Bosnia and in the various detention camps, and ascertain whether there is evidence of a specific intent (*dolus specialis*) in one or more of them. The Court will then consider under this heading the evidence of the massacres reported to have occurred in July 1995 at Srebrenica.

*Sarajevo*

246. The Court notes that the Applicant refers repeatedly to killings, by shelling and sniping, perpetrated in Sarajevo. The Fifth Periodic Report of the United Nations Special Rapporteur is presented by the Applicant in support of the allegation that between 1992 and 1993 killings of Muslim civilians were perpetrated in Sarajevo, partly as a result of continuous shelling by Bosnian Serb forces. The Special Rapporteur stated that on 9 and 10 November 1993 mortar attacks killed 12 people (E/CN.4/1994/47, 17 November 1992, p. 4, para. 14). In his periodic Report of 5 July 1995, the Special Rapporteur observed that as from late February 1995 numerous civilians were killed by sniping activities of Bosnian Serb forces and that “one local source reported that a total of 41 civilians were killed . . . in Sarajevo during the month of May 1995” (Report of 5 July 1995, para. 69). The Report also noted that, in late June and early July 1995, there was further indiscriminate shelling and rocket attacks on Sarajevo by Bosnian Serb forces as a result of which many civilian deaths were reported (Report of 5 July 1995, para. 70).

247. The Report of the Commission of Experts gives a detailed account of the battle and siege of Sarajevo. The Commission estimated that over the course of the siege nearly 10,000 persons had been killed or were missing in the city of Sarajevo (Report of the Commission of Experts, Vol. II, Ann. VI, p. 8). According to the estimates made in a report presented by the Prosecution before the ICTY in the *Galić* case (IT-98-29-T, Trial Chamber Judgment, 5 December 2003, paras. 578 and 579), the monthly average of civilians killed fell from 105 in September to December 1992, to around 64 in 1993 and to around 28 in the first six months of 1994.

248. The Trial Chamber of the ICTY, in its Judgment of 5 December 2003 in the *Galić* case examined specific incidents in the area of Sarajevo, for instance the shelling of the Markale market on 5 February 1994 which resulted in the killing of 60 persons. The majority of the Trial



Chamber found that “civilians in ARBiH-held areas of Sarajevo were directly or indiscriminately attacked from SRK-controlled territory during the Indictment Period, and that as a result and as a minimum, hundreds of civilians were killed and thousands others were injured” (*Galić*, IT-98-29-T, Judgment, 5 December 2003, para. 591), the Trial Chamber further concluded that “[i]n sum, the Majority of the Trial Chamber finds that each of the crimes alleged in the Indictment — crime of terror, attacks on civilians, murder and inhumane acts — were committed by SRK forces during the Indictment Period” (*ibid.*, para. 600).

249. In this connection, the Respondent makes the general point that in a civil war it is not always possible to differentiate between military personnel and civilians. It does not deny that crimes were committed during the siege of Sarajevo, crimes that “could certainly be characterized as war crimes and certain even as crimes against humanity”, but it does not accept that there was a strategy of targeting civilians.

#### *Drina River Valley*

##### *(a) Zvornik*

250. The Applicant made a number of allegations with regard to killings that occurred in the area of Drina River Valley. The Applicant, relying on the Report of the Commission of Experts, claims that at least 2,500 Muslims died in Zvornik from April to May 1992. The Court notes that the findings of the Report of the Commission of Experts are based on individual witness statements and one declassified United States State Department document No. 94-11 (Vol. V, Ann. X, para. 387; Vol. IV, Ann. VIII, p. 342 and para. 2884; Vol. I, Ann. III.A, para. 578). Further, a video reporting on massacres in Zvornik was shown during the oral proceedings (excerpts from “The Death of Yugoslavia”, BBC documentary). With regard to specific incidents, the Applicant alleges that Serb soldiers shot 36 Muslims and mistreated 27 Muslim children in the local hospital of Zvornik in the second half of May 1992.

251. The Respondent contests those allegations and contends that all three sources used by the Applicant are based solely on the account of one witness. It considers that the three reports cited by the Applicant cannot be used as evidence before the Court. The Respondent produced the statement of a witness made before an investigating judge in Zvornik which claimed that the alleged massacre in the local hospital of Zvornik had never taken place. The Court notes that the Office of the Prosecutor of the ICTY had never indicted any of the accused for the alleged massacres in the hospital.

(b) *Camps*(i) *Sušica camp*

252. The Applicant further presents claims with regard to killings perpetrated in detention camps in the area of Drina River Valley. The Report of the Commission of Experts includes the statement of an ex-guard at the Sušica camp who personally witnessed 3,000 Muslims being killed (Vol. IV, Ann. VIII, p. 334) and the execution of the last 200 surviving detainees (Vol. I, Ann. IV, pp. 31-32). In proceedings before the ICTY, the Commander of that camp, Dragan Nikolić, pleaded guilty to murdering nine non-Serb detainees and, according to the Sentencing Judgment of 18 December 2003, “the Accused persecuted Muslim and other non-Serb detainees by subjecting them to murders, rapes and torture as charged specifically in the Indictment” (*Nikolić*, IT-94-2-S, para. 67).

(ii) *Foča Kazneno-Popravni Dom camp*

253. The Report of the Commission of Experts further mentions numerous killings at the camp of Foča Kazneno-Popravni Dom (Foča KP Dom). The Experts estimated that the number of prisoners at the camp fell from 570 to 130 over two months (Vol. IV, Ann. VIII, p. 129). The United States State Department reported one eye-witness statement of regular executions in July 1992 and mass graves at the camp.

254. The Trial Chamber of the ICTY made the following findings on several killings at this camp in its Judgment in the *Krnjelac* case:

“The Trial Chamber is satisfied beyond reasonable doubt that all but three of the persons listed in Schedule C to the Indictment were killed at the KP Dom. The Trial Chamber is satisfied that these persons fell within the pattern of events that occurred at the KP Dom during the months of June and July 1992, and that the only reasonable explanation for the disappearance of these persons since that time is that they died as a result of acts or omissions, with the relevant state of mind [sc. that required to establish murder], at the KP Dom.” (IT-97-25-T, Judgment, 15 March 2002, para. 330.)

(iii) *Batković camp*

255. As regards the detention camp of Batković, the Applicant claims that many prisoners died at this camp as a result of mistreatment by the Serb guards. The Report of the Commission of Experts reports one witness statement according to which there was a mass grave located next to the Batković prison camp. At least 15 bodies were buried next to a cow stable, and the prisoners neither knew the identity of those buried at the stable nor the circumstances of their deaths (Report of the Commission

of Experts, Vol. V, Ann. X, p. 9). The Report furthermore stresses that

“[b]ecause of the level of mistreatment, many prisoners died. One man stated that during his stay, mid-July to mid-August, 13 prisoners were beaten to death. Another prisoner died because he had gangrene which went untreated. Five more may have died from hunger. Allegedly, 20 prisoners died prior to September.” (Vol. IV, Ann. VIII, p. 63.)

Killings at the Batković camp are also mentioned in the Dispatch of the United States State Department of 19 April 1993. According to a witness, several men died as a result of bad conditions and beatings at the camp (United States Dispatch, 19 April 1993, Vol. 4, No. 30, p. 538).

256. On the other hand, the Respondent stressed that, when the United Nations Special Rapporteur visited the Batković prison camp, he found that: “The prisoners did not complain of ill-treatment and, in general appeared to be in good health.” (Report of 17 November 1992, para. 29) However, the Applicant contends that “it is without any doubt that Mazowiecki was shown a ‘model’ camp”.

#### *Prijedor*

##### *(a) Kozarac and Hambarine*

257. With regard to the area of the municipality of Prijedor, the Applicant has placed particular emphasis on the shelling and attacks on Kozarac, 20 km east of Prijedor, and on Hambarine in May 1992. The Applicant contends that after the shelling, Serb forces shot people in their homes and that those who surrendered were taken to a soccer stadium in Kozarac where some men were randomly shot. The Report of the Commission of Experts (Vol. I, Ann. III, pp. 154-155) states that:

“The attack on Kozarac lasted three days and caused many villagers to flee to the forest while the soldiers were shooting at ‘every moving thing’. Survivors calculated that at least 2,000 villagers were killed in that period. The villagers’ defence fell on 26 May . . .

Serbs then reportedly announced that the villagers had 10 minutes to reach the town’s soccer stadium. However, many people were shot in their homes before given a chance to leave. One witness reported that several thousand people tried to surrender by carrying white flags, but three Serb tanks opened fire on them, killing many.”

The Respondent submits that the number of killings is exaggerated and that “there was severe fighting in Kozarac, which took place on 25 and 26 May, and naturally, it should be concluded that a certain number of the victims were Muslim combatants”.

258. As regards Hambarine, the Report of the Commission of Experts (Vol. I, p. 39) states that:

“Following an incident in which less than a handful of Serb[ian] soldiers were shot dead under unclear circumstances, the village of Hambarine was given an ultimatum to hand over a policeman who lived where the shooting had occurred. As it was not met, Hambarine was subjected to several hours of artillery bombardment on 23 May 1992.

The shells were fired from the aerodrome Urije just outside Prijedor town. When the bombardment stopped, the village was stormed by infantry, including paramilitary units, which sought out the inhabitants in every home. Hambarine had a population of 2,499 in 1991.”

The Report of the Special Rapporteur of 17 November 1992, states that:

“Between 23 and 25 May, the Muslim village of Hambarine, 5 km south of Prijedor, received an ultimatum: all weapons must be surrendered by 11 a.m. Then, alleging that a shot was fired at a Serbian patrol, heavy artillery began to shell the village and tanks appeared, firing at homes. The villagers fled to Prijedor. Witnesses reported many deaths, probably as many as 1,000.” (Periodic Report of 17 November 1992, p. 8, para. 17 (*c*).)

The Respondent says, citing the indictment in the *Stakić* case, that “merely 11 names of the victims are known” and that it is therefore impossible that the total number of victims in Hambarine was “as many as 1,000”.

259. The Report of the Commission of Experts found that on 26, 27 or 28 May, the Muslim village of Kozarac, came under attack of heavy Serb artillery. It furthermore notes that:

“The population, estimated at 15,000, suffered a great many summary executions, possibly as many as 5,000 persons according to some witnesses.” (Report of the Commission of Experts, Vol. IV, pt. 4.)

260. The Applicant also claimed that killings of members of the protected group were perpetrated in Prijedor itself. The Report of the Commission of Experts, as well as the United Nations Special Rapporteur collected individual witness statements on several incidents of killing in the town of Prijedor (Report of the Commission of Experts, Vol. I, Ann. V, pp. 54 *et seq.*). In particular, the Special Rapporteur received

testimony “from a number of reliable sources” that 200 people were killed in Prijedor on 29 May 1992 (Report of 17 November 1992, para. 17).

261. In the *Stakić* case, the ICTY Trial Chamber found that “many people were killed during the attacks by the Bosnian Serb army on predominantly Bosnian Muslim villages and towns throughout the Prijedor municipality and several massacres of Muslims took place”, and that “a comprehensive pattern of atrocities against Muslims in Prijedor municipality in 1992 ha[d] been proved beyond reasonable doubt” (IT-97-24-T, Judgment, 31 July 2003, paras. 544 and 546). Further, in the *Brđanin* case, the Trial Chamber was satisfied that “at least 80 Bosnian Muslim civilians were killed when Bosnian Serb soldiers and police entered the villages of the Kozarac area” (IT-99-36, Judgment, 1 September 2004, para. 403).

(b) *Camps*

(i) *Omarska camp*

262. With respect to the detention camps in the area of Prijedor, the Applicant has stressed that the camp of Omarska was “arguably the cruellest camp in Bosnia and Herzegovina”. The Report of the Commission of Experts gives an account of seven witness statements reporting between 1,000 to 3,000 killings (Vol. IV, Ann. VIII, p. 222). The Report noted that

“[s]ome prisoners estimate that on an average there may have been 10 to 15 bodies displayed on the grass each morning, when the first prisoners went to receive their daily food rations. But there were also other dead bodies observed in other places at other times. Some prisoners died from their wounds or other causes in the rooms where they were detained. Constantly being exposed to the death and suffering of fellow prisoners made it impossible for anyone over any period of time to forget in what setting he or she was. Given the length of time Logor Omarska was used, the numbers of prisoners detained in the open, and the allegations that dead bodies were exhibited there almost every morning.”

The Report of the Commission of Experts concludes that “all information available . . . seems to indicate that [Omarska] was more than anything else a death camp” (Vol. I, Ann. V, p. 80). The United Nations Secretary-General also received submissions from Canada, Austria and the United States, containing witness statements about the killings at Omarska.

263. In the Opinion and Judgment of the Trial Chamber in the *Tadić* case, the ICTY made the following findings on Omarska: “Perhaps the most notorious of the camps, where the most horrific conditions existed,

was the Omarska camp.” (IT-94-1-T, Judgment, 7 May 1997, para. 155.) “The Trial Chamber heard from 30 witnesses who survived the brutality to which they were systematically subjected at Omarska. By all accounts, the conditions at the camp were horrendous; killings and torture were frequent.” (*Ibid.*, para. 157.) The Trial Chamber in the *Stakić* Judgment found that “over a hundred people were killed in late July 1992 in the Omarska camp” and that

“[a]round late July 1992, 44 people were taken out of Omarska and put in a bus. They were told that they would be exchanged in the direction of Bosanska Krupa; they were never seen again. During the exhumation in Jama Lisac, 56 bodies were found: most of them had died from gunshot injuries.” (IT-97-24-T, Judgment, 31 July 2003, paras. 208 and 210).

At least 120 people detained at Omarska were killed after having been taken away by bus.

“The corpses of some of those taken away on the buses were later found in Hrastova Glavica and identified. A large number of bodies, 126, were found in this area, which is about 30 kilometres away from Prijedor. In 121 of the cases, the forensic experts determined that the cause of death was gunshot wounds.” (*Ibid.*, para. 212.)

264. In the *Brdanin* case, the Trial Chamber, in its Judgment of 1 September 2004 held that between 28 May and 6 August, a massive number of people were killed at Omarska camp. The Trial Chamber went on to say specifically that “[a]s of late May 1992, a camp was set up at Omarska, where evidence shows that several hundred Bosnian Muslim and Bosnian Croat civilians from the Prijedor area were detained, and where killings occurred on a massive scale” (IT-99-36-T, Trial Chamber Judgment, 1 September 2004, para. 441). “The Trial Chamber is unable to precisely identify all detainees that were killed at Omarska camp. It is satisfied beyond reasonable doubt however that, at a minimum, 94 persons were killed, including those who disappeared.” (*Ibid.*, para. 448.)

(ii) *Keraterm camp*

265. A second detention camp in the area of Prijedor was the Keraterm camp where, according to the Applicant, killings of members of the protected group were also perpetrated. Several corroborating accounts of a mass execution on the morning of 25 July 1992 in Room 3 at Keraterm camp were presented to the Court. This included the United States Dispatch of the State Department and a letter from the Permanent Repre-

sentative of Austria to the United Nations dated 5 March 1993, addressed to the Secretary-General. The Report of the Commission of Experts cites three separate witness statements to the effect that ten prisoners were killed per day at Keraterm over three months (Vol. IV, para. 1932; see also Vol. I, Ann. V, para. 445).

266. The Trial Chamber of the ICTY, in the *Sikirica et al.* case, concerning the Commander of Keraterm camp, found that 160 to 200 men were killed or wounded in the so-called Room 3 massacre (IT-95-8-S, Sentencing Judgment, 13 November 2001, para. 103). According to the Judgment, Sikirica himself admitted that there was considerable evidence “concerning the murder and killing of other named individuals at Keraterm during the period of his duties”. There was also evidence that “others were killed because of their rank and position in society and their membership of a particular ethnic group or nationality” (*ibid.*, para. 122). In the *Stakić* case, the Trial Chamber found that “from 30 April 1992 to 30 September 1992 . . . killings occurred frequently in the Omarska, Keraterm and Trnopolje camps” (IT-97-24-T, Judgment, 31 July 2003, para. 544).

(iii) *Trnopolje camp*

267. The Applicant further contends that there is persuasive evidence of killing at Trnopolje camp, with individual eye-witnesses corroborating each other. The Report of the Commission of Experts found that “[i]n Trnopolje, the regime was far better than in Omarska and Keraterm. Nonetheless, harassment and malnutrition was a problem for all the inmates. Rapes, beatings and other kinds of torture, and even killings, were not rare.” (Report of the Commission of Experts, Vol. IV, Ann. V, p. 10.)

“The first period was allegedly the worst in Trnopolje, with the highest numbers of inmates killed, raped, and otherwise mistreated and tortured . . .

The people killed in the camp were usually removed soon after by some camp inmates who were ordered by the Serbs to take them away and bury them . . .

Albeit *Logor* Trnopolje was not a death camp like *Logor* Omarska or *Logor* Keraterm, the label ‘concentration camp’ is none the less justified for *Logor* Trnopolje due to the regime prevailing in the camp.” (*Ibid.*, Vol. I, Ann. V, pp. 88-90.)

268. With regard to the number of killings at Trnopolje, the ICTY considered the period between 25 May and 30 September 1992, the relevant period in the *Stakić* case (IT-97-24-T, Trial Chamber Judgment, 31 July 2003, paras. 226-227). The Trial Chamber came to the conclusion that “killings occurred frequently in the Omarska, Keraterm and Trno-

polje camps and other detention centres” (IT-97-24-T, para. 544). In the Judgment in the *Brđanin* case, the Trial Chamber found that in the period from 28 May to October 1992,

“numerous killings occurred in Trnopolje camp. A number of detainees died as a result of the beatings received by the guards. Others were killed by camp guards with rifles. The Trial Chamber also [found] that at least 20 inmates were taken outside the camp and killed there.” (IT-99-36-T, Judgment, 1 September 2004, para. 450.)

269. In response to the allegations of killings at the detention camps in the area of Prijedor, the Respondent questions the number of victims, but not the fact that killings occurred. It contends that killings in Prijedor “were committed sporadically and against individuals who were not a significant part of the group”. It further observed that the ICTY had not characterized the acts committed in the Prijedor region as genocide.

#### *Banja Luka*

##### *Manjača camp*

270. The Applicant further contends that killings were also frequent at Manjača camp in Banja Luka. The Court notes that multiple witness accounts of killings are contained in the Report of the Commission of Experts (Vol. IV, paras. 370-376) and a mass grave of 540 bodies, “presumably” from prisoners at Manjača, is mentioned in a report on missing persons submitted by Manfred Nowak, the United Nations Expert on Missing Persons:

“In September 1995, mass graves were discovered near Krasulje in northwest Bosnia and Herzegovina. The Government has exhumed 540 bodies of persons who were presumably detained at Manjaca concentration camp in 1992. In January 1996, a mass grave containing 27 bodies of Bosnian Muslims was discovered near Sanski Most; the victims were reportedly killed in July 1992 during their transfer from Sanski Most to Manjaca concentration camp (near Banja Luka).” (E/CN.4/1996/36 of 4 March 1996, para. 52.)

#### *Brčko*

##### *Luka camp*

271. The Applicant claims that killings of members of the protected group were also perpetrated at Luka camp and Brčko. The Report of the Commission of Experts confirms these allegations. One witness reported that “[s]hootings often occurred at 4.00 a.m. The witness estimates that during his first week at Luka more than 2,000 men were killed and



thrown into the Sava River.” (Report of the Commission of Experts Vol. IV, Ann. VIII, p. 93.) The Report further affirms that “[a]pparently, murder and torture were a daily occurrence” (*ibid.*, p. 96), and that it was reported that

“[t]he bodies of the dead or dying internees were often taken to the camp dump or moved behind the prisoner hangars. Other internees were required to move the bodies. Sometimes the prisoners who carried the dead were killed while carrying such bodies to the dump. The dead were also taken and dumped outside the Serbian Police Station located on Majevička Brigada Road in Brčko.” (*Ibid.*)

These findings are corroborated by evidence of a mass grave being found near the site (Report of the Commission of Experts, Vol. IV, Ann. VIII, p. 101, and United States State Department Dispatch).

272. In the *Jelisić* case, eight of the 13 murders to which the accused pleaded guilty were perpetrated at Luka camp and five were perpetrated at the Brčko police station (IT-95-10-T, Trial Chamber Judgment, 14 December 1999, paras. 37-38). The Trial Chamber further held that “[a]lthough the Trial Chamber is not in a position to establish the precise number of victims ascribable to Goran Jelisić for the period in the indictment, it notes that, in this instance, the material element of the crime of genocide has been satisfied” (*ibid.*, para. 65).

273. In the *Milošević* Decision on Motion for Judgment of Acquittal, the Trial Chamber found that many Muslims were detained in Luka camp in May and June 1992 and that many killings were observed by witnesses (IT-02-54-T, Decision on Motion for Judgment of Acquittal, 16 June 2004, paras. 159, 160-168), it held that “[t]he conditions and treatment to which the detainees at Luka Camp were subjected were terrible and included regular beatings, rapes, and killings” (*ibid.*, para. 159). “At Luka Camp . . . The witness personally moved about 12 to 15 bodies and saw approximately 100 bodies stacked up like firewood at Luka Camp; each day a refrigerated meat truck from the local Bimeks Company in Brčko would come to take away the dead bodies.” (*Ibid.*, para. 161.)

274. The Court notes that the *Brđanin* Trial Chamber Judgment of 1 September 2004 made a general finding as to killings of civilians in camps and municipalities at Banja Luka, Prijedor, Sanski Most, Ključ, Kotor Varoš and Bosanski Novi. It held that:

“In sum, the Trial Chamber is satisfied beyond reasonable doubt that, considering all the incidents described in this section of the judgment, at least 1,669 Bosnian Muslims and Bosnian Croats were killed by Bosnian Serb forces, all of whom were non-combatants.” (IT-99-36-T, Judgment, 1 September 2004, para. 465.)

There are contemporaneous Security Council and General Assembly resolutions condemning the killing of civilians in connection with ethnic cleansing, or expressing alarm at reports of mass killings (Security Council resolution 819 (1993), Preamble, paras. 6 and 7; General Assembly resolution 48/153 (1993), paras. 5 and 6; General Assembly resolution 49/196 (1994), para. 6).

275. The Court further notes that several resolutions condemn specific incidents. These resolutions, *inter alia*, condemn “the Bosnian Serb forces for their continued offensive against the safe area of Gorazde, which has resulted in the death of numerous civilians” (Security Council resolution 913 (1994), Preamble, para. 5); condemn ethnic cleansing “perpetrated in Banja Luka, Bijeljina and other areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces” (Security Council resolution 941 (1994), para. 2); express concern at “grave violations of international humanitarian law and of human rights in and around Srebrenica, and in the areas of Banja Luka and Sanski Most, including reports of mass murder” (Security Council resolution 1019 (1995), Preamble, para. 2); and condemn “the indiscriminate shelling of civilians in the safe areas of Sarajevo, Tuzla, Bihać and Gorazde and the use of cluster bombs on civilian targets by Bosnian Serb and Croatian Serb forces” (General Assembly resolution 50/193 (1995) para. 5).

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276. On the basis of the facts set out above, the Court finds that it is established by overwhelming evidence that massive killings in specific areas and detention camps throughout the territory of Bosnia and Herzegovina were perpetrated during the conflict. Furthermore, the evidence presented shows that the victims were in large majority members of the protected group, which suggests that they may have been systematically targeted by the killings. The Court notes in fact that, while the Respondent contested the veracity of certain allegations, and the number of victims, or the motives of the perpetrators, as well as the circumstances of the killings and their legal qualification, it never contested, as a matter of fact, that members of the protected group were indeed killed in Bosnia and Herzegovina. The Court thus finds that it has been established by conclusive evidence that massive killings of members of the protected group occurred and that therefore the requirements of the material element, as defined by Article II (a) of the Convention, are fulfilled. At this stage of its reasoning, the Court is not called upon to list the specific killings, nor even to make a conclusive finding on the total number of victims.

277. The Court is however not convinced, on the basis of the evidence before it, that it has been conclusively established that the massive killings of members of the protected group were committed with the specific intent (*dolus specialis*) on the part of the perpetrators to destroy, in whole or in part, the group as such. The Court has carefully examined the criminal proceedings of the ICTY and the findings of its Chambers, cited above, and observes that none of those convicted were found to have acted with specific intent (*dolus specialis*). The killings outlined above may amount to war crimes and crimes against humanity, but the Court has no jurisdiction to determine whether this is so. In the exercise of its jurisdiction under the Genocide Convention, the Court finds that it has not been established by the Applicant that the killings amounted to acts of genocide prohibited by the Convention. As to the Applicant's contention that the specific intent (*dolus specialis*) can be inferred from the overall pattern of acts perpetrated throughout the conflict, examination of this must be reserved until the Court has considered all the other alleged acts of genocide (violations of Article II, paragraphs (b) to (e)) (see paragraph 370 below).

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#### (5) *The Massacre at Srebrenica*

278. The atrocities committed in and around Srebrenica are nowhere better summarized than in the first paragraph of the Judgment of the Trial Chamber in the *Krstić* case:

“The events surrounding the Bosnian Serb take-over of the United Nations (‘UN’) ‘safe area’ of Srebrenica in Bosnia and Herzegovina, in July 1995, have become well known to the world. Despite a UN Security Council resolution declaring that the enclave was to be ‘free from armed attack or any other hostile act’, units of the Bosnian Serb Army (‘VRS’) launched an attack and captured the town. Within a few days, approximately 25,000 Bosnian Muslims, most of them women, children and elderly people who were living in the area, were uprooted and, in an atmosphere of terror, loaded onto overcrowded buses by the Bosnian Serb forces and transported across the confrontation lines into Bosnian Muslim-held territory. The military-aged Bosnian Muslim men of Srebrenica, however, were consigned to a separate fate. As thousands of them attempted to flee the area, they were taken prisoner, detained in brutal conditions and then executed. More than 7,000 people were never seen again.” (IT-98-33-T, Judgment, 2 August 2001, para. 1; footnotes omitted.)

While the Respondent raises a question about the number of deaths, it does not essentially question that account. What it does question is whether specific intent (*dolus specialis*) existed and whether the acts complained of can be attributed to it. It also calls attention to the attacks carried out by the Bosnian army from within Srebrenica and the fact that the enclave was never demilitarized. In the Respondent's view the military action taken by the Bosnian Serbs was in revenge and part of a war for territory.

279. The Applicant contends that the planning for the final attack on Srebrenica must have been prepared quite some time before July 1995. It refers to a report of 4 July 1994 by the commandant of the Bratunac Brigade. He outlined the "final goal" of the VRS: "an entirely Serbian Podrinje. The enclaves of Srebrenica, Žepa and Goražde must be militarily defeated." The report continued:

"We must continue to arm, train, discipline, and prepare the RS Army for the execution of this crucial task — the expulsion of Muslims from the Srebrenica enclave. There will be no retreat when it comes to the Srebrenica enclave, we must advance. The enemy's life has to be made unbearable and their temporary stay in the enclave impossible so that they leave *en masse* as soon as possible, realising that they cannot survive there."

The Chamber in the *Blagojević* case mentioned testimony showing that some "members of the Bratunac Brigade . . . did not consider this report to be an order. Testimony of other witnesses and documentary evidence show that the strategy was in fact implemented." (IT-02-60-T, Trial Chamber Judgment, 17 January 2005, para. 104; footnotes omitted.) The Applicant sees the "final goal" described here as "an entirely Serbian Podrinje", in conformity with the objective of a Serbian region 50 km to the west of the Drina river identified in an April or a May 1991 meeting of the political and State leadership of Yugoslavia. The Court observes that the object stated in the report, like the 1992 Strategic Objectives, does not envisage the destruction of the Muslims in Srebrenica, but rather their departure. The Chamber did not give the report any particular significance.

280. The Applicant, like the Chamber, refers to a meeting on 7 March 1995 between the Commander of the United Nations Protection Force (UNPROFOR) and General Mladić, at which the latter expressed dissatisfaction with the safe area régime and indicated that he might take military action against the eastern enclaves. He gave assurances however for the safety of the Bosnian Muslim population of those enclaves. On the following day, 8 March 1995, President Karadžić issued the Directive for Further Operations 7, also quoted by the Chamber and the Applicant: "Planned and well-thought-out combat operations" were

to create ‘an unbearable situation of total insecurity with no hope of further survival or life for the inhabitants of both enclaves’.” The *Blagojević* Chamber continues as follows:

“The separation of the Srebrenica and Žepa enclaves became the task of the Drina Corps. As a result of this directive, General Ratko Mladić on 31 March 1995 issued Directive for Further Operations, Operative No. 7/1, which further directive specified the Drina Corps’ tasks.” (IT-02-60-T, pp. 38-39, para. 106.)

281. Counsel for the Applicant asked in respect of the first of those directives “[w]hat could be a more clear-cut definition of the genocidal intent to destroy on the part of the authorities in Pale?”. As with the July 1994 report, the Court observes that the expulsion of the inhabitants would achieve the purpose of the operation. That observation is supported by the ruling of the Appeals Chamber in the *Krstić* case that the directives were “insufficiently clear” to establish specific intent (*dolus specialis*) on the part of the members of the Main Staff who issued them. “Indeed, the Trial Chamber did not even find that those who issued Directives 7 and 7.1 had genocidal intent, concluding instead that the genocidal plan crystallized at a later stage.” (IT-98-33-A, Judgment, 19 April 2004, para. 90.)

282. A Netherlands Battalion (Dutchbat) was deployed in the Srebrenica safe area. Within that area in January 1995 it had about 600 personnel. By February and through the spring the VRS was refusing to allow the return of Dutch soldiers who had gone on leave, causing their numbers to drop by at least 150, and were restricting the movement of international convoys of aid and supplies to Srebrenica and to other enclaves. It was estimated that without new supplies about half of the population of Srebrenica would be without food after mid-June.

283. On 2 July the Commander of the Drina Corps issued an order for active combat operations; its stated objective on the Srebrenica enclave was to reduce “the enclave to its urban area”. The attack began on 6 July with rockets exploding near the Dutchbat headquarters in Potočari; 7 and 8 July were relatively quiet because of poor weather, but the shelling intensified around 9 July. Srebrenica remained under fire until 11 July when it fell, with the Dutchbat observation posts having been taken by the VRS. Contrary to the expectations of the VRS, the Bosnia and Herzegovina army showed very little resistance (*Blagojević*, IT-02-60-T, Trial Chamber Judgment, 17 January 2005, para. 125). The United Nations Secretary-General’s report quotes an assessment made by United Nations military observers on the afternoon of 9 July which concluded as follows:

“the BSA offensive will continue until they achieve their aims. These aims may even be widening since the United Nations response has been almost non-existent and the BSA are now in a position to overrun the enclave if they wish.’ Documents later obtained from Serb sources appear to suggest that this assessment was correct. Those documents indicate that the Serb attack on Srebrenica initially had limited objectives. Only after having advanced with unexpected ease did the Serbs decide to overrun the entire enclave. Serb civilian and military officials from the Srebrenica area have stated the same thing, adding, in the course of discussions with a United Nations official, that they decided to advance all the way to Srebrenica town when they assessed that UNPROFOR was not willing or able to stop them.” (A/54/549, para. 264.)

Consistently with that conclusion, the Chamber in the *Blagojević* case says this:

“As the operation progressed its military object changed from ‘reducing the enclave to the urban area’ [the objective stated in a Drina Corps order of 2 July] to the taking-over of Srebrenica town and the enclave as a whole. The Trial Chamber has heard no direct evidence as to the exact moment the military objective changed. The evidence does show that President Karadžić was ‘informed of successful combat operations around Srebrenica . . . which enable them to occupy the very town of Srebrenica’ on 9 July. According to Miroslav Deronjić, the President of the Executive Board of the Bratunac Municipality, President Karadžić told him on 9 July that there were two options in relation to the operation, one of which was the complete take-over of Srebrenica. Later on 9 July, President Karadžić ‘agreed with continuation of operations for the takeover of Srebrenica’. By the morning of 11 July the change of objective of the ‘Krivaja 95’ operation had reached the units in the field; and by the middle of the afternoon, the order to enter Srebrenica had reached the Bratunac Brigade’s IKM in Pribićevac and Colonel Blagojević. Miroslav Deronjić visited the Bratunac Brigade IKM in Pribićevac on 11 July. He briefly spoke with Colonel Blagojević about the Srebrenica operation. According to Miroslav Deronjić, the VRS had just received the order to enter Srebrenica town.” (IT-02-60-T, Trial Chamber Judgment, 17 January 2005, para. 130.)

284. The Chamber then begins an account of the dreadful aftermath of the fall of Srebrenica. A Dutchbat Company on 11 July started directing the refugees to the UNPROFOR headquarters in Potočari which was

considered to be the only safe place for them. Not all the refugees went towards Potočari; many of the Bosnian Muslim men took to the woods. Refugees were soon shelled and shot at by the VRS despite attempts to find a safe route to Potočari where, to quote the ICTY, chaos reigned:

“The crowd outside the UNPROFOR compound grew by the thousands during the course of 11 July. By the end of the day, an estimated 20,000 to 30,000 Bosnian Muslims were in the surrounding area and some 4,000 to 5,000 refugees were in the UNPROFOR compound.

(b) Conditions in Potočari

The standards of hygiene within Potočari had completely deteriorated. Many of the refugees seeking shelter in the UNPROFOR headquarters were injured. Medical assistance was given to the extent possible; however, there was a dramatic shortage of medical supplies. As a result of the VRS having prevented aid convoys from getting through during the previous months, there was hardly any fresh food in the DutchBat headquarters. There was some running water available outside the compound. From 11 to 13 July 1995 the temperature was very high, reaching 35 degrees centigrade and this small water supply was insufficient for the 20,000 to 30,000 refugees who were outside the UNPROFOR compound.” (IT-02-60-T, paras. 146-147.)

The Tribunal elaborates on those matters and some efforts made by Bosnian Serb and Serbian authorities, i.e., the local Municipal Assembly, the Bratunac Brigade and the Drina Corps, as well as UNHCR, to assist the Bosnian Muslim refugees (*ibid.*, para. 148).

285. On 10 July at 10.45 p.m., according to the Secretary-General’s 1999 Report, the delegate in Belgrade of the Secretary-General’s Special Representative telephoned the Representative to say that he had seen President Milošević who had responded that not much should be expected of him because “the Bosnian Serbs did not listen to him” (A/54/549, para. 292). At 3 p.m. the next day, the President rang the Special Representative and, according to the same report, “stated that the Dutchbat soldiers in Serb-held areas had retained their weapons and equipment, and were free to move about. This was not true.” (*Ibid.*, para. 307.) About 20 minutes earlier two NATO aircraft had dropped two bombs on what were thought to be Serb vehicles advancing towards the town from the south. The Secretary-General’s report gives the VRS reaction:

“Immediately following this first deployment of NATO close air support, the BSA radioed a message to Dutchbat. They threatened

to shell the town and the compound where thousands of inhabitants had begun to gather, and to kill the Dutchbat soldiers being held hostage, if NATO continued with its use of air power. The Special Representative of the Secretary-General recalled having received a telephone call from the Netherlands Minister of Defence at this time, requesting that the close air support action be discontinued, because Serb soldiers on the scene were too close to Netherlands troops, and their safety would be jeopardized. The Special Representative considered that he had no choice but to comply with this request.” (A/54/549, para. 306.)

286. The Trial Chamber in the *Blagojević* case recorded that on 11 July at 8 p.m. there was a meeting between a Dutch colonel and General Mladić and others. The former said that he had come to negotiate the withdrawal of the refugees and to ask for food and medicine for them. He sought assurances that the Bosnian Muslim population and Dutchbat would be allowed to withdraw from the area. General Mladić said that the civilian population was not the target of his actions and the goal of the meeting was to work out an arrangement. He then said “‘you can all leave, all stay, or all die here’ . . . ‘we can work out an agreement for all this to stop and for the issues of the civilian population, your soldiers and the Muslim military to be resolved in a peaceful way’” (*Blagojević*, IT-02-60-T, Trial Chamber Judgment, 17 January 2005, paras. 150-152). Later that night at a meeting beginning at 11 p.m., attended by a representative of the Bosnian Muslim community, General Mladić said:

“‘Number one, you need to lay down your weapons and I guarantee that all those who lay down their weapon will live. I give you my word, as a man and a General, that I will use my influence to help the innocent Muslim population which is not the target of the combat operations carried out by the VRS . . . In order to make a decision as a man and a Commander, I need to have a clear position of the representatives of your people on whether you want to survive . . . stay or vanish. I am prepared to receive here tomorrow at 10 a.m. hrs. a delegation of officials from the Muslim side with whom I can discuss the salvation of your people from . . . the former enclave of Srebrenica . . . Nesib [a Muslim representative], the future of your people is in your hands, not only in this territory . . . Bring the people who can secure the surrender of weapons and save your people from destruction.’

The Trial Chamber finds, based on General Mladić’s comments, that he was unaware that the Bosnian Muslim men had left the Srebrenica enclave in the column.

General Mladić also stated that he would provide the vehicles to transport the Bosnian Muslims out of Potočari. The Bosnian



Muslim and Bosnian Serb sides were not on equal terms and Nesib Mandžić felt his presence was only required to put up a front for the international public. Nesib Mandžić felt intimidated by General Mladić. There was no indication that anything would happen the next day.” (IT-02-60-T, paras. 156-158.)

287. A third meeting was held the next morning, 12 July. The Tribunal in the *Blagojević* case gives this account:

“After the Bosnian Muslim representatives had introduced themselves, General Mladić stated:

‘I want to help you, but I want absolute co-operation from the civilian population because your army has been defeated. There is no need for your people to get killed, your husband, your brothers or your neighbours . . . As I told this gentleman last night, you can either survive or disappear. For your survival, I demand that all your armed men, even those who committed crimes, and many did, against our people, surrender their weapons to the VRS . . . You can choose to stay or you can choose to leave. If you wish to leave, you can go anywhere you like. When the weapons have been surrendered every individual will go where they say they want to go. The only thing is to provide the needed gasoline. You can pay for it if you have the means. If you can’t pay for it, UNPROFOR should bring four or five tanker trucks to fill up trucks . . .’

Čamila Omanović [one of the Muslim representatives] interpreted this to mean that if the Bosnian Muslim population left they would be saved, but that if they stayed they would die. General Mladić did not give a clear answer in relation to whether a safe transport of the civilian population out of the enclave would be carried out. General Mladić stated that the male Bosnian Muslim population from the age of 16 to 65 would be screened for the presence of war criminals. He indicated that after this screening, the men would be returned to the enclave. This was the first time that the separation of men from the rest of the population was mentioned. The Bosnian Muslim representatives had the impression that ‘everything had been prepared in advance, that there was a team of people working together in an organized manner’ and that ‘Mladić was the chief organizer.’

The third Hotel Fontana meeting ended with an agreement that the VRS would transport the Bosnian Muslim civilian population out of the enclave to ARBiH-held territory, with the assistance of UNPROFOR to ensure that the transportation was carried out in a humane manner.” (*Ibid.*, paras. 160-161.)

The Court notes that the accounts of the statements made at the meetings come from transcripts of contemporary video recordings.

288. The VRS and MUP of the Republika Srpska from 12 July separated men aged 16 to approximately 60 or 70 from their families. The Bosnian Muslim men were directed to various locations but most were sent to a particular house (“The White House”) near the UNPROFOR headquarters in Potočari, where they were interrogated. During the afternoon of 12 July a large number of buses and other vehicles arrived in Potočari including some from Serbia. Only women, children and the elderly were allowed to board the buses bound for territory held by the Bosnia and Herzegovina military. Dutchbat vehicles escorted convoys to begin with, but the VRS stopped that and soon after stole 16-18 Dutchbat jeeps, as well as around 100 small arms, making further escorts impossible. Many of the Bosnian Muslim men from Srebrenica and its surroundings including those who had attempted to flee through the woods were detained and killed.

289. Mention should also be made of the activities of certain paramilitary units, the “Red Berets” and the “Scorpions”, who are alleged by the Applicant to have participated in the events in and around Srebrenica. The Court was presented with certain documents by the Applicant, which were said to show that the “Scorpions” were indeed sent to the Trnovo area near Srebrenica and remained there through the relevant time period. The Respondent cast some doubt on the authenticity of these documents (which were copies of intercepts, but not originals) without ever formally denying their authenticity. There was no denial of the fact of the relocation of the “Scorpions” to Trnovo. The Applicant during the oral proceedings presented video material showing the execution by paramilitaries of six Bosnian Muslims, in Trnovo, in July 1995.

290. The Trial Chambers in the *Krstić* and *Blagojević* cases both found that Bosnian Serb forces killed over 7,000 Bosnian Muslim men following the takeover of Srebrenica in July 1995 (*Krstić*, IT-98-33-T, Judgment, 2 August 2001, paras. 426-427 and *Blagojević*, IT-02-60-T, Judgment, 17 January 2005, para. 643). Accordingly they found that the *actus reus* of killings in Article II (a) of the Convention was satisfied. Both also found that actions of Bosnian Serb forces also satisfied the *actus reus* of causing serious bodily or mental harm, as defined in Article II (b) of the Convention — both to those who were about to be executed, and to the others who were separated from them in respect of their forced displacement and the loss suffered by survivors among them (*Krstić*, *ibid.*, para. 543, and *Blagojević*, *ibid.*, paras. 644-654).

291. The Court is fully persuaded that both killings within the terms of Article II (a) of the Convention, and acts causing serious bodily or men-

tal harm within the terms of Article II (*b*) thereof occurred during the Srebrenica massacre. Three further aspects of the ICTY decisions relating to Srebrenica require closer examination — the specific intent (*dolus specialis*), the date by which the intent was formed, and the definition of the “group” in terms of Article II. A fourth issue which was not directly before the ICTY but which this Court must address is the involvement, if any, of the Respondent in the actions.

292. The issue of intent has been illuminated by the *Krstić* Trial Chamber. In its findings, it was convinced of the existence of intent by the evidence placed before it. Under the heading “A Plan to Execute the Bosnian Muslim Men of Srebrenica”, the Chamber “finds that, following the takeover of Srebrenica in July 1995, the Bosnian Serbs devised and implemented a plan to execute as many as possible of the military aged Bosnian Muslim men present in the enclave” (IT-98-33-T, Judgment, 2 August 2001, para. 87). All the executions, the Chamber decided, “systematically targeted Bosnian Muslim men of military age, regardless of whether they were civilians or soldiers” (*ibid.*, para. 546). While “[t]he VRS may have initially considered only targeting military men for execution, . . . [the] evidence shows, however, that a decision was taken, at some point, to capture and kill all the Bosnian Muslim men indiscriminately. No effort was made to distinguish the soldiers from the civilians.” (*Ibid.*, para. 547.) Under the heading “Intent to Destroy”, the Chamber reviewed the Parties’ submissions and the documents, concluding that it would “adhere to the characterization of genocide which encompass[es] only acts committed with the *goal* of destroying all or part of a group” (*ibid.*, para. 571; original emphasis). The acts of genocide need not be premeditated and the intent may become the goal later in an operation (*ibid.*, para. 572).

“Evidence presented in this case has shown that the killings were planned: the number and nature of the forces involved, the standardized coded language used by the units in communicating information about the killings, the scale of the executions, the invariability of the killing methods applied, indicate that a decision was made to kill all the Bosnian Muslim military aged men.

The Trial Chamber is unable to determine the precise date on which the decision to kill all the military aged men was taken. Hence, it cannot find that the killings committed in Potočari on 12 and 13 July 1995 formed part of the plan to kill all the military aged men. Nevertheless, the Trial Chamber is confident that the mass executions and other killings committed from 13 July onwards were part of this plan.” (*Ibid.*, paras. 572-573; see also paras. 591-598.)

293. The Court has already quoted (paragraph 281) the passage from the Judgment of the Appeals Chamber in the *Krstić* case rejecting the Prosecutor's attempted reliance on the Directives given earlier in July, and it would recall the evidence about the VRS's change of plan in the course of the operation in relation to the complete takeover of the enclave. The Appeals Chamber also rejected the appeal by General Krstić against the finding that genocide occurred in Srebrenica. It held that the Trial Chamber was entitled to conclude that the destruction of such a sizeable number of men, one fifth of the overall Srebrenica community, "would inevitably result in the physical disappearance of the Bosnian Muslim population at Srebrenica" (IT-98-33-A, Appeals Chamber Judgment, 19 April 2004, paras. 28-33); and the Trial Chamber, as the best assessor of the evidence presented at trial, was entitled to conclude that the evidence of the transfer of the women and children supported its finding that some members of the VRS Main Staff intended to destroy the Bosnian Muslims in Srebrenica. The Appeals Chamber concluded this part of its Judgment as follows:

"The gravity of genocide is reflected in the stringent requirements which must be satisfied before this conviction is imposed. These requirements — the demanding proof of specific intent and the showing that the group was targeted for destruction in its entirety or in substantial part — guard against a danger that convictions for this crime will be imposed lightly. Where these requirements are satisfied, however, the law must not shy away from referring to the crime committed by its proper name. By seeking to eliminate a part of the Bosnian Muslims, the Bosnian Serb forces committed genocide. They targeted for extinction the forty thousand Bosnian Muslims living in Srebrenica, a group which was emblematic of the Bosnian Muslims in general. They stripped all the male Muslim prisoners, military and civilian, elderly and young, of their personal belongings and identification, and deliberately and methodically killed them solely on the basis of their identity. The Bosnian Serb forces were aware, when they embarked on this genocidal venture, that the harm they caused would continue to plague the Bosnian Muslims. The Appeals Chamber states unequivocally that the law condemns, in appropriate terms, the deep and lasting injury inflicted, and calls the massacre at Srebrenica by its proper name: genocide. Those responsible will bear this stigma, and it will serve as a warning to those who may in future contemplate the commission of such a heinous act.

In concluding that some members of the VRS Main Staff intended to destroy the Bosnian Muslims of Srebrenica, the Trial Chamber

did not depart from the legal requirements for genocide. The Defence appeal on this issue is dismissed.” (*Ibid.*, paras. 37-38.)

294. On one view, taken by the Applicant, the *Blagojević* Trial Chamber decided that the specific intent (*dolus specialis*) was formed earlier than 12 or 13 July, the time chosen by the *Krstić* Chamber. The Court has already called attention to that Chamber’s statement that at some point (it could not determine “the exact moment”) the military objective in Srebrenica changed, from “reducing the enclave to the urban area” (stated in a Drina Corps order of 2 July 1995 referred to at times as the “Krivaja 95 operation”) to taking over Srebrenica town and the enclave as a whole. Later in the Judgment, under the heading “Findings: was genocide committed?”, the Chamber refers to the 2 July document:

“The Trial Chamber is convinced that the criminal acts committed by the Bosnian Serb forces were all parts of one single scheme to commit genocide of the Bosnian Muslims of Srebrenica, as reflected in the ‘Krivaja 95 operation’, the ultimate objective of which was to eliminate the enclave and, therefore, the Bosnian Muslim community living there.” (*Blagojević*, IT-02-60-T, Judgment, 17 January 2005, para. 674.)

The Chamber immediately goes on to refer only to the events — the massacres and the forcible transfer of the women and children — after the fall of Srebrenica, that is sometime after the change of military objective on 9 or 10 July. The conclusion on intent is similarly focused:

“The Trial Chamber has no doubt that all these acts constituted a single operation executed with the intent to destroy the Bosnian Muslim population of Srebrenica. The Trial Chamber finds that the Bosnian Serb forces not only knew that the combination of the killings of the men with the forcible transfer of the women, children and elderly, would inevitably result in the physical disappearance of the Bosnian Muslim population of Srebrenica, but clearly intended through these acts to physically destroy this group.” (*Ibid.*, para. 677.) (See similarly all but the first item in the list in paragraph 786.)

295. The Court’s conclusion, fortified by the Judgments of the Trial Chambers in the *Krstić* and *Blagojević* cases, is that the necessary intent was not established until after the change in the military objective and after the takeover of Srebrenica, on about 12 or 13 July. This may be significant for the application of the obligations of the Respondent under

the Convention (paragraph 423 below). The Court has no reason to depart from the Tribunal's determination that the necessary specific intent (*dolus specialis*) was established and that it was not established until that time.

296. The Court now turns to the requirement of Article II that there must be the intent to destroy a protected "group" in whole or in part. It recalls its earlier statement of the law and in particular the three elements there discussed: substantiality (the primary requirement), relevant geographic factors and the associated opportunity available to the perpetrators, and emblematic or qualitative factors (paragraphs 197-201). Next, the Court recalls the assessment it made earlier in the Judgment of the persuasiveness of the ICTY's findings of facts and its evaluation of them (paragraph 223). Against that background it turns to the findings in the *Krstić* case (IT-98-33-T, Trial Chamber Judgment, 2 August 2001, paras. 551-599 and IT-98-33-A, Appeals Chamber Judgment, 19 April 2004, paras. 6-22), in which the Appeals Chamber endorsed the findings of the Trial Chamber in the following terms.

"In this case, having identified the protected group as the national group of Bosnian Muslims, the Trial Chamber concluded that the part the VRS Main Staff and Radislav Krstić targeted was the Bosnian Muslims of Srebrenica, or the Bosnian Muslims of Eastern Bosnia. This conclusion comports with the guidelines outlined above. The size of the Bosnian Muslim population in Srebrenica prior to its capture by the VRS forces in 1995 amounted to approximately forty thousand people. This represented not only the Muslim inhabitants of the Srebrenica municipality but also many Muslim refugees from the surrounding region. Although this population constituted only a small percentage of the overall Muslim population of Bosnia and Herzegovina at the time, the importance of the Muslim community of Srebrenica is not captured solely by its size." (IT-98-33-A, Judgment, 19 April 2004, para. 15; footnotes omitted.)

The Court sees no reason to disagree with the concordant findings of the Trial Chamber and the Appeals Chamber.

297. The Court concludes that the acts committed at Srebrenica falling within Article II (a) and (b) of the Convention were committed with the specific intent to destroy in part the group of the Muslims of Bosnia and Herzegovina as such; and accordingly that these were acts of genocide, committed by members of the VRS in and around Srebrenica from about 13 July 1995.

\* \*

(6) *Article II (b): Causing Serious Bodily or Mental Harm to Members of the Protected Group*

298. The Applicant contends that besides the massive killings, systematic serious harm was caused to the non-Serb population of Bosnia and Herzegovina. The Applicant includes the practice of terrorizing the non-Serb population, the infliction of pain and the administration of torture as well as the practice of systematic humiliation into this category of acts of genocide. Further, the Applicant puts a particular emphasis on the issue of systematic rapes of Muslim women, perpetrated as part of genocide against the Muslims in Bosnia during the conflict.

299. The Respondent does not dispute that, as a matter of legal qualification, the crime of rape may constitute an act of genocide, causing serious bodily or mental harm. It disputes, however, that the rapes in the territory of Bosnia and Herzegovina were part of a genocide perpetrated therein. The Respondent, relying on the Report of the Commission of Experts, maintains that the rapes and acts of sexual violence committed during the conflict, were not part of genocide, but were committed on all sides of the conflict, without any specific intent (*dolus specialis*).

300. The Court notes that there is no dispute between the Parties that rapes and sexual violence could constitute acts of genocide, if accompanied by a specific intent to destroy the protected group. It notes also that the ICTR, in its Judgment of 2 September 1998 in the *Akayesu* case, addressed the issue of acts of rape and sexual violence as acts of genocide in the following terms:

“Indeed, rape and sexual violence certainly constitute infliction of serious bodily and mental harm on the victims and are even, according to the Chamber, one of the worst ways of inflicting harm on the victim as he or she suffers both bodily and mental harm.” (ICTR-96-4-T, Trial Chamber Judgment, 2 September 1998, para. 731.)

The ICTY, in its Judgment of 31 July 2003 in the *Stakić* case, recognized that:

“‘Causing serious bodily and mental harm’ in subparagraph (b) [of Article 4 (2) of the Statute of the ICTY] is understood to mean, *inter alia*, acts of torture, inhumane or degrading treatment, sexual violence including rape, interrogations combined with beatings, threats of death, and harm that damages health or causes disfigurement or injury. The harm inflicted need not be permanent and irremediable.” (IT-97-24-T, Trial Chamber Judgment, 31 July 2003, para. 516.)

301. The Court notes furthermore that Security Council and General Assembly resolutions contemporary with the facts are explicit in referring

to sexual violence. These resolutions were in turn based on reports before the General Assembly and the Security Council, such as the Reports of the Secretary-General, the Commission of Experts, the Special Rapporteur for Human Rights, Tadeusz Mazowiecki, and various United Nations agencies in the field. The General Assembly stressed the “extraordinary suffering of the victims of rape and sexual violence” (General Assembly resolution 48/143 (1993), Preamble; General Assembly resolution 50/192 (1995), para. 8). In resolution 48/143 (1993), the General Assembly declared it was:

“*Appalled* at the recurring and substantiated reports of widespread rape and abuse of women and children in the areas of armed conflict in the former Yugoslavia, in particular its systematic use against the Muslim women and children in Bosnia and Herzegovina by Serbian forces” (Preamble, para. 4).

302. Several Security Council resolutions expressed alarm at the “massive, organised and systematic detention and rape of women”, in particular Muslim women in Bosnia and Herzegovina (Security Council resolutions 798 (1992), Preamble, para. 2; resolution 820 (1993), para. 6; 827 (1993), Preamble, para. 3). In terms of other kinds of serious harm, Security Council resolution 1034 (1995) condemned

“in the strongest possible terms the violations of international humanitarian law and of human rights by Bosnian Serb and paramilitary forces in the areas of Srebrenica, Žepa, Banja Luka and Sanski Most as described in the report of the Secretary-General of 27 November 1995 and showing a consistent pattern of summary executions, rape, mass expulsions, arbitrary detentions, forced labour and large-scale disappearances” (para. 2).

The Security Council further referred to a “persistent and systematic campaign of terror” in Banja Luka, Bijeljina and other areas under the control of Bosnian Serb forces (Security Council resolution 941 (1994), Preamble, para. 4). It also expressed concern at reports of mass murder, unlawful detention and forced labour, rape and deportation of civilians in Banja Luka and Sanski Most (Security Council resolution 1019 (1995), Preamble, para. 2).

303. The General Assembly also condemned specific violations including torture, beatings, rape, disappearances, destruction of houses, and other acts or threats of violence aimed at forcing individuals to leave their homes (General Assembly resolution 47/147 (1992), para. 4; see also General Assembly resolution 49/10 (1994), Preamble, para. 14, and General Assembly resolution 50/193 (1995), para. 2).



304. The Court will now examine the specific allegations of the Applicant under this heading, in relation to the various areas and camps identified as having been the scene of acts causing “bodily or mental harm” within the meaning of the Convention. As regards the events of Srebrenica, the Court has already found it to be established that such acts were committed (paragraph 291 above).

*Drina River Valley*

(a) *Zvornik*

305. As regards the area of the Drina River Valley, the Applicant has stressed the perpetration of acts and abuses causing serious bodily or mental harm in the events at Zvornik. In particular, the Court has been presented with a report on events at Zvornik which is based on eye-witness accounts and extensive research (Hannes Tretter *et al.*, “‘Ethnic cleansing’ Operations in the Northeast Bosnian-City of Zvornik from April through June 1992”, Ludwig Boltzmann Institute of Human Rights (1994), p. 48). The report of the Ludwig Boltzmann Institute gives account of a policy of terrorization, forced relocation, torture, rape during the takeover of Zvornik in April-June 1992. The Report of the Commission of Experts received 35 reports of rape in the area of Zvornik in May 1992 (Vol. V, Ann. IX, p. 54).

(b) *Foča*

306. Further acts causing serious bodily and mental harm were perpetrated in the municipality of Foča. The Applicant, relying on the Judgment in the *Kunarac et al.* case (IT-96-23-T and IT-96-23/1-T, Trial Chamber Judgment, 22 February 2001, paras. 574 and 592), claims, in particular, that many women were raped repeatedly by Bosnian Serb soldiers or policemen in the city of Foča.

(c) *Camps*

(i) *Batković camp*

307. The Applicant further claims that in Batković camp, prisoners were frequently beaten and mistreated. The Report of the Commission of Experts gives an account of a witness statement according to which “prisoners were forced to perform sexual acts with each other, and sometimes with guards”. The Report continues: “Reports of the frequency of beatings vary from daily beatings to beatings 10 times each day.” (Report of the Commission of Experts, Vol. IV, Ann. VIII, p. 62, para. 469.) Individual witness accounts reported by the Commission of Experts (Report of the Commission of Experts, Vol. IV, Ann. VIII, pp. 62-63, and Ann. X, p. 9) provide second-hand testimony that beatings occurred and prisoners lived in terrible conditions. As already noted

above (paragraph 256), however, the periodic Report of Special Rapporteur Mazowiecki of 17 November 1992 stated that “[t]he prisoners . . . appeared to be in good health” (p. 13); but according to the Applicant, Mazowiecki was shown a “model” camp and therefore his impression was inaccurate. The United States Department of State Dispatch of 19 April 1993 (Vol. 4, No. 16), alleges that in Batković camp, prisoners were frequently beaten and mistreated. In particular, the Dispatch records two witness statements according to which “[o]n several occasions, they and other prisoners were forced to remove their clothes and perform sex acts on each other and on some guards”.

(ii) *Sušica camp*

308. According to the Applicant, rapes and physical assaults were also perpetrated at Sušica camp; it pointed out that in the proceedings before the ICTY, in the “Rule 61 Review of the Indictment” and the Sentencing Judgment, in the *Nikolić* case, the accused admitted that many Muslim women were raped and subjected to degrading physical and verbal abuse in the camp and at locations outside of it (*Nikolić*, IT-94-2-T, Sentencing Judgment, 18 December 2003, paras. 87-90), and that several men were tortured in that same camp.

(iii) *Foča Kazneno-Popravni Dom camp*

309. With regard to the Foča Kazneno-Popravni Dom camp, the Applicant asserts that beatings, rapes of women and torture were perpetrated. The Applicant bases these allegations mainly on the Report of the Commission of Experts and the United States State Department Dispatch. The Commission of Experts based its findings on information provided by a Helsinki Watch Report. A witness claimed that some prisoners were beaten in Foča KP Dom (Report of the Commission of Experts, Vol. IV, pp. 128-132); similar accounts are contained in the United States State Department Dispatch. One witness stated that

“Those running the center instilled fear in the Muslim prisoners by selecting certain prisoners for beatings. From his window in Room 13, the witness saw prisoners regularly being taken to a building where beatings were conducted. This building was close enough for him to hear the screams of those who were being beaten.” (Dispatch of the United States Department of State, 19 April 1993, No. 16, p. 262.)

310. The ICTY Trial Chamber in its *Kunarac* Judgment of 22 February 2001, described the statements of several witnesses as to the poor and brutal living conditions in Foča KP Dom. These seem to confirm that the Muslim men and women from Foča, Gacko and Kalinovik municipalities were arrested, rounded up, separated from each other, and imprisoned or detained at several detention centres like the Foča KP

Dom where some of them were killed, raped or severely beaten (*Kunarac et al*, IT-96-23-T and IT-96-23/1-T, Trial Chamber Judgment, 22 February 2001).

### *Prijedor*

#### (a) *Municipality*

311. Most of the allegations of abuses said by the Applicant to have occurred in Prijedor have been examined in the section of the present Judgment concerning the camps situated in Prijedor. However, the Report of the Commission of Experts refers to a family of nine found dead in Stara Rijeka in Prijedor, who had obviously been tortured (Vol. V, Ann. X, p. 41). The Trial Chamber of the ICTY, in its Judgment in the *Tadić* case made the following factual finding as to an attack on two villages in the Kozarac area, Jaskići and Sivci:

“On 14 June 1992 both villages were attacked. In the morning the approaching sound of shots was heard by the inhabitants of Sivci and soon after Serb tanks and Serb soldiers entered the village . . . There they were made to run along that road, hands clasped behind their heads, to a collecting point in the yard of one of the houses. On the way there they were repeatedly made to stop, lie down on the road and be beaten and kicked by soldiers as they lay there, before being made to get up again and run some distance further, where the whole performance would be repeated . . . In all some 350 men, mainly Muslims but including a few Croats, were treated in this way in Sivci.

On arrival at the collecting point, beaten and in many cases covered with blood, some men were called out and questioned about others, and were threatened and beaten again. Soon buses arrived, five in all, and the men were made to run to them, hands again behind the head, and to crowd on to them. They were then taken to the Keraterm camp.

The experience of the inhabitants of the smaller village of Jaskići, which contained only 11 houses, on 14 June 1992 was somewhat similar but accompanied by the killing of villagers. Like Sivci, Jaskići had received refugees after the attack on Kozarac but by 14 June 1992 many of those refugees had left for other villages. In the afternoon of 14 June 1992 gunfire was heard and Serb soldiers arrived in Jaskići and ordered men out of their homes and onto the village street, their hands clasped behind their heads; there they were made to lie down and were severely beaten.” (IT-94-1-T, Judgment, 7 May 1997, paras. 346-348.)

(b) *Camps*(i) *Omarska camp*

312. As noted above in connection with the killings (paragraph 262), the Applicant has been able to present abundant and persuasive evidence of physical abuses causing serious bodily harm in Omarska camp. The Report of the Commission of Experts contains witness accounts regarding the “white house” used for physical abuses, rapes, torture and, occasionally, killings, and the “red house” used for killings (Vol. IV, Ann. VIII, pp. 207-222). Those accounts of the sadistic methods of killing are corroborated by United States submissions to the Secretary-General. The most persuasive and reliable source of evidence may be taken to be the factual part of the Opinion and Judgment of the ICTY in the *Tadić* case (IT-94-1-T, Trial Chamber Judgment, 7 May 1997). Relying on the statements of 30 witnesses, the *Tadić* Trial Judgment made findings as to interrogations, beatings, rapes, as well as the torture and humiliation of Muslim prisoners in Omarska camp (in particular: *ibid.*, paras. 155-158, 163-167). The Trial Chamber was satisfied beyond reasonable doubt of the fact that several victims were mistreated and beaten by Tadić and suffered permanent harm, and that he had compelled one prisoner to sexually mutilate another (*ibid.*, paras. 194-206). Findings of mistreatment, torture, rape and sexual violence at Omarska camp were also made by the ICTY in other cases; in particular, the Trial Judgment of 2 November 2001 in the *Kvočka et al.* case (IT-98-30/1-T, Trial Chamber Judgment, paras. 21-50, and 98-108) — upheld on appeal, the Trial Judgment of 1 September 2004 in the *Brđanin* case (IT-99-36-T, Trial Chamber Judgment, paras. 515-517) and the Trial Judgment of 31 July 2003 in the *Stakić* case (IT-97-24-T, Trial Chamber Judgment, paras. 229-336).

(ii) *Keraterm camp*

313. The Applicant also pointed to evidence of beatings and rapes at Keraterm camp. Several witness accounts are reported in the Report of the Commission of Experts (Vol. IV, Ann. VIII, pp. 225, 231, 233, 238) and corroborated by witness accounts reported by the Permanent Mission of Austria to the United Nations and Helsinki Watch. The attention of the Court has been drawn to several judgments of the ICTY which also document the severe physical abuses, rapes and sexual violence that occurred at this camp. The Trial Judgment of 1 September 2004 in the *Brđanin* case found that:

“At Keraterm camp, detainees were beaten on arrival . . . Beatings were carried out with wooden clubs, baseball bats, electric cables and police batons . . .

In some cases the beatings were so severe as to result in serious injury and death. Beatings and humiliation were often administered in front of other detainees. Female detainees were raped in Keraterm camp.” (IT-99-36-T, Trial Chamber Judgment, paras. 851-852.)

The Trial Chamber in its Judgment of 31 July 2003 in the *Stakić* case found that

“the detainees at the Keraterm camp were subjected to terrible abuse. The evidence demonstrates that many of the detainees at the Keraterm camp were beaten on a daily basis. Up until the middle of July, most of the beatings happened at night. After the detainees from Brdo arrived, around 20 July 1992, there were ‘no rules’, with beatings committed both day and night. Guards and others who entered the camp, including some in military uniforms carried out the beatings. There were no beatings in the rooms since the guards did not enter the rooms — people were generally called out day and night for beatings.” (IT-97-24-T, Trial Chamber Judgment, para. 237.)

The Chamber also found that there was convincing evidence of further beatings and rape perpetrated in Keraterm camp (*ibid.*, paras. 238-241).

In the Trial Judgment in the *Kvočka et al.* case, the Chamber held that, in addition to the “dreadful” general conditions of life, detainees at Keraterm camp were “mercilessly beaten” and “women were raped” (IT-98-30/1-T, Trial Chamber Judgment, 2 November 2001, para. 114).

(iii) *Trnopolje camp*

314. The Court has furthermore been presented with evidence that beatings and rapes occurred at Trnopolje camp. The rape of 30-40 prisoners on 6 June 1992 is reported by both the Report of the Commission of Experts (Vol. IV, Ann. VIII, pp. 251-253) and a publication of the United States State Department. In the *Tadić* case the Trial Chamber of the ICTY concluded that at Trnopolje camp beatings occurred and that “[b]ecause this camp housed the largest number of women and girls, there were more rapes at this camp than at any other” (IT-94-1-T, Judgment, 7 May 1997, paras. 172-177 (para. 175)). These findings concerning beatings and rapes are corroborated by other Judgments of the ICTY, such as the Trial Judgment in the *Stakić* case where it found that,

“although the scale of the abuse at the Trnopolje camp was less than that in the Omarska camp, mistreatment was commonplace. The

Serb soldiers used baseball bats, iron bars, rifle butts and their hands and feet or whatever they had at their disposal to beat the detainees. Individuals were who taken out for questioning would often return bruised or injured” (IT-97-24-T, Trial Chamber Judgment, 31 July 2003, para. 242);

and that, having heard the witness statement of a victim, it was satisfied beyond reasonable doubt “that rapes did occur in the Trnopolje camp” (*ibid.*, para. 244). Similar conclusions were drawn in the Judgment of the Trial Chamber in the *Brđanin* case (IT-99-36-T, 1 September 2004, paras. 513-514 and 854-857).

### *Banja Luka*

#### *Manjača camp*

315. With regard to the Manjača camp in Banja Luka, the Applicant alleges that beatings, torture and rapes were occurring at this camp. The Applicant relies mainly on the witnesses cited in the Report of the Commission of Experts (Vol. IV, Ann. VIII, pp. 50-54). This evidence is corroborated by the testimony of a former prisoner at the Joint Hearing before the Select Committee on Intelligence in the United States Senate on 9 August 1995, and a witness account reported in the Memorial of the Applicant (United States State Department Dispatch, 2 November 1992, p. 806). The Trial Chamber, in its Decision on Motion for Judgment of Acquittal of 16 June 2004, in the *Milošević* case reproduced the statement of a witness who testified that,

“at the Manjaca camp, they were beaten with clubs, cables, bats, or other similar items by the military police. The men were placed in small, bare stables, which were overcrowded and contained no toilet facilities. While at the camp, the detainees received inadequate food and water. Their heads were shaved, and they were severely beaten during interrogations.” (IT-02-54-T, Decision on Motion for Judgment of Acquittal, 16 June 2004, para. 178.)

316. The Applicant refers to the Report of the Commission of Experts, which contains reports that the Manjača camp held a limited number of women and that during their stay they were “raped repeatedly”. Muslim male prisoners were also forced to rape female prisoners (Report of the Commission of Experts, Vol. IV, Annex VIII, pp. 53-54). The Respondent points out that the *Brđanin* Trial Judgment found no evidence had been presented that detainees were subjected to “acts of sexual degradation” in Manjača.

*Brčko**Luka camp*

317. The Applicant alleges that torture, rape and beatings occurred at Luka camp (Brčko). The Report of the Commission of Experts contains multiple witness accounts, including the evidence of a local guard forced into committing rape (Vol. IV, Ann. VIII, pp. 93-97). The account of the rapes is corroborated by multiple sources (United States State Department Dispatch, 19 April 1993). The Court notes in particular the findings of the ICTY Trial Chamber in the *Češić* case, with regard to acts perpetrated in the Luka camp. In his plea agreement the accused admitted several grave incidents, such as beatings and compelling two Muslim brothers to perform sexual acts with each other (IT-95-10/1-S, Sentencing Judgment, 11 March 2004, paras. 8-17). These findings are corroborated by witness statements and the guilty plea in the *Jelišić* case.

318. The Respondent does not deny that the camps in Bosnia and Herzegovina were “in breach of humanitarian law and, in most cases, in breach of the law of war”, but argues that the conditions in all the camps were not of the kind described by the Applicant. It stated that all that had been demonstrated was “the existence of serious crimes, committed in a particularly complex situation, in a civil and fratricidal war”, but not the requisite specific intent (*dolus specialis*).

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319. Having carefully examined the evidence presented before it, and taken note of that presented to the ICTY, the Court considers that it has been established by fully conclusive evidence that members of the protected group were systematically victims of massive mistreatment, beatings, rape and torture causing serious bodily and mental harm, during the conflict and, in particular, in the detention camps. The requirements of the material element, as defined by Article II (*b*) of the Convention are thus fulfilled. The Court finds, however, on the basis of the evidence before it, that it has not been conclusively established that those atrocities, although they too may amount to war crimes and crimes against humanity, were committed with the specific intent (*dolus specialis*) to destroy the protected group, in whole or in part, required for a finding that genocide has been perpetrated.

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(7) *Article II (c): Deliberately Inflicting on the Group Conditions of Life Calculated to Bring about Its Physical Destruction in Whole or in Part*

320. Article II (c) of the Genocide Convention concerns the deliberate infliction on the group of conditions of life calculated to bring about its physical destruction in whole or in part. Under this heading, the Applicant first points to an alleged policy by the Bosnian Serb forces to encircle civilians of the protected group in villages, towns or entire regions and to subsequently shell those areas and cut off all supplies in order to starve the population. Secondly, the Applicant claims that Bosnian Serb forces attempted to deport and expel the protected group from the areas which those forces occupied. Finally, the Applicant alleges that Bosnian Serb forces attempted to eradicate all traces of the culture of the protected group through the destruction of historical, religious and cultural property.

321. The Respondent argues that the events referred to by the Applicant took place in a context of war which affected the entire population, whatever its origin. In its view, “it is obvious that in any armed conflict the conditions of life of the civilian population deteriorate”. The Respondent considers that, taking into account the civil war in Bosnia and Herzegovina which generated inhuman conditions of life for the entire population in the territory of that State, “it is impossible to speak of the deliberate infliction on the Muslim group alone or the non-Serb group alone of conditions of life calculated to bring about its destruction”.

322. The Court will examine in turn the evidence concerning the three sets of claims made by the Applicant: encirclement, shelling and starvation; deportation and expulsion; destruction of historical, religious and cultural property. It will also go on to consider the evidence presented regarding the conditions of life in the detention camps already extensively referred to above (paragraphs 252-256, 262-273, 307-310 and 312-318).

*Alleged encirclement, shelling and starvation*

323. The principal incident referred to by the Applicant in this regard is the siege of Sarajevo by Bosnian Serb forces. Armed conflict broke out in Sarajevo at the beginning of April 1992 following the recognition by the European Community of Bosnia and Herzegovina as an independent State. The Commission of Experts estimated that, between the beginning of April 1992 and 28 February 1994, in addition to those killed or missing in the city (paragraph 247 above), 56,000 persons had been wounded (Report of the Commission of Experts, Vol. II, Ann. VI, p. 8). It was further estimated that, “over the course of the siege, the city [was] hit by an average of approximately 329 shell impacts per day, with a high of 3,777 shell impacts on 22 July 1993” (*ibid.*). In his report of 28 August 1992, the Special Rapporteur observed that:



“The city is shelled on a regular basis . . . Snipers shoot innocent civilians . . .

The civilian population lives in a constant state of anxiety, leaving their homes or shelters only when necessary . . . The public systems for distribution of electrical power and water no longer function. Food and other basic necessities are scarce, and depend on the airlift organized by UNHCR and protected by UNPROFOR.” (Report of 28 August 1992, paras. 17-18.)

324. The Court notes that, in resolutions adopted on 16 April and 6 May 1993, the Security Council declared Sarajevo, together with Tuzla, Žepa, Goražde, Bihać and Srebrenica, to be “safe areas” which should be free from any armed attack or any other hostile act and fully accessible to UNPROFOR and international humanitarian agencies (resolutions 819 of 16 April 1993 and 824 of 6 May 1993). However, these resolutions were not adhered to by the parties to the conflict. In his report of 26 August 1993, the Special Rapporteur noted that

“Since May 1993 supplies of electricity, water and gas to Sarajevo have all but stopped . . . a significant proportion of the damage caused to the supply lines has been deliberate, according to United Nations Protection Force engineers who have attempted to repair them. Repair crews have been shot at by both Bosnian Serb and government forces . . .” (Report of 26 August 1993, para. 6.)

He further found that UNHCR food and fuel convoys had been “obstructed or attacked by Bosnian Serb and Bosnian Croat forces and sometimes also by governmental forces” (Report of 26 August 1993, para. 15). The Commission of Experts also found that the “blockade of humanitarian aid ha[d] been used as an important tool in the siege” (Report of the Commission of Experts, Ann. VI, p. 17). According to the Special Rapporteur, the targeting of the civilian population by shelling and sniping continued and even intensified throughout 1994 and 1995 (Report of 4 November 1994, paras. 27-28; Report of 16 January 1995, para. 13; Report of 5 July 1995, paras. 67-70). The Special Rapporteur noted that

“[a]ll sides are guilty of the use of military force against civilian populations and relief operations in Sarajevo. However, one cannot lose sight of the fact that the main responsibility lies with the [Bosnian Serb] forces, since it is they who have adopted the tactic of laying siege to the city.” (Report of 17 November 1992, para. 42.)

325. The Court notes that in the *Galić* case, the Trial Chamber of the ICTY found that the Serb forces (the SRK) conducted a campaign of sniping and shelling against the civilian population of Sarajevo (*Galić*, IT-98-29-T, Judgment, 5 December 2003, para. 583). It was

“convinced by the evidence in the Trial Record that civilians in ARBiH-held areas of Sarajevo were directly or indiscriminately attacked from SRK-controlled territory . . . , and that as a result and as a minimum, hundreds of civilians were killed and thousands others were injured” (*ibid.*, para. 591).

These findings were subsequently confirmed by the Appeals Chamber (*Galić*, IT-98-29-A, Judgment, 30 November 2006, paras. 107-109). The ICTY also found that the shelling which hit the Markale market on 5 February 1994, resulting in 60 persons killed and over 140 injured, came from behind Bosnian Serb lines, and was deliberately aimed at civilians (*ibid.*, paras. 333 and 335 and *Galić*, IT-98-29-T, Trial Chamber Judgment, 5 December 2003, para. 496).

326. The Respondent argues that the safe areas proclaimed by the Security Council had not been completely disarmed by the Bosnian army. For instance, according to testimony given in the *Galić* case by the Deputy Commander of the Bosnian army corps covering the Sarajevo area, the Bosnian army had deployed 45,000 troops within Sarajevo. The Respondent also pointed to further testimony in that case to the effect that certain troops in the Bosnian army were wearing civilian clothes and that the Bosnian army was using civilian buildings for its bases and positioning its tanks and artillery in public places. Moreover, the Respondent observes that, in his book, *Fighting for Peace*, General Rose was of the view that military equipment was installed in the vicinity of civilians, for instance, in the grounds of the hospital in Sarajevo and that “[t]he Bosnians had evidently chosen this location with the intention of attracting Serb fire, in the hope that the resulting carnage would further tilt international support in their favour” (Michael Rose, *Fighting for Peace*, 1998, p. 254).

327. The Applicant also points to evidence of sieges of other towns in Bosnia and Herzegovina. For instance, with regard to Goražde, the Special Rapporteur found that the enclave was being shelled and had been denied convoys of humanitarian aid for two months. Although food was being air-dropped, it was insufficient (Report of 5 May 1992, para. 42). In a later report, the Special Rapporteur noted that, as of spring 1994, the town had been subject to a military offensive by Bosnian Serb forces, during which civilian objects including the hospital had been targeted and the water supply had been cut off (Report of 10 June 1994, paras. 7-12). Humanitarian convoys were harassed including by the detention of UNPROFOR personnel and the theft of equipment (Report of

19 May 1994, paras. 17 *et seq.*). Similar patterns occurred in Bihać, Tuzla, Cerska and Maglaj (Bihać: Special Rapporteur's Report of 28 August 1992, para. 20; Report of the Secretary-General pursuant to resolution 959 (1994), para. 17; Special Rapporteur's Report of 16 January 1995, para. 12; Tuzla: Report of the Secretary-General pursuant to resolutions 844 (1993), 836 (1993) and 776 (1992), paras. 2-4; Special Rapporteur's Report of 5 July 1995; Cerska: Special Rapporteur's Report of 5 May 1993, paras. 8-17; Maglaj: Special Rapporteur's Report of 17 November 1993, para. 93).

328. The Court finds that virtually all the incidents recounted by the Applicant have been established by the available evidence. It takes account of the assertion that the Bosnian army may have provoked attacks on civilian areas by Bosnian Serb forces, but does not consider that this, even if true, can provide any justification for attacks on civilian areas. On the basis of a careful examination of the evidence presented by the Parties, the Court concludes that civilian members of the protected group were deliberately targeted by Serb forces in Sarajevo and other cities. However, reserving the question whether such acts are in principle capable of falling within the scope of Article II, paragraph (*c*), of the Convention, the Court does not find sufficient evidence that the alleged acts were committed with the specific intent to destroy the protected group in whole or in part. For instance, in the *Galić* case, the ICTY found that

“the attacks on civilians were numerous, but were not consistently so intense as to suggest an attempt by the SRK to wipe out or even deplete the civilian population through attrition . . . the only reasonable conclusion in light of the evidence in the Trial Record is that the primary purpose of the campaign was to instil in the civilian population a state of extreme fear” (*Galić*, IT-98-29-T, Trial Chamber Judgment, 5 December 2003, para. 593).

These findings were not overruled by the judgment of the Appeals Chamber of 30 November 2006 (*Galić*, IT-98-29-A, Judgment: see e.g., paras. 107-109, 335 and 386-390). The Special Rapporteur of the United Nations Commission on Human Rights was of the view that “[t]he siege, including the shelling of population centres and the cutting off of supplies of food and other essential goods, is another tactic used to force Muslims and ethnic Croats to flee” (Report of 28 August 1992, para. 17). The Court thus finds that it has not been conclusively established that the acts were committed with the specific intent (*dolus specialis*) to destroy the protected group in whole or in part.

*Deportation and expulsion*

329. The Applicant claims that deportations and expulsions occurred systematically all over Bosnia and Herzegovina. With regard to Banja Luka, the Special Rapporteur noted that since late November 1993, there had been a “sharp rise in repossessions of apartments, whereby Muslim and Croat tenants [were] summarily evicted” and that “a form of housing agency ha[d] been established . . . which chooses accommodation for incoming Serb displaced persons, evicts Muslim or Croat residents and reputedly receives payment for its services in the form of possessions left behind by those who have been evicted” (Report of 21 February 1994, para. 8). In a report dated 21 April 1995 dedicated to the situation in Banja Luka, the Special Rapporteur observed that since the beginning of the war, there had been a 90 per cent reduction in the local Muslim population (Report of 21 April 1995, para. 4). He noted that a forced labour obligation imposed by the *de facto* authorities in Banja Luka, as well as “the virulence of the ongoing campaign of violence” had resulted in “practically all non-Serbs fervently wishing to leave the Banja Luka area” (Report of 21 April 1995, para. 24). Those leaving Banja Luka were required to pay fees and to relinquish in writing their claim to their homes, without reimbursement (Report of 21 April 1995, para. 26). The displacements were “often very well organized, involving the bussing of people to the Croatian border, and involve[d] large numbers of people” (Report of 4 November 1994, para. 23). According to the Special Rapporteur, “[o]n one day alone in mid-June 1994, some 460 Muslims and Croats were displaced” (*ibid.*).

330. As regards Bijeljina, the Special Rapporteur observed that, between mid-June and 17 September 1994, some 4,700 non-Serbs were displaced from the Bijeljina and Janja regions. He noted that many of the displaced, “whether forced or choosing to depart, were subject to harassment and theft by the Bosnian Serb forces orchestrating the displacement” (Report of 4 November 1994, para. 21). These reports were confirmed by those of non-governmental organizations based on witness statements taken on the ground (Amnesty International, “Bosnia and Herzegovina: Living for the Day — Forced expulsions from Bijeljina and Janja”, December 1994, p. 2).

331. As for Zvornik, the Commission of Experts, relying on a study carried out by the Ludwig Boltzmann Institute of Human Rights based on an evaluation of 500 interviews of individuals who had fled the area, found that a systematic campaign of forced deportation had occurred (Report of the Commission of Experts, Vol. I, Ann. IV, pp. 55 *et seq.*). The study observed that Bosnian Muslims obtained an official stamp on their identity card indicating a change of domicile in exchange for transferring their property to an “agency for the exchange of houses” which was subsequently a prerequisite for being able to leave the town (Lud-

wig Boltzmann Institute of Human Rights, “‘Ethnic Cleansing Operations’ in the northeast Bosnian city of Zvornik from April through June 1992”, pp. 28-29). According to the study, forced deportations of Bosnian Muslims began in May/June 1992 by bus to Mali Zvornik and from there to the Bosnian town of Tuzla or to Subotica on the Serbian-Hungarian border (*ibid.*, pp. 28 and 35-36). The Special Rapporteur’s report of 10 February 1993 supports this account, stating that deportees from Zvornik had been “ordered, some at gunpoint, to board buses and trucks and later trains”, provided with Yugoslav passports and subsequently taken to the Hungarian border to be admitted as refugees (Report of 10 February 1993, para. 99).

332. According to the Trial Chamber of the ICTY in its review of the indictment in the cases against *Karadžić and Mladić*, “[t]housands of civilians were unlawfully expelled or deported to other places inside and outside the Republic of Bosnia and Herzegovina” and “[t]he result of these expulsions was the partial or total elimination of Muslims and Bosnian Croats in some of [the] Bosnian Serb-held regions of Bosnia and Herzegovina”. The Chamber further stated that “[i]n the municipalities of Prijedor, Foča, Vlasenica, Brčko and Bosanski Šamac, to name but a few, the once non-Serbian majority was systematically exterminated or expelled by force or intimidation” (*Karadžić and Mladić*, IT-95-5-R61 and IT-95-18-R61, Review of the Indictment pursuant to Rule 61 of the Rules of Procedure and Evidence, 11 July 1996, para. 16).

333. The Respondent argues that displacements of populations may be necessary according to the obligations set down in Articles 17 and 49, paragraph 2, of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, for instance if the security of the population or imperative military reasons so demand. It adds that the displacement of populations has always been a way of settling certain conflicts between opposing parties and points to a number of examples of forced population displacements in history following an armed conflict. The Respondent also argues that the mere expulsion of a group cannot be characterized as genocide, but that, according to the ICTY Judgment in the *Stakić* case, “[a] clear distinction must be drawn between physical destruction and mere dissolution of a group” and “[t]he expulsion of a group or part of a group does not in itself suffice for genocide” (*Stakić*, IT-97-24-T, Trial Chamber Judgment, 31 July 2003, para. 519).

334. The Court considers that there is persuasive and conclusive evidence that deportations and expulsions of members of the protected group occurred in Bosnia and Herzegovina. With regard to the Respondent’s argument that in time of war such deportations or expulsions may be justified under the Geneva Convention, or may be a normal way of settling a conflict, the Court would observe that no such justification

could be accepted in the face of proof of specific intent (*dolus specialis*). However, even assuming that deportations and expulsions may be categorized as falling within Article II, paragraph (c), of the Genocide Convention, the Court cannot find, on the basis of the evidence presented to it, that it is conclusively established that such deportations and expulsions were accompanied by the intent to destroy the protected group in whole or in part (see paragraph 190 above).

*Destruction of historical, religious and cultural property*

335. The Applicant claims that throughout the conflict in Bosnia and Herzegovina, Serb forces engaged in the deliberate destruction of historical, religious and cultural property of the protected group in “an attempt to wipe out the traces of their very existence”.

336. In the *Tadić* case, the ICTY found that “[n]on-Serb cultural and religious symbols throughout the region were targeted for destruction” in the Banja Luka area (*Tadić*, IT-94-1-T, Trial Chamber Judgment, 7 May 1997, para. 149). Further, in reviewing the indictments of Karadžić and Mladić, the Trial Chamber stated that:

“Throughout the territory of Bosnia and Herzegovina under their control, Bosnian Serb forces . . . destroyed, quasi-systematically, the Muslim and Catholic cultural heritage, in particular, sacred sites. According to estimates provided at the hearing by an expert witness, Dr. Kaiser, a total of 1.123 mosques, 504 Catholic churches and five synagogues were destroyed or damaged, for the most part, in the absence of military activity or after the cessation thereof.

This was the case in the destruction of the entire Islamic and Catholic heritage in the Banja Luka area, which had a Serbian majority and the nearest area of combat to which was several dozen kilometres away. All of the mosques and Catholic churches were destroyed. Some mosques were destroyed with explosives and the ruins were then levelled and the rubble thrown in the public dumps in order to eliminate any vestige of Muslim presence.

Aside from churches and mosques, other religious and cultural symbols like cemeteries and monasteries were targets of the attacks.” (*Karadžić and Mladić*, Review of the Indictment Pursuant to Rule 61 of the Rules of Procedure and Evidence, 11 July 1996, para. 15.)

In the *Brdanin* case, the Trial Chamber was “satisfied beyond reasonable doubt that there was wilful damage done to both Muslim and Roman Catholic religious buildings and institutions in the relevant municipalities by Bosnian Serb forces” (*Brdanin*, IT-99-36-T, Judgment, 1 September 2004, paras. 640 and 658). On the basis of the findings regarding a number of incidents in various regions of Bosnia and Herzegovina, the

Trial Chamber concluded that a “campaign of devastation of institutions dedicated to religion took place throughout the conflict” but “intensified in the summer of 1992” and that this concentrated period of significant damage was “indicative that the devastation was targeted, controlled and deliberate” (*Brđanin*, IT-99-36-T, paras. 642-657). For instance, the Trial Chamber found that the Bosanska Krupa town mosque was mined by Bosnian Serb forces in April 1992, that two mosques in Bosanski Petrovac were destroyed by Bosnian Serb forces in July 1992 and that the mosques in Staro Šipovo, Bešnjevo and Pljeva were destroyed on 7 August 1992 (*ibid.*, paras. 644, 647 and 656).

337. The Commission of Experts also found that religious monuments especially mosques and churches had been destroyed by Bosnian Serb forces (Report of the Commission of Experts, Vol. I, Ann. IV, pp. 5, 9, 21 ff.). In its report on the Prijedor region, the Commission found that at least five mosques and associated buildings in Prijedor town had been destroyed and noted that it was claimed that all 16 mosques in the Kozarac area had been destroyed and that not a single mosque, or other Muslim religious building, remained intact in the Prijedor region (Report of the Commission of Experts, Vol. I, Ann. V, p. 106). The report noted that those buildings were “allegedly not desecrated, damaged and destroyed for any military purpose nor as a side-effect of the military operations as such” but rather that the destruction “was due to later separate operations of dynamiting” (*ibid.*).

338. The Special Rapporteur found that, during the conflict, “many mosques, churches and other religious sites, including cemeteries and monasteries, have been destroyed or profaned” (Report of 17 November 1992, para. 26). He singled out the “systematic destruction and profanation of mosques and Catholic churches in areas currently or previously under [Bosnian Serb] control” (Report of 17 November 1992, para. 26).

339. Bosnia and Herzegovina called as an expert Mr. András Riedlmayer, who had carried out a field survey on the destruction of cultural heritage in 19 municipalities in Bosnia and Herzegovina for the Prosecutor of the ICTY in the *Milošević* case and had subsequently studied seven further municipalities in two other cases before the ICTY (“Destruction of Cultural Heritage in Bosnia and Herzegovina, 1992-1996: A Post-war Survey of Selected Municipalities”, *Milošević*, IT-02-54-T, Exhibit Number P486). In his report prepared for the *Milošević* case, Mr. Riedlmayer documented 392 sites, 60 per cent of which were inspected first hand while for the other 40 per cent his assessment was based on photographs and information obtained from other sources judged to be reliable and where there was corroborating documentation (Riedlmayer Report, p. 5).

340. The report compiled by Mr. Riedlmayer found that of the 277 mosques surveyed, none were undamaged and 136 were almost or entirely destroyed (Riedlmayer Report, pp. 9-10). The report found that:

“The damage to these monuments was clearly the result of attacks directed against them, rather than incidental to the fighting. Evidence of this includes signs of blast damage indicating explosives placed inside the mosques or inside the stairwells of minarets; many mosques [were] burnt out. In a number of towns, including Bijeljina, Janja (Bijeljina municipality), Foča, Banja Luka, Sanski Most, Zvornik and others, the destruction of mosques took place while the area was under the control of Serb forces, at times when there was no military action in the immediate vicinity.” (*Ibid.*, p. 11.)

The report also found that, following the destruction of mosques:

“the ruins [of the mosques] were razed and the sites levelled with heavy equipment, and all building materials were removed from the site . . . . Particularly well-documented instances of this practice include the destruction and razing of 5 mosques in the town of Bijeljina; of 2 mosques in the town of Janja (in Bijeljina municipality); of 12 mosques and 4 turbes in Banja Luka; and of 3 mosques in the city of Brčko.” (*Ibid.*, p. 12.)

Finally, the Report noted that the sites of razed mosques had been “turned into rubbish tips, bus stations, parking lots, automobile repair shops, or flea markets” (*ibid.*, p. 14), for example, a block of flats and shops had been erected on the site of the Zamlaz Mosque in Zvornik and a new Serbian Orthodox church was built on the site of the destroyed Divic Mosque (*ibid.*, p. 14).

341. Mr. Riedlmayer’s report together with his testimony before the Court and other corroborative sources detail the destruction of the cultural and religious heritage of the protected group in numerous locations in Bosnia and Herzegovina. For instance, according to the evidence before the Court, 12 of the 14 mosques in Mostar were destroyed or damaged and there are indications from the targeting of the minaret that the destruction or damage was deliberate (Council of Europe, *Information Report: The Destruction by War of the Cultural Heritage in Croatia and Bosnia-Herzegovina*, Parliamentary Assembly doc. 6756, 2 February 1993, paras. 129 and 155). In Foča, the town’s 14 historic mosques were allegedly destroyed by Serb forces. In Banja Luka, all 16 mosques were destroyed by Serb forces including the city’s two largest mosques,



the Ferhadija Mosque (built in 1578) and the Arnaudija Mosque (built in 1587) (United States Department of State, Bureau of Public Affairs, *Dispatch*, 26 July 1993, Vol. 4, No. 30, pp. 547-548; “War Crimes in Bosnia-Herzegovina: UN Cease-Fire Won’t Help Banja Luka”, Human Rights Watch/Helsinki Watch, June 1994, Vol. 6, No. 8, pp. 15-16; The Humanitarian Law Centre, *Spotlight Report*, No. 14, August 1994, pp. 143-144).

342. The Court notes that archives and libraries were also subjected to attacks during the war in Bosnia and Herzegovina. On 17 May 1992, the Institute for Oriental Studies in Sarajevo was bombarded with incendiary munitions and burnt, resulting in the loss of 200,000 documents including a collection of over 5,000 Islamic manuscripts (Riedlmayer Report, p. 18; Council of Europe, Parliamentary Assembly; Second Information Report on War Damage to the Cultural Heritage in Croatia and Bosnia-Herzegovina, doc. 6869, 17 June 1993, p. 11, Ann. 38). On 25 August 1992, Bosnia’s National Library was bombarded and an estimated 1.5 million volumes were destroyed (Riedlmayer Report, p. 19). The Court observes that, although the Respondent considers that there is no certainty as to who shelled these institutions, there is evidence that both the Institute for Oriental Studies in Sarajevo and the National Library were bombarded from Serb positions.

343. The Court notes that, in cross-examination of Mr. Riedlmayer, counsel for the Respondent pointed out that the municipalities included in Mr. Riedlmayer’s report only amounted to 25 per cent of the territory of Bosnia and Herzegovina. Counsel for the Respondent also called into question the methodology used by Mr. Riedlmayer in compiling his report. However, having closely examined Mr. Riedlmayer’s report and having listened to his testimony, the Court considers that Mr. Riedlmayer’s findings do constitute persuasive evidence as to the destruction of historical, cultural and religious heritage in Bosnia and Herzegovina albeit in a limited geographical area.

344. In light of the foregoing, the Court considers that there is conclusive evidence of the deliberate destruction of the historical, cultural and religious heritage of the protected group during the period in question. The Court takes note of the submission of the Applicant that the destruction of such heritage was “an essential part of the policy of ethnic purification” and was “an attempt to wipe out the traces of [the] very existence” of the Bosnian Muslims. However, in the Court’s view, the destruction of historical, cultural and religious heritage cannot be considered to constitute the deliberate infliction of conditions of life calculated to bring about the physical destruction of the group. Although such destruction may be highly significant inasmuch as it is directed to the elimination of all traces of the cultural or religious presence of a group,

and contrary to other legal norms, it does not fall within the categories of acts of genocide set out in Article II of the Convention. In this regard, the Court observes that, during its consideration of the draft text of the Convention, the Sixth Committee of the General Assembly decided not to include cultural genocide in the list of punishable acts. Moreover, the ILC subsequently confirmed this approach, stating that:

“As clearly shown by the preparatory work for the Convention . . . , the destruction in question is the material destruction of a group either by physical or by biological means, not the destruction of the national, linguistic, religious, cultural or other identity of a particular group.” (Report of the International Law Commission on the work of its Forty-eighth Session, *Yearbook of the International Law Commission* 1996, Vol. II, Part Two, pp. 45-46, para. 12.)

Furthermore, the ICTY took a similar view in the *Krstić* case, finding that even in customary law, “despite recent developments”, the definition of acts of genocide is limited to those seeking the physical or biological destruction of a group (*Krstić*, IT-98-33-T, Trial Chamber Judgment, 2 August 2001, para. 580). The Court concludes that the destruction of historical, religious and cultural heritage cannot be considered to be a genocidal act within the meaning of Article II of the Genocide Convention. At the same time, it also endorses the observation made in the *Krstić* case that “where there is physical or biological destruction there are often simultaneous attacks on the cultural and religious property and symbols of the targeted group as well, attacks which may legitimately be considered as evidence of an intent to physically destroy the group” (*ibid.*).

#### *Camps*

345. The Court notes that the Applicant has presented substantial evidence as to the conditions of life in the detention camps and much of this evidence has already been discussed in the sections regarding Articles II (a) and (b). The Court will briefly examine the evidence presented by the Applicant which relates specifically to the conditions of life in the principal camps.

##### (a) *Drina River Valley*

##### (i) *Sušica camp*

346. In the Sentencing Judgment in the case of Dragan Nikolić, the Commander of Sušica camp, the ICTY found that he subjected detainees to inhumane living conditions by depriving them of adequate food, water, medical care, sleeping and toilet facilities (*Nikolić*, IT-94-2-S, Sentencing Judgment, 18 December 2003, para. 69).

(ii) *Foča Kazneno-Popravni Dom camp*

347. In the *Krnojelac* case, the ICTY Trial Chamber made the following findings regarding the conditions at the camp:

“the non-Serb detainees were forced to endure brutal and inadequate living conditions while being detained at the KP Dom, as a result of which numerous individuals have suffered lasting physical and psychological problems. Non-Serbs were locked in their rooms or in solitary confinement at all times except for meals and work duty, and kept in overcrowded rooms even though the prison had not reached its capacity. Because of the overcrowding, not everyone had a bed or even a mattress, and there were insufficient blankets. Hygienic conditions were poor. Access to baths or showers, with no hot water, was irregular at best. There were insufficient hygienic products and toiletries. The rooms in which the non-Serbs were held did not have sufficient heating during the harsh winter of 1992. Heaters were deliberately not placed in the rooms, windowpanes were left broken and clothes made from blankets to combat the cold were confiscated. Non-Serb detainees were fed starvation rations leading to severe weight loss and other health problems. They were not allowed to receive visits after April 1992 and therefore could not supplement their meagre food rations and hygienic supplies”. (*Krnojelac*, IT-97-25-T, Judgment, 15 March 2002, para. 440.)

(b) *Prijedor*(i) *Omarska camp*

348. In the Trial Judgment in the *Kvočka et al.* case, the ICTY Trial Chamber provided the following description of the poor conditions in the Omarska camp based on the accounts of detainees:

“Detainees were kept in inhuman conditions and an atmosphere of extreme mental and physical violence pervaded the camp. Intimidation, extortion, beatings, and torture were customary practices. The arrival of new detainees, interrogations, mealtimes, and use of the toilet facilities provided recurrent opportunities for abuse. Outsiders entered the camp and were permitted to attack the detainees at random and at will . . .

. . . . .  
The Trial Chamber finds that the detainees received poor quality food that was often rotten or inedible, caused by the high temperatures and sporadic electricity during the summer of 1992. The food

was sorely inadequate in quantity. Former detainees testified of the acute hunger they suffered in the camp: most lost 25 to 35 kilograms in body weight during their time at Omarska; some lost considerably more.” (*Kvočka et al.*, IT-98-30/1-T, Trial Chamber Judgment, 2 November 2001, paras. 45 and 55.)

(ii) *Keraterm camp*

349. The *Stakić* Trial Judgment contained the following description of conditions in the Keraterm camp based on multiple witness accounts:

“The detainees slept on wooden pallets used for the transport of goods or on bare concrete in a big storage room. The conditions were cramped and people often had to sleep on top of each other. In June 1992, Room 1, which according to witness statements was slightly larger than Courtroom 2 of this Tribunal (98.6 m<sup>2</sup>), held 320 people and the number continued to grow. The detainees were given one meal a day, made up of two small slices of bread and some sort of stew. The rations were insufficient for the detainees. Although families tried to deliver food and clothing every day they rarely succeeded. The detainees could see their families walking to the camp and leaving empty-handed, so in all likelihood someone at the gates of the camp took the food and prevented it from being distributed to the detainees.” (*Stakić*, IT-97-24-T, Trial Chamber Judgment, 31 July 2003, para. 163.)

(iii) *Trnopolje camp*

350. With respect to the Trnopolje camp, the *Stakić* Trial Judgment described the conditions as follows, noting that they were slightly better than at Omarska and Keraterm:

“The detainees were provided with food at least once a day and, for some time, the families of detainees were allowed to bring food. However the quantity of food available was insufficient and people often went hungry. Moreover, the water supply was insufficient and the toilet facilities inadequate. The majority of the detainees slept in the open air. Some devised makeshift . . . shelters of blankets and plastic bags. While clearly inadequate, the conditions in the Trnopolje camp were not as appalling as those that prevailed in Omarska and Keraterm.” (*Ibid.*, para. 190.)

(c) *Banja Luka**Manjača camp*

351. According to ICTY Trial Chamber in the *Plavšić* Sentencing Judgment:

“the sanitary conditions in Manjača were ‘disastrous . . . inhuman and really brutal’: the concept of sanitation did not exist. The temperature inside was low, the inmates slept on the concrete floor and they relieved themselves in the compound or in a bucket placed by the door at night. There was not enough water, and any water that became available was contaminated. In the first three months of Adil Draganović’s detention, Manjača was a ‘camp of hunger’ and when there was food available, it was of a very poor quality. The inmates were given two small meals per day, which usually consisted of half a cup of warm tea, which was more like warm water, and a small piece of thin, ‘transparent’ bread. Between two and a half thousand men there were only 90 loaves of bread, with each loaf divided into 20 or 40 pieces. Most inmates lost between 20 and 30 kilograms of body weight while they were detained at Manjača. The witness believes that had the ICRC and UNHCR not arrived, the inmates would have died of starvation.” (*Plavšić*, IT-00-39-S and 40/1-S, Sentencing Judgment, 27 February 2003, para. 48.)

(d) *Bosanski Šamac*

352. In its Judgment in the *Simić* case, the Trial Chamber made the following findings:

“the detainees who were imprisoned in the detention centres in Bosanski Šamac were confined under inhumane conditions. The prisoners were subjected to humiliation and degradation. The forced singing of ‘Chetnik’ songs and the verbal abuse of being called ‘ustasha’ or ‘balija’ were forms of such abuse and humiliation of the detainees. They did not have sufficient space, food or water. They suffered from unhygienic conditions, and they did not have appropriate access to medical care. These appalling detention conditions, the cruel and inhumane treatment through beatings and the acts of torture caused severe physical suffering, thus attacking the very fundamentals of human dignity . . . This was done because of the non-Serb ethnicity of the detainees.” (*Simić*, IT-95-9-T, Judgment, 17 October 2003, para. 773.)

353. The Respondent does not deny that the camps in Bosnia and Herzegovina were in breach of humanitarian law and, in most cases, in breach of the law of war. However, it notes that, although a number of

detention camps run by the Serbs in Bosnia and Herzegovina were the subject of investigation and trials at the ICTY, no conviction for genocide was handed down on account of any criminal acts committed in those camps. With specific reference to the Manjača camp, the Respondent points out that the Special Envoy of the United Nations Secretary-General visited the camp in 1992 and found that it was being run correctly and that a Muslim humanitarian organization also visited the camp and found that “material conditions were poor, especially concerning hygiene [b]ut there were no signs of maltreatment or execution of prisoners”.

354. On the basis of the elements presented to it, the Court considers that there is convincing and persuasive evidence that terrible conditions were inflicted upon detainees of the camps. However, the evidence presented has not enabled the Court to find that those acts were accompanied by specific intent (*dolus specialis*) to destroy the protected group, in whole or in part. In this regard, the Court observes that, in none of the ICTY cases concerning camps cited above, has the Tribunal found that the accused acted with such specific intent (*dolus specialis*).

\* \*

(8) *Article II (d): Imposing Measures to Prevent Births within the Protected Group*

355. The Applicant invoked several arguments to show that measures were imposed to prevent births, contrary to the provision of Article II, paragraph (d), of the Genocide Convention. First, the Applicant claimed that the

“forced separation of male and female Muslims in Bosnia and Herzegovina, as systematically practised when various municipalities were occupied by the Serb forces . . . in all probability entailed a decline in the birth rate of the group, given the lack of physical contact over many months”.

The Court notes that no evidence was provided in support of this statement.

356. Secondly, the Applicant submitted that rape and sexual violence against women led to physical trauma which interfered with victims’ reproductive functions and in some cases resulted in infertility. However, the only evidence adduced by the Applicant was the indictment in the *Gagović* case before the ICTY in which the Prosecutor stated that one witness could no longer give birth to children as a result of the sexual abuse she suffered (*Gagović et al.*, IT-96-23-I, Initial Indictment, 26 June 1996, para. 7.10). In the Court’s view, an indictment by the Prosecutor

does not constitute persuasive evidence (see paragraph 217 above). Moreover, it notes that the *Gagović* case did not proceed to trial due to the death of the accused.

357. Thirdly, the Applicant referred to sexual violence against men which prevented them from procreating subsequently. In support of this assertion, the Applicant noted that, in the *Tadić* case, the Trial Chamber found that, in Omarska camp, the prison guards forced one Bosnian Muslim man to bite off the testicles of another Bosnian Muslim man (*Tadić*, IT-94-1-T, Judgment, 7 May 1997, para. 198). The Applicant also cited a report in the newspaper, *Le Monde*, on a study by the World Health Organization and the European Union on sexual assaults on men during the conflict in Bosnia and Herzegovina, which alleged that sexual violence against men was practically always accompanied by threats to the effect that the victim would no longer produce Muslim children. The article in *Le Monde* also referred to a statement by the President of a non-governmental organization called the Medical Centre for Human Rights to the effect that approximately 5,000 non-Serb men were the victims of sexual violence. However, the Court notes that the article in *Le Monde* is only a secondary source. Moreover, the results of the World Health Organization and European Union study were only preliminary, and there is no indication as to how the Medical Centre for Human Rights arrived at the figure of 5,000 male victims of sexual violence.

358. Fourthly, the Applicant argued that rape and sexual violence against men and women led to psychological trauma which prevented victims from forming relationships and founding a family. In this regard, the Applicant noted that in the *Akayesu* case, the ICTR considered that “rape can be a measure intended to prevent births when the person raped refuses subsequently to procreate” (*Akayesu*, ICTR-96-4-T, Trial Chamber Judgment, 2 September 1998, para. 508). However, the Court notes that the Applicant presented no evidence that this was the case for women in Bosnia and Herzegovina.

359. Fifthly, the Applicant considered that Bosnian Muslim women who suffered sexual violence might be rejected by their husbands or not be able to find a husband. Again, the Court notes that no evidence was presented in support of this statement.

360. The Respondent considers that the Applicant “alleges no fact, puts forward no serious argument, and submits no evidence” for its allegations that rapes were committed in order to prevent births within a group and notes that the Applicant’s contention that there was a decline in births within the protected group is not supported by any evidence concerning the birth rate in Bosnia and Herzegovina either before or after the war.

361. Having carefully examined the arguments of the Parties, the Court finds that the evidence placed before it by the Applicant does not enable it to conclude that Bosnian Serb forces committed acts which could be qualified as imposing measures to prevent births in the protected group within the meaning of Article II (d) of the Convention.

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(9) *Article II (e): Forcibly Transferring Children of the Protected Group to Another Group*

362. The Applicant claims that rape was used “as a way of affecting the demographic balance by impregnating Muslim women with the sperm of Serb males” or, in other words, as “procreative rape”. The Applicant argues that children born as a result of these “forced pregnancies” would not be considered to be part of the protected group and considers that the intent of the perpetrators was to transfer the unborn children to the group of Bosnian Serbs.

363. As evidence for this claim, the Applicant referred to a number of sources including the following. In the indictment in the *Gagović et al.* case, the Prosecutor alleged that one of the witnesses was raped by two Bosnian Serb soldiers and that “[b]oth perpetrators told her that she would now give birth to Serb babies” (*Gagović et al.*, IT-96-23-I, Initial Indictment, 26 June 1996, para. 9.3). However, as in paragraph 356 above, the Court notes that an indictment cannot constitute persuasive evidence for the purposes of the case now before it and that the *Gagović* case did not proceed to trial. The Applicant further referred to the Report of the Commission of Experts which stated that one woman had been detained and raped daily by three or four soldiers and that “[s]he was told that she would give birth to a chetnik boy” (Report of the Commission of Experts, Vol. I, p. 59, para. 248).

364. The Applicant also cited the Review of the Indictment in the *Karadžić and Mladić* cases in which the Trial Chamber stated that “[s]ome camps were specially devoted to rape, with the aim of forcing the birth of Serbian offspring, the women often being interned until it was too late to undergo an abortion” and that “[i]t would seem that the aim of many rapes was enforced impregnation” (*Karadžić and Mladić*, IT-95-5-R61 and IT-95-18-R61, Review of the Indictment pursuant to Rule 61 of the Rules of Procedure and Evidence, 11 July 1996, para. 64). However, the Court notes that this finding of the Trial Chamber was based only on the testimony of one *amicus curiae* and on the above-mentioned incident reported by the Commission of Experts (*ibid.*, para. 64, footnote 154).



365. Finally, the Applicant noted that in the *Kunarac* case, the ICTY Trial Chamber found that, after raping one of the witnesses, the accused had told her that “she would now carry a Serb baby and would not know who the father would be” (*Kunarac et al.* cases, Nos. IT-96-23-T and IT-96-23/1-T, Judgment, 22 February 2001, para. 583).

366. The Respondent points out that Muslim women who had been raped gave birth to their babies in Muslim territory and consequently the babies would have been brought up not by Serbs but, on the contrary, by Muslims. Therefore, in its view, it cannot be claimed that the children were transferred from one group to the other.

367. The Court, on the basis of the foregoing elements, finds that the evidence placed before it by the Applicant does not establish that there was any form of policy of forced pregnancy, nor that there was any aim to transfer children of the protected group to another group within the meaning of Article II (*e*) of the Convention.

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*(10) Alleged Genocide outside Bosnia and Herzegovina*

368. In the submissions in its Reply, the Applicant has claimed that the Respondent has violated its obligations under the Genocide Convention “by destroying in part, and attempting to destroy in whole, national, ethnical or religious groups within the, *but not limited to* the, territory of Bosnia and Herzegovina, including in particular the Muslim population . . .” (emphasis added). The Applicant devoted a section in its Reply to the contention that acts of genocide, for which the Respondent was allegedly responsible, also took place on the territory of the FRY; these acts were similar to those perpetrated on Bosnian territory, and the constituent elements of “ethnic cleansing as a policy” were also found in the territory of the FRY. This question of genocide committed within the FRY was not actively pursued by the Applicant in the course of the oral argument before the Court; however, the submission quoted above was maintained in the final submissions presented at the hearings, and the Court must therefore address it. It was claimed by the Applicant that the genocidal policy was aimed not only at citizens of Bosnia and Herzegovina, but also at Albanians, Sandžak Muslims, Croats, Hungarians and other minorities; however, the Applicant has not established to the satisfaction of the Court any facts in support of that allegation. The Court has already found (paragraph 196 above) that, for purposes of establishing genocide, the targeted group must be defined positively, and not as a “non-Serb” group.

369. The Applicant has not in its arguments dealt separately with the question of the nature of the specific intent (*dolus specialis*) alleged to accompany the acts in the FRY complained of. It does not appear to be

contending that actions attributable to the Respondent, and committed on the territory of the FRY, were accompanied by a specific intent (*dolus specialis*), peculiar to or limited to that territory, in the sense that the objective was to eliminate the presence of non-Serbs in the FRY itself. The Court finds in any event that the evidence offered does not in any way support such a contention. What the Applicant has sought to do is to convince the Court of a pattern of acts said to evidence specific intent (*dolus specialis*) inspiring the actions of Serb forces in Bosnia and Herzegovina, involving the destruction of the Bosnian Muslims in that territory; and that same pattern lay, it is contended, behind the treatment of Bosnian Muslims in the camps established in the FRY, so that that treatment supports the pattern thesis. The Applicant has emphasized that the same treatment was meted out to those Bosnian Muslims as was inflicted on their compatriots in Bosnia and Herzegovina. The Court will thus now turn to the question whether the specific intent (*dolus specialis*) can be deduced, as contended by the Applicant, from the pattern of actions against the Bosnian Muslims taken as a whole.

\* \* \*

(11) *The Question of Pattern of Acts Said to Evidence an Intent to Commit Genocide*

370. In the light of its review of the factual evidence before it of the atrocities committed in Bosnia and Herzegovina in 1991-1995, the Court has concluded that, save for the events of July 1995 at Srebrenica, the necessary intent required to constitute genocide has not been conclusively shown in relation to each specific incident. The Applicant however relies on the alleged existence of an overall plan to commit genocide, indicated by the pattern of genocidal or potentially acts of genocide committed throughout the territory, against persons identified everywhere and in each case on the basis of their belonging to a specified group. In the case, for example, of the conduct of Serbs in the various camps (described in paragraphs 252-256, 262-273, 307-310 and 312-318 above), it suggests that “[t]he genocidal intent of the Serbs becomes particularly clear in the description of camp practices, due to their striking similarity all over the territory of Bosnia and Herzegovina”. Drawing attention to the similarities between actions attributed to the Serbs in Croatia, and the later events at, for example, Kosovo, the Applicant observed that

“it is not surprising that the picture of the takeovers and the following human and cultural destruction looks indeed similar from 1991

through 1999. These acts were perpetrated as the expression of one single project, which basically and effectively included the destruction in whole or in part of the non-Serb group, wherever this ethnically and religiously defined group could be conceived as obstructing the all-Serbs-in-one-State group concept.”

371. The Court notes that this argument of the Applicant moves from the intent of the individual perpetrators of the alleged acts of genocide complained of to the intent of higher authority, whether within the VRS or the Republika Srpska, or at the level of the Government of the Respondent itself. In the absence of an official statement of aims reflecting such an intent, the Applicant contends that the specific intent (*dolus specialis*) of those directing the course of events is clear from the consistency of practices, particularly in the camps, showing that the pattern was of acts committed “within an organized institutional framework”. However, something approaching an official statement of an overall plan is, the Applicant contends, to be found in the Decision on Strategic Goals issued on 12 May 1992 by Momčilo Krajišnik as the President of the National Assembly of Republika Srpska, published in the *Official Gazette* of the Republika Srpska, and the Court will first consider what significance that Decision may have in this context. The English translation of the Strategic Goals presented by the Parties during the hearings, taken from the Report of Expert Witness Donia in the *Milošević* case before the ICTY, Exhibit No. 537, reads as follows:

“DECISION ON THE STRATEGIC GOALS OF THE SERBIAN PEOPLE  
IN BOSNIA AND HERZEGOVINA

The Strategic Goals, i.e., the priorities, of the Serbian people in Bosnia and Herzegovina are:

1. Separation as a state from the other two ethnic communities.
2. A corridor between Semberija and Krajina.
3. The establishment of a corridor in the Drina River valley, i.e., the elimination of the border between Serbian states.
4. The establishment of a border on the Una and Neretva rivers.
5. The division of the city of Sarajevo into a Serbian part and a Muslim part, and the establishment of effective state authorities within each part.
6. An outlet to the sea for the Republika Srpska.”

While the Court notes that this document did not emanate from the Government of the Respondent, evidence before the Court of intercepted exchanges between President Milošević of Serbia and President Karadžić of the Republika Srpska is sufficient to show that the objectives defined represented their joint view.

372. The Parties have drawn the Court's attention to statements in the Assembly by President Karadžić which appear to give conflicting interpretations of the first and major goal of these objectives, the first on the day they were adopted, the second two years later. On that first occasion, the Applicant contended, he said: "It would be much better to solve this situation by political means. It would be best if a truce could be established right away and the borders set up, even if we lose something." Two years later he said (according to the translation of his speech supplied by the Applicant):

"We certainly know that we must give up something — that is beyond doubt in so far as we want to achieve our first strategic goal: to drive our enemies by the force of war from their homes, that is the Croats and Muslims, so that we will no longer be together [with them] in a State."

The Respondent disputes the accuracy of the translation, claiming that the stated goal was not "to drive our enemies by the force of war from their homes" but "to free the homes from the enemy". The 1992 objectives do not include the elimination of the Bosnian Muslim population. The 1994 statement even on the basis of the Applicant's translation, however shocking a statement, does not necessarily involve the intent to destroy in whole or in part the Muslim population in the enclaves. The Applicant's argument does not come to terms with the fact that an essential motive of much of the Bosnian Serb leadership — to create a larger Serb State, by a war of conquest if necessary — did not necessarily require the destruction of the Bosnian Muslims and other communities, but their expulsion. The 1992 objectives, particularly the first one, were capable of being achieved by the displacement of the population and by territory being acquired, actions which the Respondent accepted (in the latter case at least) as being unlawful since they would be at variance with the inviolability of borders and the territorial integrity of a State which had just been recognized internationally. It is significant that in cases in which the Prosecutor has put the Strategic Goals in issue, the ICTY has not characterized them as genocidal (see *Brdanin*, IT-99-36-T, Trial Chamber Judgment, 1 September 2004, para. 303, and *Stakić*, IT-97-24-T, Trial Chamber Judgment, 31 July 2003, paras. 546-561 (in particular para. 548)). The Court does not see the 1992 Strategic Goals as establishing the specific intent.

373. Turning now to the Applicant's contention that the very pattern of the atrocities committed over many communities, over a lengthy period, focused on Bosnian Muslims and also Croats, demonstrates the necessary intent, the Court cannot agree with such a broad proposition. The *dolus specialis*, the specific intent to destroy the group in whole or in part, has to be convincingly shown by reference to particular circumstances, unless a general plan to that end can be convincingly demon-

strated to exist; and for a pattern of conduct to be accepted as evidence of its existence, it would have to be such that it could only point to the existence of such intent.

374. Furthermore, and again significantly, the proposition is not consistent with the findings of the ICTY relating to genocide or with the actions of the Prosecutor, including decisions not to charge genocide offences in possibly relevant indictments, and to enter into plea agreements, as in the *Plavšić* and *Sikirica et al.* cases (IT-00-40 and IT-95-8), by which the genocide-related charges were withdrawn. Those actions of the Prosecution and the Tribunal can be conveniently enumerated here. Prosecutions for genocide and related crimes before the ICTY can be grouped in the following way:

- (a) convictions in respect of charges involving genocide relating to Srebrenica in July 1995: *Krstić* (IT-98-33) (conviction of genocide at trial was reduced to aiding and abetting genocide on appeal) and *Blagojević* (IT-02-60) (conviction of complicity in genocide “through aiding and abetting” at trial is currently on appeal);
- (b) plea agreements in which such charges were withdrawn, with the accused pleading guilty to crimes against humanity: *Obrenović* (IT-02-60/2) and *Momir Nikolić* (IT-02-60/1);
- (c) acquittals on genocide-related charges in respect of events occurring elsewhere: *Krajišnik* (paragraph 219 above) (on appeal), *Jelisić* (IT-95-10) (completed), *Stakić* (IT-97-24) (completed), *Brđanin* (IT-99-36) (on appeal) and *Sikirica* (IT-95-8) (completed);
- (d) cases in which genocide-related charges in respect of events occurring elsewhere were withdrawn: *Plavšić* (IT-00-39 and 40/1) (plea agreement), *Župljanin* (IT-99-36) (genocide-related charges withdrawn) and *Mejakić* (IT-95-4) (genocide-related charges withdrawn);
- (e) case in which the indictment charged genocide and related crimes in Srebrenica and elsewhere in which the accused died during the proceedings: *Milošević* (IT-02-54);
- (f) cases in which indictments charge genocide or related crimes in respect of events occurring elsewhere, in which accused have died before or during proceedings: *Kovačević and Drljača* (IT-97-24) and *Talić* (IT-99-36/1);
- (g) pending cases in which the indictments charge genocide and related crimes in Srebrenica and elsewhere: *Karadžić and Mladić* (IT-95-5/18); and

- (h) pending cases in which the indictments charge genocide and related crimes in Srebrenica: *Popović, Beara, Drago Nikolić, Borovčanin, Pandurević and Trbić* (IT-05-88/1) and *Tolimir* (IT-05-88/2).

375. In the cases of a number of accused, relating to events in July 1995 in Srebrenica, charges of genocide or its related acts have not been brought: *Erdemović* (IT-96-22) (completed), *Jokić* (IT-02-60) (on appeal), *Miletić and Gvero* (IT-05-88, part of the *Popović et al.* proceeding referred to in paragraph 374 (h) above), *Perišić* (IT-04-81) (pending) and *Stanišić and Simatović* (IT-03-69) (pending).

376. The Court has already concluded above that — save in the case of Srebrenica — the Applicant has not established that any of the widespread and serious atrocities, complained of as constituting violations of Article II, paragraphs (a) to (e), of the Genocide Convention, were accompanied by the necessary specific intent (*dolus specialis*) on the part of the perpetrators. It also finds that the Applicant has not established the existence of that intent on the part of the Respondent, either on the basis of a concerted plan, or on the basis that the events reviewed above reveal a consistent pattern of conduct which could only point to the existence of such intent. Having however concluded (paragraph 297 above), in the specific case of the massacres at Srebrenica in July 1995, that acts of genocide were committed in operations led by members of the VRS, the Court now turns to the question whether those acts are attributable to the Respondent.

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#### VII. THE QUESTION OF RESPONSIBILITY FOR EVENTS AT SREBRENICA UNDER ARTICLE III, PARAGRAPH (a), OF THE GENOCIDE CONVENTION

##### (1) *The Alleged Admission*

377. The Court first notes that the Applicant contends that the Respondent has in fact recognized that genocide was committed at Srebrenica, and has accepted legal responsibility for it. The Applicant called attention to the following official declaration made by the Council of Ministers of the Respondent on 15 June 2005, following the showing on a Belgrade television channel on 2 June 2005 of a video-recording of the murder by a paramilitary unit of six Bosnian Muslim prisoners near Srebrenica (paragraph 289 above). The statement reads as follows:

“Those who committed the killings in Srebrenica, as well as those who ordered and organized that massacre represented neither Serbia

nor Montenegro, but an undemocratic regime of terror and death, against whom the majority of citizens of Serbia and Montenegro put up the strongest resistance.

Our condemnation of crimes in Srebrenica does not end with the direct perpetrators. We demand the criminal responsibility of all who committed war crimes, organized them or ordered them, and not only in Srebrenica.

Criminals must not be heroes. Any protection of the war criminals, for whatever reason, is also a crime.”

The Applicant requests the Court to declare that this declaration “be regarded as a form of admission and as having decisive probative force regarding the attributability to the Yugoslav State of the Srebrenica massacre”.

378. It is for the Court to determine whether the Respondent is responsible for any acts of genocide which may be established. For purposes of a finding of this kind the Court may take into account any statements made by either party that appear to bear upon the matters in issue, and have been brought to its attention (cf. *Nuclear Tests (Australia v. France)*, Judgment, I.C.J. Reports 1974, pp. 263 ff., paras. 32 ff., and *Nuclear Tests (New Zealand v. France)*, Judgment, I.C.J. Reports 1974, pp. 465 ff., paras. 27 ff.; *Frontier Dispute (Burkina Faso/Republic of Mali)*, Judgment, I.C.J. Reports 1986, pp. 573-574, paras. 38-39), and may accord to them such legal effect as may be appropriate. However, in the present case, it appears to the Court that the declaration of 15 June 2005 was of a political nature; it was clearly not intended as an admission, which would have had a legal effect in complete contradiction to the submissions made by the Respondent before this Court, both at the time of the declaration and subsequently. The Court therefore does not find the statement of 15 June 2005 of assistance to it in determining the issues before it in the case.

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## (2) *The Test of Responsibility*

379. In view of the foregoing conclusions, the Court now must ascertain whether the international responsibility of the Respondent can have been incurred, on whatever basis, in connection with the massacres committed in the Srebrenica area during the period in question. For the reasons set out above, those massacres constituted the crime of genocide within the meaning of the Convention. For this purpose, the Court may be required to consider the following three issues in turn. First, it needs to be determined whether the acts of genocide could be attributed to the Respondent under the rules of customary international law of State responsibility; this means ascertaining whether the acts were committed by persons or organs whose conduct is attributable, specifically in the case of the events at Srebrenica, to the Respondent. Second, the Court

will need to ascertain whether acts of the kind referred to in Article III of the Convention, other than genocide itself, were committed by persons or organs whose conduct is attributable to the Respondent under those same rules of State responsibility: that is to say, the acts referred to in Article III, paragraphs *(b)* to *(e)*, one of these being complicity in genocide. Finally, it will be for the Court to rule on the issue as to whether the Respondent complied with its twofold obligation deriving from Article I of the Convention to prevent and punish genocide.

380. These three issues must be addressed in the order set out above, because they are so interrelated that the answer on one point may affect the relevance or significance of the others. Thus, if and to the extent that consideration of the first issue were to lead to the conclusion that some acts of genocide are attributable to the Respondent, it would be unnecessary to determine whether it may also have incurred responsibility under Article III, paragraphs *(b)* to *(e)*, of the Convention for the same acts. Even though it is theoretically possible for the same acts to result in the attribution to a State of acts of genocide (contemplated by Art. III, para. *(a)*), conspiracy to commit genocide (Art. III, para. *(b)*), and direct and public incitement to commit genocide (Art. III, para. *(c)*), there would be little point, where the requirements for attribution are fulfilled under *(a)*, in making a judicial finding that they are also satisfied under *(b)* and *(c)*, since responsibility under *(a)* absorbs that under the other two. The idea of holding the same State responsible by attributing to it acts of “genocide” (Art. III, para. *(a)*), “attempt to commit genocide” (Art. III, para. *(d)*), and “complicity in genocide” (Art. III, para. *(e)*), in relation to the same actions, must be rejected as untenable both logically and legally.

381. On the other hand, there is no doubt that a finding by the Court that no acts that constitute genocide, within the meaning of Article II and Article III, paragraph *(a)*, of the Convention, can be attributed to the Respondent will not free the Court from the obligation to determine whether the Respondent’s responsibility may nevertheless have been incurred through the attribution to it of the acts, or some of the acts, referred to in Article III, paragraphs *(b)* to *(e)*. In particular, it is clear that acts of complicity in genocide can be attributed to a State to which no act of genocide could be attributed under the rules of State responsibility, the content of which will be considered below.

382. Furthermore, the question whether the Respondent has complied with its obligations to prevent and punish genocide arises in different terms, depending on the replies to the two preceding questions. It is only if the Court answers the first two questions in the negative that it will have to consider whether the Respondent fulfilled its obligation of pre-



vention, in relation to the whole accumulation of facts constituting genocide. If a State is held responsible for an act of genocide (because it was committed by a person or organ whose conduct is attributable to the State), or for one of the other acts referred to in Article III of the Convention (for the same reason), then there is no point in asking whether it complied with its obligation of prevention in respect of the same acts, because logic dictates that a State cannot have satisfied an obligation to prevent genocide in which it actively participated. On the other hand, it is self-evident, as the Parties recognize, that if a State is not responsible for any of the acts referred to in Article III, paragraphs (*a*) to (*e*), of the Convention, this does not mean that its responsibility cannot be sought for a violation of the obligation to prevent genocide and the other acts referred to in Article III.

383. Finally, it should be made clear that, while, as noted above, a State's responsibility deriving from any of those acts renders moot the question whether it satisfied its obligation of prevention in respect of the same conduct, it does not necessarily render superfluous the question whether the State complied with its obligation to punish the perpetrators of the acts in question. It is perfectly possible for a State to incur responsibility at once for an act of genocide (or complicity in genocide, incitement to commit genocide, or any of the other acts enumerated in Article III) committed by a person or organ whose conduct is attributable to it, and for the breach by the State of its obligation to punish the perpetrator of the act: these are two distinct internationally wrongful acts attributable to the State, and both can be asserted against it as bases for its international responsibility.

384. Having thus explained the interrelationship among the three issues set out above (paragraph 379), the Court will now proceed to consider the first of them. This is the question whether the massacres committed at Srebrenica during the period in question, which constitute the crime of genocide within the meaning of Articles II and III, paragraph (*a*), of the Convention, are attributable, in whole or in part, to the Respondent. This question has in fact two aspects, which the Court must consider separately. First, it should be ascertained whether the acts committed at Srebrenica were perpetrated by organs of the Respondent, i.e., by persons or entities whose conduct is necessarily attributable to it, because they are in fact the instruments of its action. Next, if the preceding question is answered in the negative, it should be ascertained whether the acts in question were committed by persons who, while not organs of the Respondent, did nevertheless act on the instructions of, or under the direction or control of, the Respondent.

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(3) *The Question of Attribution of the Srebrenica Genocide to the Respondent on the Basis of the Conduct of Its Organs*

385. The first of these two questions relates to the well-established rule, one of the cornerstones of the law of State responsibility, that the conduct of any State organ is to be considered an act of the State under international law, and therefore gives rise to the responsibility of the State if it constitutes a breach of an international obligation of the State. This rule, which is one of customary international law, is reflected in Article 4 of the ILC Articles on State Responsibility as follows:

“Article 4

*Conduct of organs of a State*

1. The conduct of any State organ shall be considered an act of that State under international law, whether the organ exercises legislative, executive, judicial or any other functions, whatever position it holds in the organization of the State, and whatever its character as an organ of the central Government or of a territorial unit of the State.

2. An organ includes any person or entity which has that status in accordance with the internal law of the State.”

386. When applied to the present case, this rule first calls for a determination whether the acts of genocide committed in Srebrenica were perpetrated by “persons or entities” having the status of organs of the Federal Republic of Yugoslavia (as the Respondent was known at the time) under its internal law, as then in force. It must be said that there is nothing which could justify an affirmative response to this question. It has not been shown that the FRY army took part in the massacres, nor that the political leaders of the FRY had a hand in preparing, planning or in any way carrying out the massacres. It is true that there is much evidence of direct or indirect participation by the official army of the FRY, along with the Bosnian Serb armed forces, in military operations in Bosnia and Herzegovina in the years prior to the events at Srebrenica. That participation was repeatedly condemned by the political organs of the United Nations, which demanded that the FRY put an end to it (see, for example, Security Council resolutions 752 (1992), 757 (1992), 762 (1992), 819 (1993), 838 (1993)). It has however not been shown that there was any such participation in relation to the massacres committed at Srebrenica (see also paragraphs 278 to 297 above). Further, neither the Republika Srpska, nor the VRS were *de jure* organs of the FRY, since none of them had the status of organ of that State under its internal law.

387. The Applicant has however claimed that all officers in the VRS, including General Mladić, remained under FRY military administration, and that their salaries were paid from Belgrade right up to 2002, and

accordingly contends that these officers “were *de jure* organs of [the FRY], intended by their superiors to serve in Bosnia and Herzegovina with the VRS”. On this basis it has been alleged by the Applicant that those officers, in addition to being officers of the VRS, remained officers of the VJ, and were thus *de jure* organs of the Respondent (paragraph 238 above). The Respondent however asserts that only some of the VRS officers were being “administered” by the 30th Personnel Centre in Belgrade, so that matters like their payment, promotion, pension, etc., were being handled from the FRY (paragraph 238 above); and that it has not been clearly established whether General Mladić was one of them. The Applicant has shown that the promotion of Mladić to the rank of Colonel General on 24 June 1994 was handled in Belgrade, but the Respondent emphasizes that this was merely a verification for administrative purposes of a promotion decided by the authorities of the Republika Srpska.

388. The Court notes first that no evidence has been presented that either General Mladić or any of the other officers whose affairs were handled by the 30th Personnel Centre were, according to the internal law of the Respondent, officers of the army of the Respondent — a *de jure* organ of the Respondent. Nor has it been conclusively established that General Mladić was one of those officers; and even on the basis that he might have been, the Court does not consider that he would, for that reason alone, have to be treated as an organ of the FRY for the purposes of the application of the rules of State responsibility. There is no doubt that the FRY was providing substantial support, *inter alia*, financial support, to the Republika Srpska (cf. paragraph 241 above), and that one of the forms that support took was payment of salaries and other benefits to some officers of the VRS, but this did not automatically make them organs of the FRY. Those officers were appointed to their commands by the President of the Republika Srpska, and were subordinated to the political leadership of the Republika Srpska. In the absence of evidence to the contrary, those officers must be taken to have received their orders from the Republika Srpska or the VRS, not from the FRY. The expression “State organ”, as used in customary international law and in Article 4 of the ILC Articles, applies to one or other of the individual or collective entities which make up the organization of the State and act on its behalf (cf. ILC Commentary to Art. 4, para. (1)). The functions of the VRS officers, including General Mladić, were however to act on behalf of the Bosnian Serb authorities, in particular the Republika Srpska, not on behalf of the FRY; they exercised elements of the public authority of the Republika Srpska. The particular situation of General Mladić, or of any other VRS officer present at Srebrenica who may have been being “administered” from Belgrade, is not therefore such as to lead the Court to modify the conclusion reached in the previous paragraph.

389. The issue also arises as to whether the Respondent might bear responsibility for the acts of the “Scorpions” in the Srebrenica area. In this connection, the Court will consider whether it has been proved that the Scorpions were a *de jure* organ of the Respondent. It is in dispute between the Parties as to when the “Scorpions” became incorporated into the forces of the Respondent. The Applicant has claimed that incorporation occurred by a decree of 1991 (which has not been produced as an Annex). The Respondent states that “these regulations [were] relevant exclusively for the war in Croatia in 1991” and that there is no evidence that they remained in force in 1992 in Bosnia and Herzegovina. The Court observes that, while the single State of Yugoslavia was disintegrating at that time, it is the status of the “Scorpions” in mid-1995 that is of relevance to the present case. In two of the intercepted documents presented by the Applicant (the authenticity of which was queried — see paragraph 289 above), there is reference to the “Scorpions” as “MUP of Serbia” and “a unit of Ministry of Interiors of Serbia”. The Respondent identified the senders of these communications, Ljubiša Borovčanin and Savo Cvjetinović, as being “officials of the police forces of Republika Srpska”. The Court observes that neither of these communications was addressed to Belgrade. Judging on the basis of these materials, the Court is unable to find that the “Scorpions” were, in mid-1995, *de jure* organs of the Respondent. Furthermore, the Court notes that in any event the act of an organ placed by a State at the disposal of another public authority shall not be considered an act of that State if the organ was acting on behalf of the public authority at whose disposal it had been placed.

390. The argument of the Applicant however goes beyond mere contemplation of the status, under the Respondent’s internal law, of the persons who committed the acts of genocide; it argues that Republika Srpska and the VRS, as well as the paramilitary militias known as the “Scorpions”, the “Red Berets”, the “Tigers” and the “White Eagles” must be deemed, notwithstanding their apparent status, to have been “*de facto* organs” of the FRY, in particular at the time in question, so that all of their acts, and specifically the massacres at Srebrenica, must be considered attributable to the FRY, just as if they had been organs of that State under its internal law; reality must prevail over appearances. The Respondent rejects this contention, and maintains that these were not *de facto* organs of the FRY.

391. The first issue raised by this argument is whether it is possible in principle to attribute to a State conduct of persons — or groups of persons — who, while they do not have the legal status of State organs, in fact act under such strict control by the State that they must be treated as its organs for purposes of the necessary attribution leading to the State’s responsibility for an internationally wrongful act. The Court has in fact already addressed this question, and given an answer to it in principle, in

its Judgment of 27 June 1986 in the case concerning *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua v. United States of America*) (*Merits, Judgment, I.C.J. Reports 1986*, pp. 62-64). In paragraph 109 of that Judgment the Court stated that it had to

“determine . . . whether or not the relationship of the *contras* to the United States Government was so much one of dependence on the one side and control on the other that it would be right to equate the *contras*, for legal purposes, with an organ of the United States Government, or as acting on behalf of that Government” (p. 62).

Then, examining the facts in the light of the information in its possession, the Court observed that “there is no clear evidence of the United States having actually exercised such a degree of control in all fields as to justify treating the *contras* as acting on its behalf” (para. 109), and went on to conclude that “the evidence available to the Court . . . is insufficient to demonstrate [the *contras*] complete dependence on United States aid”, so that the Court was “unable to determine that the *contra* force may be equated for legal purposes with the forces of the United States” (pp. 62-63, para. 110).

392. The passages quoted show that, according to the Court’s jurisprudence, persons, groups of persons or entities may, for purposes of international responsibility, be equated with State organs even if that status does not follow from internal law, provided that in fact the persons, groups or entities act in “complete dependence” on the State, of which they are ultimately merely the instrument. In such a case, it is appropriate to look beyond legal status alone, in order to grasp the reality of the relationship between the person taking action, and the State to which he is so closely attached as to appear to be nothing more than its agent: any other solution would allow States to escape their international responsibility by choosing to act through persons or entities whose supposed independence would be purely fictitious.

393. However, so to equate persons or entities with State organs when they do not have that status under internal law must be exceptional, for it requires proof of a particularly great degree of State control over them, a relationship which the Court’s Judgment quoted above expressly described as “complete dependence”. It remains to be determined in the present case whether, at the time in question, the persons or entities that committed the acts of genocide at Srebrenica had such ties with the FRY that they can be deemed to have been completely dependent on it; it is only if this condition is met that they can be equated with organs of the Respondent for the purposes of its international responsibility.

394. The Court can only answer this question in the negative. At the relevant time, July 1995, neither the Republika Srpska nor the VRS could

be regarded as mere instruments through which the FRY was acting, and as lacking any real autonomy. While the political, military and logistical relations between the federal authorities in Belgrade and the authorities in Pale, between the Yugoslav army and the VRS, had been strong and close in previous years (see paragraph 238 above), and these ties undoubtedly remained powerful, they were, at least at the relevant time, not such that the Bosnian Serbs' political and military organizations should be equated with organs of the FRY. It is even true that differences over strategic options emerged at the time between Yugoslav authorities and Bosnian Serb leaders; at the very least, these are evidence that the latter had some qualified, but real, margin of independence. Nor, notwithstanding the very important support given by the Respondent to the Republika Srpska, without which it could not have "conduct[ed] its crucial or most significant military and paramilitary activities" (*I.C.J. Reports 1986*, p. 63, para. 111), did this signify a total dependence of the Republika Srpska upon the Respondent.

395. The Court now turns to the question whether the "Scorpions" were in fact acting in complete dependence on the Respondent. The Court has not been presented with materials to indicate this. The Court also notes that, in giving his evidence, General Dannatt, when asked under whose control or whose authority the paramilitary groups coming from Serbia were operating, replied, "they would have been under the command of Mladić and part of the chain of the command of the VRS". The Parties referred the Court to the *Stanišić and Simatović* case (IT-03-69, pending); notwithstanding that the defendants are not charged with genocide in that case, it could have its relevance for illuminating the status of the "Scorpions" as Serbian MUP or otherwise. However, the Court cannot draw further conclusions as this case remains at the indictment stage. In this respect, the Court recalls that it can only form its opinion on the basis of the information which has been brought to its notice at the time when it gives its decision, and which emerges from the pleadings and documents in the case file, and the arguments of the Parties made during the oral exchanges.

The Court therefore finds that the acts of genocide at Srebrenica cannot be attributed to the Respondent as having been committed by its organs or by persons or entities wholly dependent upon it, and thus do not on this basis entail the Respondent's international responsibility.

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(4) *The Question of Attribution of the Srebrenica Genocide to the Respondent on the Basis of Direction or Control*

396. As noted above (paragraph 384), the Court must now determine whether the massacres at Srebrenica were committed by persons who,

though not having the status of organs of the Respondent, nevertheless acted on its instructions or under its direction or control, as the Applicant argues in the alternative; the Respondent denies that such was the case.

397. The Court must emphasize, at this stage in its reasoning, that the question just stated is not the same as those dealt with thus far. It is obvious that it is different from the question whether the persons who committed the acts of genocide had the status of organs of the Respondent under its internal law; nor however, and despite some appearance to the contrary, is it the same as the question whether those persons should be equated with State organs *de facto*, even though not enjoying that status under internal law. The answer to the latter question depends, as previously explained, on whether those persons were in a relationship of such complete dependence on the State that they cannot be considered otherwise than as organs of the State, so that all their actions performed in such capacity would be attributable to the State for purposes of international responsibility. Having answered that question in the negative, the Court now addresses a completely separate issue: whether, in the specific circumstances surrounding the events at Srebrenica the perpetrators of genocide were acting on the Respondent's instructions, or under its direction or control. An affirmative answer to this question would in no way imply that the perpetrators should be characterized as organs of the FRY, or equated with such organs. It would merely mean that the FRY's international responsibility would be incurred owing to the conduct of those of its own organs which gave the instructions or exercised the control resulting in the commission of acts in breach of its international obligations. In other words, it is no longer a question of ascertaining whether the persons who directly committed the genocide were acting as organs of the FRY, or could be equated with those organs — this question having already been answered in the negative. What must be determined is whether FRY organs — incontestably having that status under the FRY's internal law — originated the genocide by issuing instructions to the perpetrators or exercising direction or control, and whether, as a result, the conduct of organs of the Respondent, having been the cause of the commission of acts in breach of its international obligations, constituted a violation of those obligations.

398. On this subject the applicable rule, which is one of customary law of international responsibility, is laid down in Article 8 of the ILC Articles on State Responsibility as follows:

*“Article 8*

*Conduct directed or controlled by a State*

The conduct of a person or group of persons shall be considered an act of a State under international law if the person or group of

persons is in fact acting on the instructions of, or under the direction or control of, that State in carrying out the conduct.”

399. This provision must be understood in the light of the Court’s jurisprudence on the subject, particularly that of the 1986 Judgment in the case concerning *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua v. United States of America*) referred to above (paragraph 391). In that Judgment the Court, as noted above, after having rejected the argument that the *contras* were to be equated with organs of the United States because they were “completely dependent” on it, added that the responsibility of the Respondent could still arise if it were proved that it had itself “directed or enforced the perpetration of the acts contrary to human rights and humanitarian law alleged by the applicant State” (*I.C.J. Reports 1986*, p. 64, para. 115); this led to the following significant conclusion:

“For this conduct to give rise to legal responsibility of the United States, it would in principle have to be proved that that State had effective control of the military or paramilitary operations in the course of which the alleged violations were committed.” (*Ibid.*, p. 65.)

400. The test thus formulated differs in two respects from the test — described above — to determine whether a person or entity may be equated with a State organ even if not having that status under internal law. First, in this context it is not necessary to show that the persons who performed the acts alleged to have violated international law were in general in a relationship of “complete dependence” on the respondent State; it has to be proved that they acted in accordance with that State’s instructions or under its “effective control”. It must however be shown that this “effective control” was exercised, or that the State’s instructions were given, in respect of each operation in which the alleged violations occurred, not generally in respect of the overall actions taken by the persons or groups of persons having committed the violations.

401. The Applicant has, it is true, contended that the crime of genocide has a particular nature, in that it may be composed of a considerable number of specific acts separate, to a greater or lesser extent, in time and space. According to the Applicant, this particular nature would justify, among other consequences, assessing the “effective control” of the State allegedly responsible, not in relation to each of these specific acts, but in relation to the whole body of operations carried out by the direct perpetrators of the genocide. The Court is however of the view that the particular characteristics of genocide do not justify the Court in departing from the criterion elaborated in the Judgment in the case concerning *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua v. United States of America*) (see paragraph 399 above). The rules



for attributing alleged internationally wrongful conduct to a State do not vary with the nature of the wrongful act in question in the absence of a clearly expressed *lex specialis*. Genocide will be considered as attributable to a State if and to the extent that the physical acts constitutive of genocide that have been committed by organs or persons other than the State's own agents were carried out, wholly or in part, on the instructions or directions of the State, or under its effective control. This is the state of customary international law, as reflected in the ILC Articles on State Responsibility.

402. The Court notes however that the Applicant has further questioned the validity of applying, in the present case, the criterion adopted in the *Military and Paramilitary Activities* Judgment. It has drawn attention to the Judgment of the ICTY Appeals Chamber in the *Tadić* case (IT-94-1-A, Judgment, 15 July 1999). In that case the Chamber did not follow the jurisprudence of the Court in the *Military and Paramilitary Activities* case: it held that the appropriate criterion, applicable in its view both to the characterization of the armed conflict in Bosnia and Herzegovina as international, and to imputing the acts committed by Bosnian Serbs to the FRY under the law of State responsibility, was that of the "overall control" exercised over the Bosnian Serbs by the FRY; and further that that criterion was satisfied in the case (on this point, *ibid.*, para. 145). In other words, the Appeals Chamber took the view that acts committed by Bosnian Serbs could give rise to international responsibility of the FRY on the basis of the overall control exercised by the FRY over the Republika Srpska and the VRS, without there being any need to prove that each operation during which acts were committed in breach of international law was carried out on the FRY's instructions, or under its effective control.

403. The Court has given careful consideration to the Appeals Chamber's reasoning in support of the foregoing conclusion, but finds itself unable to subscribe to the Chamber's view. First, the Court observes that the ICTY was not called upon in the *Tadić* case, nor is it in general called upon, to rule on questions of State responsibility, since its jurisdiction is criminal and extends over persons only. Thus, in that Judgment the Tribunal addressed an issue which was not indispensable for the exercise of its jurisdiction. As stated above, the Court attaches the utmost importance to the factual and legal findings made by the ICTY in ruling on the criminal liability of the accused before it and, in the present case, the Court takes fullest account of the ICTY's trial and appellate judgments dealing with the events underlying the dispute. The situation is not the same for positions adopted by the ICTY on issues of general international law which do not lie within the specific purview of its jurisdiction and, moreover, the resolution of which is not always necessary for deciding the criminal cases before it.

404. This is the case of the doctrine laid down in the *Tadić* Judgment. Insofar as the “overall control” test is employed to determine whether or not an armed conflict is international, which was the sole question which the Appeals Chamber was called upon to decide, it may well be that the test is applicable and suitable; the Court does not however think it appropriate to take a position on the point in the present case, as there is no need to resolve it for purposes of the present Judgment. On the other hand, the ICTY presented the “overall control” test as equally applicable under the law of State responsibility for the purpose of determining — as the Court is required to do in the present case — when a State is responsible for acts committed by paramilitary units, armed forces which are not among its official organs. In this context, the argument in favour of that test is unpersuasive.

405. It should first be observed that logic does not require the same test to be adopted in resolving the two issues, which are very different in nature: the degree and nature of a State’s involvement in an armed conflict on another State’s territory which is required for the conflict to be characterized as international, can very well, and without logical inconsistency, differ from the degree and nature of involvement required to give rise to that State’s responsibility for a specific act committed in the course of the conflict.

406. It must next be noted that the “overall control” test has the major drawback of broadening the scope of State responsibility well beyond the fundamental principle governing the law of international responsibility: a State is responsible only for its own conduct, that is to say the conduct of persons acting, on whatever basis, on its behalf. That is true of acts carried out by its official organs, and also by persons or entities which are not formally recognized as official organs under internal law but which must nevertheless be equated with State organs because they are in a relationship of complete dependence on the State. Apart from these cases, a State’s responsibility can be incurred for acts committed by persons or groups of persons — neither State organs nor to be equated with such organs — only if, assuming those acts to be internationally wrongful, they are attributable to it under the rule of customary international law reflected in Article 8 cited above (paragraph 398). This is so where an organ of the State gave the instructions or provided the direction pursuant to which the perpetrators of the wrongful act acted or where it exercised effective control over the action during which the wrong was committed. In this regard the “overall control” test is unsuitable, for it stretches too far, almost to breaking point, the connection which must exist between the conduct of a State’s organs and its international responsibility.

407. Thus it is on the basis of its settled jurisprudence that the Court will determine whether the Respondent has incurred responsibility under

the rule of customary international law set out in Article 8 of the ILC Articles on State Responsibility.

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408. The Respondent has emphasized that in the final judgments of the Chambers of the ICTY relating to genocide in Srebrenica, none of its leaders have been found to have been implicated. The Applicant does not challenge that reading, but makes the point that that issue has not been before the ICTY for decision. The Court observes that the ICTY has indeed not up to the present been directly concerned in final judgments with the question whether those leaders might bear responsibility in that respect. The Court notes the fact that the report of the United Nations Secretary-General does not establish any direct involvement by President Milošević with the massacre. The Court has already recorded the contacts between Milošević and the United Nations on 10 and 11 July (paragraph 285). On 14 July, as recorded in the Secretary-General's Report,

“the European Union negotiator, Mr. Bildt, travelled to Belgrade to meet with President Milošević. The meeting took place at Dobanovci, the hunting lodge outside Belgrade, where Mr. Bildt had met President Milošević and General Mladić one week earlier. According to Mr. Bildt's public account of that second meeting, he pressed the President to arrange immediate access for UNHCR to assist the people of Srebrenica, and for ICRC to start to register those who were being treated by the BSA as prisoners of war. He also insisted that the Netherlands soldiers be allowed to leave at will. Mr. Bildt added that the international community would not tolerate an attack on Goražde, and that a 'green light' would have to be secured for free and unimpeded access to the enclaves. He also demanded that the road between Kiseljak and Sarajevo ('Route Swan') be opened to all non-military transport. President Milošević apparently acceded to the various demands, but also claimed that he did not have control over the matter. Milošević had also apparently explained, earlier in the meeting, that the whole incident had been provoked by escalating Muslim attacks from the enclave, in violation of the 1993 demilitarization agreement.

A few hours into the meeting, General Mladić arrived at Dobanovci. Mr. Bildt noted that General Mladić readily agreed to most of the demands on Srebrenica, but remained opposed to some of the arrangements pertaining to the other enclaves, Sarajevo in particular. Eventually, with President Milošević's intervention, it appeared that an agreement in principle had been reached. It was decided that

another meeting would be held the next day in order to confirm the arrangements. Mr. Bildt had already arranged with Mr. Stoltenberg and Mr. Akashi [the Special Representative of the Secretary-General] that they would join him in Belgrade. He also requested that the UNPROFOR Commander also come to Belgrade in order to finalize some of the military details with Mladić.” (A/54/549, paras. 372-373.)

409. By 19 July, on the basis of the Belgrade meeting, Mr. Akashi was hopeful that both President Milošević and General Mladić might show some flexibility. The UNPROFOR Commander met with Mladić on 19 July and throughout the meeting kept in touch with Mr. Bildt who was holding parallel negotiations with President Milošević in Belgrade. Mladić gave his version of the events of the preceding days (his troops had “‘finished [it] in a correct way’”; some “‘unfortunate small incidents’ had occurred”). The UNPROFOR Commander and Mladić then signed an agreement which provided for

“ICRC access to all ‘reception centres’ where the men and boys of Srebrenica were being held, by the next day;

UNHCR and humanitarian aid convoys to be given access to Srebrenica;

The evacuation of wounded from Potočari, as well as the hospital in Bratunac;

The return of Dutchbat weapons and equipment taken by the BSA;

The transfer of Dutchbat out of the enclave commencing on the afternoon of 21 July, following the evacuation of the remaining women, children and elderly who wished to leave.

Subsequent to the signing of this agreement, the Special Representative wrote to President Milošević, reminding him of the agreement, that had not yet been honoured, to allow ICRC access to Srebrenica. The Special Representative later also telephoned President Milošević to reiterate the same point.” (*Ibid.*, para. 392.)

410. The Court was referred to other evidence supporting or denying the Respondent’s effective control over, participation in, involvement in, or influence over the events in and around Srebrenica in July 1995. The Respondent quotes two substantial reports prepared seven years after the events, both of which are in the public domain, and readily accessible. The first, *Srebrenica — a “Safe” Area*, published in 2002 by the Netherlands Institute for War Documentation was prepared over a lengthy period by an expert team. The Respondent has drawn attention to the fact that this report contains no suggestion that the FRY leadership was involved in planning the attack or inciting the killing of non-Serbs; nor

any hard evidence of assistance by the Yugoslav army to the armed forces of the Republika Srpska before the attack; nor any suggestion that the Belgrade Government had advance knowledge of the attack. The Respondent also quotes this passage from point 10 of the Epilogue to the Report relating to the “mass slaughter” and “the executions” following the fall of Srebrenica: “There is no evidence to suggest any political or military liaison with Belgrade, and in the case of this mass murder such a liaison is highly improbable.” The Respondent further observes that the Applicant’s only response to this submission is to point out that “the report, by its own admission, is not exhaustive”, and that this Court has been referred to evidence not used by the authors.

411. The Court observes, in respect of the Respondent’s submissions, that the authors of the Report do conclude that Belgrade was aware of the intended attack on Srebrenica. They record that the Dutch Military Intelligence Service and another Western intelligence service concluded that the July 1995 operations were co-ordinated with Belgrade (Part III, Chap. 7, Sect. 7). More significantly for present purposes, however, the authors state that “there is no evidence to suggest participation in the preparations for executions on the part of Yugoslav military personnel or the security agency (RDB). In fact there is some evidence to support the opposite view . . .” (Part IV, Chap. 2, Sect. 20). That supports the passage from point 10 of the Epilogue quoted by the Respondent, which was preceded by the following sentence: “Everything points to a central decision by the General Staff of the VRS.”

412. The second report is *Balkan Battlegrounds*, prepared by the United States Central Intelligence Agency, also published in 2002. The first volume under the heading “The Possibility of Yugoslav involvement” arrives at the following conclusion:

“No basis has been established to implicate Belgrade’s military or security forces in the post-Srebrenica atrocities. While there are indications that the VJ or RDB [the Serbian State Security Department] may have contributed elements to the Srebrenica battle, there is no similar evidence that Belgrade-directed forces were involved in any of the subsequent massacres. Eyewitness accounts by survivors may be imperfect recollections of events, and details may have been overlooked. Narrations and other available evidence suggest that only Bosnian Serb troops were employed in the atrocities and executions that followed the military conquest of Srebrenica.” (*Balkan Battlegrounds*, p. 353.)

The response of the Applicant was to quote an earlier passage which refers to reports which “suggest” that VJ troops and possibly elements of the Serbian State Security Department may have been engaged in the battle in Srebrenica — as indeed the second sentence of the passage quoted by the Respondent indicates. It is a cautious passage, and significantly gives no indication of any involvement by the Respondent in the post-conflict atrocities which are the subject of genocide-related convictions. Counsel for the Respondent also quoted from the evidence of the Deputy Commander of Dutchbat, given in the *Milošević* trial, in which the accused put to the officer the point quoted earlier from the Epilogue to the Netherlands report. The officer responded:

“At least for me, I did not have any evidence that it was launched in co-operation with Belgrade. And again, I read all kinds of reports and opinions and papers where all kinds of scenarios were analysed, and so forth. Again, I do not have any proof that the action, being the attack on the enclave, was launched in co-operation with Belgrade.”

The other evidence on which the Applicant relied relates to the influence, rather than the control, that President Milošević had or did not have over the authorities in Pale. It mainly consists of the evidence given at the *Milošević* trial by Lord Owen and General Wesley Clark and also Lord Owen’s publications. It does not establish a factual basis for finding the Respondent responsible on a basis of direction or control.

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(5) *Conclusion as to Responsibility for Events at Srebrenica under Article III, Paragraph (a), of the Genocide Convention*

413. In the light of the information available to it, the Court finds, as indicated above, that it has not been established that the massacres at Srebrenica were committed by persons or entities ranking as organs of the Respondent (see paragraph 395 above). It finds also that it has not been established that those massacres were committed on the instructions or under the direction of organs of the respondent State, nor that the Respondent exercised effective control over the operations in the course of which those massacres, which, as indicated in paragraph 297 above, constituted the crime of genocide, were perpetrated.

The Applicant has not proved that instructions were issued by the federal authorities in Belgrade, or by any other organ of the FRY, to commit the massacres, still less that any such instructions were given with the specific intent (*dolus specialis*) characterizing the crime of genocide, which would have had to be present in order for the Respondent to be held responsible on this basis. All indications are to the contrary: that the

decision to kill the adult male population of the Muslim community in Srebrenica was taken by some members of the VRS Main Staff, but without instructions from or effective control by the FRY.

As for the killings committed by the “Scorpions” paramilitary militias, notably at Trnovo (paragraph 289 above), even if it were accepted that they were an element of the genocide committed in the Srebrenica area, which is not clearly established by the decisions thus far rendered by the ICTY (see, in particular, the Trial Chamber’s decision of 12 April 2006 in the *Stanišić and Simatović* case, IT-03-69), it has not been proved that they took place either on the instructions or under the control of organs of the FRY.

414. Finally, the Court observes that none of the situations, other than those referred to in Articles 4 and 8 of the ILC’s Articles on State Responsibility, in which specific conduct may be attributed to a State, matches the circumstances of the present case in regard to the possibility of attributing the genocide at Srebrenica to the Respondent. The Court does not see itself required to decide at this stage whether the ILC’s Articles dealing with attribution, apart from Articles 4 and 8, express present customary international law, it being clear that none of them apply in this case. The acts constituting genocide were not committed by persons or entities which, while not being organs of the FRY, were empowered by it to exercise elements of the governmental authority (Art. 5), nor by organs placed at the Respondent’s disposal by another State (Art. 6), nor by persons in fact exercising elements of the governmental authority in the absence or default of the official authorities of the Respondent (Art. 9); finally, the Respondent has not acknowledged and adopted the conduct of the perpetrators of the acts of genocide as its own (Art. 11).

415. The Court concludes from the foregoing that the acts of those who committed genocide at Srebrenica cannot be attributed to the Respondent under the rules of international law of State responsibility: thus, the international responsibility of the Respondent is not engaged on this basis.

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#### VIII. THE QUESTION OF RESPONSIBILITY, IN RESPECT OF SREBRENICA, FOR ACTS ENUMERATED IN ARTICLE III, PARAGRAPHS (b) TO (e), OF THE GENOCIDE CONVENTION

416. The Court now comes to the second of the questions set out in paragraph 379 above, namely, that relating to the Respondent’s possible responsibility on the ground of one of the acts related to genocide enumerated in Article III of the Convention. These are: conspiracy to

commit genocide (Art. III, para. (b)), direct and public incitement to commit genocide (Art. III, para. (c)), attempt to commit genocide (Art. III, para. (d)) — though no claim is made under this head in the Applicant's final submissions in the present case — and complicity in genocide (Art. III, para. (e)). For the reasons already stated (paragraph 380 above), the Court must make a finding on this matter inasmuch as it has replied in the negative to the previous question, that of the Respondent's responsibility in the commission of the genocide itself.

417. It is clear from an examination of the facts of the case that subparagraphs (b) and (c) of Article III are irrelevant in the present case. It has not been proved that organs of the FRY, or persons acting on the instructions or under the effective control of that State, committed acts that could be characterized as "[c]onspiracy to commit genocide" (Art. III, para. (b)), or as "[d]irect and public incitement to commit genocide" (Art. III, para. (c)), if one considers, as is appropriate, only the events in Srebrenica. As regards paragraph (b), what was said above regarding the attribution to the Respondent of acts of genocide, namely that the massacres were perpetrated by persons and groups of persons (the VRS in particular) who did not have the character of organs of the Respondent, and did not act on the instructions or under the effective control of the Respondent, is sufficient to exclude the latter's responsibility in this regard. As regards subparagraph (c), none of the information brought to the attention of the Court is sufficient to establish that organs of the Respondent, or persons acting on its instructions or under its effective control, directly and publicly incited the commission of the genocide in Srebrenica; nor is it proven, for that matter, that such organs or persons incited the commission of acts of genocide anywhere else on the territory of Bosnia and Herzegovina. In this respect, the Court must only accept precise and incontrovertible evidence, of which there is clearly none.

418. A more delicate question is whether it can be accepted that acts which could be characterized as "complicity in genocide", within the meaning of Article III, paragraph (e), can be attributed to organs of the Respondent or to persons acting under its instructions or under its effective control.

This question calls for some preliminary comment.

419. First, the question of "complicity" is to be distinguished from the question, already considered and answered in the negative, whether the perpetrators of the acts of genocide committed in Srebrenica acted on the instructions of or under the direction or effective control of the organs of the FRY. It is true that in certain national systems of criminal law, giving instructions or orders to persons to commit a criminal act is considered as the mark of complicity in the commission of that act. However, in the particular context of the application of the law of international responsibility in the domain of genocide, if it were established that a genocidal act had been committed on the instructions or under the direction of a



State, the necessary conclusion would be that the genocide was attributable to the State, which would be directly responsible for it, pursuant to the rule referred to above (paragraph 398), and no question of complicity would arise. But, as already stated, that is not the situation in the present case.

However there is no doubt that “complicity”, in the sense of Article III, paragraph (e), of the Convention, includes the provision of means to enable or facilitate the commission of the crime; it is thus on this aspect that the Court must focus. In this respect, it is noteworthy that, although “complicity”, as such, is not a notion which exists in the current terminology of the law of international responsibility, it is similar to a category found among the customary rules constituting the law of State responsibility, that of the “aid or assistance” furnished by one State for the commission of a wrongful act by another State.

420. In this connection, reference should be made to Article 16 of the ILC’s Articles on State Responsibility, reflecting a customary rule, which reads as follows:

*“Article 16*

*Aid or assistance in the commission of an internationally wrongful act*

A State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if:

- (a) That State does so with knowledge of the circumstances of the internationally wrongful act; and
- (b) The act would be internationally wrongful if committed by that State.”

Although this provision, because it concerns a situation characterized by a relationship between two States, is not directly relevant to the present case, it nevertheless merits consideration. The Court sees no reason to make any distinction of substance between “complicity in genocide”, within the meaning of Article III, paragraph (e), of the Convention, and the “aid or assistance” of a State in the commission of a wrongful act by another State within the meaning of the aforementioned Article 16 — setting aside the hypothesis of the issue of instructions or directions or the exercise of effective control, the effects of which, in the law of international responsibility, extend beyond complicity. In other words, to ascertain whether the Respondent is responsible for “complicity in genocide” within the meaning of Article III, paragraph (e), which is what the Court now has to do, it must examine whether organs of the respondent State, or persons acting on its instructions or under its direction or effective control, furnished “aid or assistance” in the commission of the genocide in Srebrenica, in a sense not significantly different from that of those concepts in the general law of international responsibility.

421. Before the Court turns to an examination of the facts, one further comment is required. It concerns the link between the specific intent (*dolus specialis*) which characterizes the crime of genocide and the motives which inspire the actions of an accomplice (meaning a person providing aid or assistance to the direct perpetrators of the crime): the question arises whether complicity presupposes that the accomplice shares the specific intent (*dolus specialis*) of the principal perpetrator. But whatever the reply to this question, there is no doubt that the conduct of an organ or a person furnishing aid or assistance to a perpetrator of the crime of genocide cannot be treated as complicity in genocide unless at the least that organ or person acted knowingly, that is to say, in particular, was aware of the specific intent (*dolus specialis*) of the principal perpetrator. If that condition is not fulfilled, that is sufficient to exclude categorization as complicity. The Court will thus first consider whether this latter condition is met in the present case. It is only if it replies to that question of fact in the affirmative that it will need to determine the legal point referred to above.

422. The Court is not convinced by the evidence furnished by the Applicant that the above conditions were met. Undoubtedly, the quite substantial aid of a political, military and financial nature provided by the FRY to the Republika Srpska and the VRS, beginning long before the tragic events of Srebrenica, continued during those events. There is thus little doubt that the atrocities in Srebrenica were committed, at least in part, with the resources which the perpetrators of those acts possessed as a result of the general policy of aid and assistance pursued towards them by the FRY. However, the sole task of the Court is to establish the legal responsibility of the Respondent, a responsibility which is subject to very specific conditions. One of those conditions is not fulfilled, because it is not established beyond any doubt in the argument between the Parties whether the authorities of the FRY supplied — and continued to supply — the VRS leaders who decided upon and carried out those acts of genocide with their aid and assistance, at a time when those authorities were clearly aware that genocide was about to take place or was under way; in other words that not only were massacres about to be carried out or already under way, but that their perpetrators had the specific intent characterizing genocide, namely, the intent to destroy, in whole or in part, a human group, as such.

423. A point which is clearly decisive in this connection is that it was not conclusively shown that the decision to eliminate physically the adult male population of the Muslim community from Srebrenica was brought to the attention of the Belgrade authorities when it was taken; the Court has found (paragraph 295 above) that that decision was taken shortly before it was actually carried out, a process which took a very short time (essentially between 13 and 16 July 1995), despite the exceptionally high number of victims. It has therefore not been conclusively established

that, at the crucial time, the FRY supplied aid to the perpetrators of the genocide in full awareness that the aid supplied would be used to commit genocide.

424. The Court concludes from the above that the international responsibility of the Respondent is not engaged for acts of complicity in genocide mentioned in Article III, paragraph (*e*), of the Convention. In the light of this finding, and of the findings above relating to the other paragraphs of Article III, the international responsibility of the Respondent is not engaged under Article III as a whole.

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#### IX. THE QUESTION OF RESPONSIBILITY FOR BREACH OF THE OBLIGATIONS TO PREVENT AND PUNISH GENOCIDE

425. The Court now turns to the third and last of the questions set out in paragraph 379 above: has the respondent State complied with its obligations to prevent and punish genocide under Article I of the Convention?

Despite the clear links between the duty to prevent genocide and the duty to punish its perpetrators, these are, in the view of the Court, two distinct yet connected obligations, each of which must be considered in turn.

426. It is true that, simply by its wording, Article I of the Convention brings out the close link between prevention and punishment: “The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.” It is also true that one of the most effective ways of preventing criminal acts, in general, is to provide penalties for persons committing such acts, and to impose those penalties effectively on those who commit the acts one is trying to prevent. Lastly, it is true that, although in the subsequent Articles, the Convention includes fairly detailed provisions concerning the duty to punish (Articles III to VII), it reverts to the obligation of prevention, stated as a principle in Article I, only in Article VIII:

“Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III.”

427. However, it is not the case that the obligation to prevent has no separate legal existence of its own; that it is, as it were, absorbed by the

obligation to punish, which is therefore the only duty the performance of which may be subject to review by the Court. The obligation on each contracting State to prevent genocide is both normative and compelling. It is not merged in the duty to punish, nor can it be regarded as simply a component of that duty. It has its own scope, which extends beyond the particular case envisaged in Article VIII, namely reference to the competent organs of the United Nations, for them to take such action as they deem appropriate. Even if and when these organs have been called upon, this does not mean that the States parties to the Convention are relieved of the obligation to take such action as they can to prevent genocide from occurring, while respecting the United Nations Charter and any decisions that may have been taken by its competent organs.

This is the reason why the Court will first consider the manner in which the Respondent has performed its obligation to prevent before examining the situation as regards the obligation to punish.

*(1) The Obligation to Prevent Genocide*

428. As regards the obligation to prevent genocide, the Court thinks it necessary to begin with the following introductory remarks and clarifications, amplifying the observations already made above.

429. First, the Genocide Convention is not the only international instrument providing for an obligation on the States parties to it to take certain steps to prevent the acts it seeks to prohibit. Many other instruments include a similar obligation, in various forms: see, for example, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 (Art. 2); the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents, of 14 December 1973 (Art. 4); the Convention on the Safety of United Nations and Associated Personnel of 9 December 1994 (Art. 11); the International Convention on the Suppression of Terrorist Bombings of 15 December 1997 (Art. 15). The content of the duty to prevent varies from one instrument to another, according to the wording of the relevant provisions, and depending on the nature of the acts to be prevented.

The decision of the Court does not, in this case, purport to establish a general jurisprudence applicable to all cases where a treaty instrument, or other binding legal norm, includes an obligation for States to prevent certain acts. Still less does the decision of the Court purport to find whether, apart from the texts applicable to specific fields, there is a general obligation on States to prevent the commission by other persons or entities of acts contrary to certain norms of general international law. The Court will therefore confine itself to determining the specific scope of the duty to prevent in the Genocide Convention, and to the extent that such a

determination is necessary to the decision to be given on the dispute before it. This will, of course, not absolve it of the need to refer, if need be, to the rules of law whose scope extends beyond the specific field covered by the Convention.

430. Secondly, it is clear that the obligation in question is one of conduct and not one of result, in the sense that a State cannot be under an obligation to succeed, whatever the circumstances, in preventing the commission of genocide: the obligation of States parties is rather to employ all means reasonably available to them, so as to prevent genocide so far as possible. A State does not incur responsibility simply because the desired result is not achieved; responsibility is however incurred if the State manifestly failed to take all measures to prevent genocide which were within its power, and which might have contributed to preventing the genocide. In this area the notion of “due diligence”, which calls for an assessment *in concreto*, is of critical importance. Various parameters operate when assessing whether a State has duly discharged the obligation concerned. The first, which varies greatly from one State to another, is clearly the capacity to influence effectively the action of persons likely to commit, or already committing, genocide. This capacity itself depends, among other things, on the geographical distance of the State concerned from the scene of the events, and on the strength of the political links, as well as links of all other kinds, between the authorities of that State and the main actors in the events. The State’s capacity to influence must also be assessed by legal criteria, since it is clear that every State may only act within the limits permitted by international law; seen thus, a State’s capacity to influence may vary depending on its particular legal position vis-à-vis the situations and persons facing the danger, or the reality, of genocide. On the other hand, it is irrelevant whether the State whose responsibility is in issue claims, or even proves, that even if it had employed all means reasonably at its disposal, they would not have sufficed to prevent the commission of genocide. As well as being generally difficult to prove, this is irrelevant to the breach of the obligation of conduct in question, the more so since the possibility remains that the combined efforts of several States, each complying with its obligation to prevent, might have achieved the result — averting the commission of genocide — which the efforts of only one State were insufficient to produce.

431. Thirdly, a State can be held responsible for breaching the obligation to prevent genocide only if genocide was actually committed. It is at the time when commission of the prohibited act (genocide or any of the other acts listed in Article III of the Convention) begins that the breach

of an obligation of prevention occurs. In this respect, the Court refers to a general rule of the law of State responsibility, stated by the ILC in Article 14, paragraph 3, of its Articles on State Responsibility:

“ . . . . .

3. The breach of an international obligation requiring a State to prevent a given event occurs when the event occurs and extends over the entire period during which the event continues and remains not in conformity with that obligation.”

This obviously does not mean that the obligation to prevent genocide only comes into being when perpetration of genocide commences; that would be absurd, since the whole point of the obligation is to prevent, or attempt to prevent, the occurrence of the act. In fact, a State's obligation to prevent, and the corresponding duty to act, arise at the instant that the State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed. From that moment onwards, if the State has available to it means likely to have a deterrent effect on those suspected of preparing genocide, or reasonably suspected of harbouring specific intent (*dolus specialis*), it is under a duty to make such use of these means as the circumstances permit. However, if neither genocide nor any of the other acts listed in Article III of the Convention are ultimately carried out, then a State that omitted to act when it could have done so cannot be held responsible *a posteriori*, since the event did not happen which, under the rule set out above, must occur for there to be a violation of the obligation to prevent.

In consequence, in the present case the Court will have to consider the Respondent's conduct, in the light of its duty to prevent, solely in connection with the massacres at Srebrenica, because these are the only acts in respect of which the Court has concluded in this case that genocide was committed.

432. Fourth and finally, the Court believes it especially important to lay stress on the differences between the requirements to be met before a State can be held to have violated the obligation to prevent genocide — within the meaning of Article I of the Convention — and those to be satisfied in order for a State to be held responsible for “complicity in genocide” — within the meaning of Article III, paragraph (e) — as previously discussed. There are two main differences; they are so significant as to make it impossible to treat the two types of violation in the same way.

In the first place, as noted above, complicity always requires that some positive action has been taken to furnish aid or assistance to the perpetrators of the genocide, while a violation of the obligation to prevent

results from mere failure to adopt and implement suitable measures to prevent genocide from being committed. In other words, while complicity results from commission, violation of the obligation to prevent results from omission; this is merely the reflection of the notion that the ban on genocide and the other acts listed in Article III, including complicity, places States under a negative obligation, the obligation not to commit the prohibited acts, while the duty to prevent places States under positive obligations, to do their best to ensure that such acts do not occur.

In the second place, as also noted above, there cannot be a finding of complicity against a State unless at the least its organs were aware that genocide was about to be committed or was under way, and if the aid and assistance supplied, from the moment they became so aware onwards, to the perpetrators of the criminal acts or to those who were on the point of committing them, enabled or facilitated the commission of the acts. In other words, an accomplice must have given support in perpetrating the genocide with full knowledge of the facts. By contrast, a State may be found to have violated its obligation to prevent even though it had no certainty, at the time when it should have acted, but failed to do so, that genocide was about to be committed or was under way; for it to incur responsibility on this basis it is enough that the State was aware, or should normally have been aware, of the serious danger that acts of genocide would be committed. As will be seen below, this latter difference could prove decisive in the present case in determining the responsibility incurred by the Respondent.

433. In light of the foregoing, the Court will now consider the facts of the case. For the reasons stated above (paragraph 431), it will confine itself to the FRY's conduct vis-à-vis the Srebrenica massacres.

434. The Court would first note that, during the period under consideration, the FRY was in a position of influence over the Bosnian Serbs who devised and implemented the genocide in Srebrenica, unlike that of any of the other States parties to the Genocide Convention owing to the strength of the political, military and financial links between the FRY on the one hand and the Republika Srpska and the VRS on the other, which, though somewhat weaker than in the preceding period, nonetheless remained very close.

435. Secondly, the Court cannot but note that, on the relevant date, the FRY was bound by very specific obligations by virtue of the two Orders indicating provisional measures delivered by the Court in 1993. In particular, in its Order of 8 April 1993, the Court stated, *inter alia*, that although not able, at that early stage in the proceedings, to make "definitive findings of fact or of imputability" (*I.C.J. Reports 1993*, p. 22, para. 44) the FRY was required to ensure:

“that any military, paramilitary or irregular armed units which may be directed or supported by it, as well as any organizations and persons which may be subject to its control, direction or influence, do not commit any acts of genocide, of conspiracy to commit genocide, of direct and public incitement to commit genocide, or of complicity in genocide . . .” (*I.C.J. Reports 1993*, p. 24, para. 52 A (2)).

The Court’s use, in the above passage, of the term “influence” is particularly revealing of the fact that the Order concerned not only the persons or entities whose conduct was attributable to the FRY, but also all those with whom the Respondent maintained close links and on which it could exert a certain influence. Although in principle the two issues are separate, and the second will be examined below, it is not possible, when considering the way the Respondent discharged its obligation of prevention under the Convention, to fail to take account of the obligation incumbent upon it, albeit on a different basis, to implement the provisional measures indicated by the Court.

436. Thirdly, the Court recalls that although it has not found that the information available to the Belgrade authorities indicated, as a matter of certainty, that genocide was imminent (which is why complicity in genocide was not upheld above: paragraph 424), they could hardly have been unaware of the serious risk of it once the VRS forces had decided to occupy the Srebrenica enclave. Among the documents containing information clearly suggesting that such an awareness existed, mention should be made of the above-mentioned report (see paragraphs 283 and 285 above) of the United Nations Secretary-General prepared pursuant to General Assembly resolution 53/35 on the “fall of Srebrenica” (United Nations doc. A/54/549), which recounts the visit to Belgrade on 14 July 1995 of the European Union negotiator Mr. Bildt to meet Mr. Milošević. Mr. Bildt, in substance, informed Mr. Milošević of his serious concern and

“pressed the President to arrange immediate access for the UNHCR to assist the people of Srebrenica, and for the ICRC to start to register those who were being treated by the BSA [Bosnian Serb Army] as prisoners of war”.

437. The Applicant has drawn attention to certain evidence given by General Wesley Clark before the ICTY in the *Milošević* case. General Clark referred to a conversation that he had had with Milošević during the negotiation of the Dayton Agreement. He stated that

“I went to Milošević and I asked him. I said, ‘If you have so much influence over these [Bosnian] Serbs, how could you have allowed



General Mladić to have killed all those people at Srebrenica?’ And he looked to me — at me. His expression was very grave. He paused before he answered, and he said, ‘Well, General Clark, I warned him not to do this, but he didn’t listen to me.’ And it was in the context of all the publicity at the time about the Srebrenica massacre.” (*Milošević*, IT-02-54-T, Transcript, 16 December 2003, pp. 30494-30495).

General Clark gave it as his opinion, in his evidence before the ICTY, that the circumstances indicated that Milošević had foreknowledge of what was to be “a military operation combined with a massacre” (*ibid.*, p. 30497). The ICTY record shows that Milošević denied ever making the statement to which General Clark referred, but the Trial Chamber nevertheless relied on General Clark’s testimony in its Decision of 16 June 2004 when rejecting the Motion for Judgment of Acquittal (*Milošević*, IT-02-54-T, Decision on Motion for Judgment of Acquittal, 16 June 2004, para. 280).

438. In view of their undeniable influence and of the information, voicing serious concern, in their possession, the Yugoslav federal authorities should, in the view of the Court, have made the best efforts within their power to try and prevent the tragic events then taking shape, whose scale, though it could not have been foreseen with certainty, might at least have been surmised. The FRY leadership, and President Milošević above all, were fully aware of the climate of deep-seated hatred which reigned between the Bosnian Serbs and the Muslims in the Srebrenica region. As the Court has noted in paragraph 423 above, it has not been shown that the decision to eliminate physically the whole of the adult male population of the Muslim community of Srebrenica was brought to the attention of the Belgrade authorities. Nevertheless, given all the international concern about what looked likely to happen at Srebrenica, given Milošević’s own observations to Mladić, which made it clear that the dangers were known and that these dangers seemed to be of an order that could suggest intent to commit genocide, unless brought under control, it must have been clear that there was a serious risk of genocide in Srebrenica. Yet the Respondent has not shown that it took any initiative to prevent what happened, or any action on its part to avert the atrocities which were committed. It must therefore be concluded that the organs of the Respondent did nothing to prevent the Srebrenica massacres, claiming that they were powerless to do so, which hardly tallies with their known influence over the VRS. As indicated above, for a State to be held responsible for breaching its obligation of prevention, it does not need to be proven that the State concerned definitely had the power to prevent the genocide; it is sufficient that it had the means to do so and that it manifestly refrained from using them.

Such is the case here. In view of the foregoing, the Court concludes that the Respondent violated its obligation to prevent the Srebrenica genocide in such a manner as to engage its international responsibility.

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(2) *The Obligation to Punish Genocide*

439. The Court now turns to the question of the Respondent's compliance with its obligation to punish the crime of genocide stemming from Article I and the other relevant provisions of the Convention.

440. In its fifth final submission, Bosnia and Herzegovina requests the Court to adjudge and declare:

"5. That Serbia and Montenegro has violated and is violating its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide for having failed and for failing to punish acts of genocide or any other act prohibited by the Convention on the Prevention and Punishment of the Crime of Genocide, and for having failed and for failing to transfer individuals accused of genocide or any other act prohibited by the Convention to the International Criminal Tribunal for the former Yugoslavia and to fully co-operate with this Tribunal."

441. This submission implicitly refers to Article VI of the Convention, according to which:

"Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction."

442. The Court would first recall that the genocide in Srebrenica, the commission of which it has established above, was not carried out in the Respondent's territory. It concludes from this that the Respondent cannot be charged with not having tried before its own courts those accused of having participated in the Srebrenica genocide, either as principal perpetrators or as accomplices, or of having committed one of the other acts mentioned in Article III of the Convention in connection with the Srebrenica genocide. Even if Serbian domestic law granted jurisdiction to its criminal courts to try those accused, and even supposing such proceedings were compatible with Serbia's other international obligations, *inter alia* its obligation to co-operate with the ICTY, to which the Court will revert below, an obligation to try the perpetrators of the Srebrenica massacre in Serbia's domestic courts cannot be deduced from Article VI. Article VI only obliges the Contracting Parties to institute and exercise

territorial criminal jurisdiction; while it certainly does not prohibit States, with respect to genocide, from conferring jurisdiction on their criminal courts based on criteria other than where the crime was committed which are compatible with international law, in particular the nationality of the accused, it does not oblige them to do so.

443. It is thus to the obligation for States parties to co-operate with the “international penal tribunal” mentioned in the above provision that the Court must now turn its attention. For it is certain that once such a court has been established, Article VI obliges the Contracting Parties “which shall have accepted its jurisdiction” to co-operate with it, which implies that they will arrest persons accused of genocide who are in their territory — even if the crime of which they are accused was committed outside it — and, failing prosecution of them in the parties’ own courts, that they will hand them over for trial by the competent international tribunal.

444. In order to determine whether the Respondent has fulfilled its obligations in this respect, the Court must first answer two preliminary questions: does the ICTY constitute an “international penal tribunal” within the meaning of Article VI? And must the Respondent be regarded as having “accepted the jurisdiction” of the tribunal within the meaning of that provision?

445. As regards the first question, the Court considers that the reply must definitely be in the affirmative. The notion of an “international penal tribunal” within the meaning of Article VI must at least cover all international criminal courts created after the adoption of the Convention (at which date no such court existed) of potentially universal scope, and competent to try the perpetrators of genocide or any of the other acts enumerated in Article III. The nature of the legal instrument by which such a court is established is without importance in this respect. When drafting the Genocide Convention, its authors probably thought that such a court would be created by treaty: a clear pointer to this lies in the reference to “those Contracting Parties which shall have accepted [the] jurisdiction” of the international penal tribunal. Yet, it would be contrary to the object of the provision to interpret the notion of “international penal tribunal” restrictively in order to exclude from it a court which, as in the case of the ICTY, was created pursuant to a United Nations Security Council resolution adopted under Chapter VII of the Charter. The Court has found nothing to suggest that such a possibility was considered by the authors of the Convention, but no intention of seeking to exclude it can be imputed to them.

446. The question whether the Respondent must be regarded as having “accepted the jurisdiction” of the ICTY within the meaning of Article VI must consequently be formulated as follows: is the Respondent obliged to accept the jurisdiction of the ICTY, and to co-operate with the Tribunal by virtue of the Security Council resolution which established it, or of

some other rule of international law? If so, it would have to be concluded that, for the Respondent, co-operation with the ICTY constitutes both an obligation stemming from the resolution concerned and from the United Nations Charter, or from another norm of international law obliging the Respondent to co-operate, and an obligation arising from its status as a party to the Genocide Convention, this last clearly being the only one of direct relevance in the present case.

447. For the purposes of the present case, the Court only has to determine whether the FRY was under an obligation to co-operate with the ICTY, and if so, on what basis, from when the Srebrenica genocide was committed in July 1995. To that end, suffice it to note that the FRY was under an obligation to co-operate with the ICTY from 14 December 1995 at the latest, the date of the signing and entry into force of the Dayton Agreement between Bosnia and Herzegovina, Croatia and the FRY. Annex 1A of that treaty, made binding on the parties by virtue of its Article II, provides that they must fully co-operate, notably with the ICTY. Thus, from 14 December 1995 at the latest, and at least on the basis of the Dayton Agreement, the FRY must be regarded as having “accepted [the] jurisdiction” of the ICTY within the meaning of Article VI of the Convention. This fact is sufficient for the Court in its consideration of the present case, since its task is to rule upon the Respondent’s compliance with the obligation resulting from Article VI of the Convention in relation to the Srebrenica genocide, from when it was perpetrated to the present day, and since the Applicant has not invoked any failure to respect the obligation to co-operate alleged to have occurred specifically between July and December 1995. Similarly, the Court is not required to decide whether, between 1995 and 2000, the FRY’s obligation to co-operate had any legal basis besides the Dayton Agreement. Needless to say, the admission of the FRY to the United Nations in 2000 provided a further basis for its obligation to co-operate: but while the legal basis concerned was thereby confirmed, that did not change the scope of the obligation. There is therefore no need, for the purposes of assessing how the Respondent has complied with its obligation under Article VI of the Convention, to distinguish between the period before and the period after its admission as a Member of the United Nations, at any event from 14 December 1995 onwards.

448. Turning now to the facts of the case, the question the Court must answer is whether the Respondent has fully co-operated with the ICTY, in particular by arresting and handing over to the Tribunal any persons accused of genocide as a result of the Srebrenica genocide and finding themselves on its territory. In this connection, the Court would first observe that, during the oral proceedings, the Respondent asserted that the duty to co-operate had been complied with following the régime change in Belgrade in the year 2000, thus implicitly admitting that such had not been the case during the preceding period. The conduct of the

organs of the FRY before the régime change however engages the Respondent's international responsibility just as much as it does that of its State authorities from that date. Further, the Court cannot but attach a certain weight to the plentiful, and mutually corroborative, information suggesting that General Mladić, indicted by the ICTY for genocide, as one of those principally responsible for the Srebrenica massacres, was on the territory of the Respondent at least on several occasions and for substantial periods during the last few years and is still there now, without the Serb authorities doing what they could and can reasonably do to ascertain exactly where he is living and arrest him. In particular, counsel for the Applicant referred during the hearings to recent statements made by the Respondent's Minister for Foreign Affairs, reproduced in the national press in April 2006, and according to which the intelligence services of that State knew where Mladić was living in Serbia, but refrained from informing the authorities competent to order his arrest because certain members of those services had allegedly remained loyal to the fugitive. The authenticity and accuracy of those statements has not been disputed by the Respondent at any time.

449. It therefore appears to the Court sufficiently established that the Respondent failed in its duty to co-operate fully with the ICTY. This failure constitutes a violation by the Respondent of its duties as a party to the Dayton Agreement, and as a Member of the United Nations, and accordingly a violation of its obligations under Article VI of the Genocide Convention. The Court is of course without jurisdiction in the present case to declare that the Respondent has breached any obligations other than those under the Convention. But as the Court has jurisdiction to declare a breach of Article VI insofar as it obliges States to co-operate with the "international penal tribunal", the Court may find for that purpose that the requirements for the existence of such a breach have been met. One of those requirements is that the State whose responsibility is in issue must have "accepted [the] jurisdiction" of that "international penal tribunal"; the Court thus finds that the Respondent was under a duty to co-operate with the tribunal concerned pursuant to international instruments other than the Convention, and failed in that duty. On this point, the Applicant's submissions relating to the violation by the Respondent of Articles I and VI of the Convention must therefore be upheld.

450. It follows from the foregoing considerations that the Respondent failed to comply both with its obligation to prevent and its obligation to punish genocide deriving from the Convention, and that its international responsibility is thereby engaged.

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X. THE QUESTION OF RESPONSIBILITY FOR BREACH OF THE COURT'S  
ORDERS INDICATING PROVISIONAL MEASURES

451. In its seventh submission Bosnia and Herzegovina requests the Court to adjudge and declare:

“7. That in failing to comply with the Orders for indication of provisional measures rendered by the Court on 8 April 1993 and 13 September 1993 Serbia and Montenegro has been in breach of its international obligations and is under an obligation to Bosnia and Herzegovina to provide for the latter violation symbolic compensation, the amount of which is to be determined by the Court.”

452. The Court observes that its “orders on provisional measures under Article 41 [of the Statute] have binding effect” (*LaGrand (Germany v. United States of America)*, *Judgment*, *I.C.J. Reports 2001*, p. 506, para. 109). Although the Court only had occasion to make such a finding in a judgment subsequent to the Orders that it made in the present dispute, this does not affect the binding nature of those Orders, since in the Judgment referred to the Court did no more than give the provisions of the Statute the meaning and scope that they had possessed from the outset. It notes that provisional measures are aimed at preserving the rights of each of the parties pending the final decision of the Court. The Court's Orders of 8 April and 13 September 1993 indicating provisional measures created legal obligations which both Parties were required to satisfy.

453. The Court indicated the following provisional measures in the *dispositif*, paragraph 52, of its Order of 8 April 1993:

“A. (1). . . . .

The Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) should immediately, in pursuance of its undertaking in the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, take all measures within its power to prevent commission of the crime of genocide;

(2). . . . .

The Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) should in particular ensure that any military, paramilitary or irregular armed units which may be directed or supported by it, as well as any organizations and persons which may be subject to its control, direction or influence, do not commit any acts of genocide, of conspiracy to commit genocide, of direct and public incitement to commit genocide, or of complicity in genocide, whether directed against the Muslim population of Bosnia and Herzegovina or against any other national, ethnical, racial or religious group;

. . . . .

B. . . . .

The Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Government of the Republic of Bosnia and Herzegovina should not take any action and should ensure that no action is taken which may aggravate or extend the existing dispute over the prevention or punishment of the crime of genocide, or render it more difficult of solution.”

454. The Court reaffirmed these measures in the *dispositif* of its Order of 13 September 1993.

455. From the Applicant’s written and oral pleadings as a whole, it is clear that the Applicant is not accusing the Respondent of failing to respect measure B above, and that its submissions relate solely to the measures indicated in paragraph A, subparagraphs (1) and (2). It is therefore only to that extent that the Court will consider whether the Respondent has fully complied with its obligation to respect the measures ordered by the Court.

456. The answer to this question may be found in the reasoning in the present Judgment relating to the Applicant’s other submissions to the Court. From these it is clear that in respect of the massacres at Srebrenica in July 1995 the Respondent failed to fulfil its obligation indicated in paragraph 52 A (1) of the Order of 8 April 1993 and reaffirmed in the Order of 13 September 1993 to “take all measures within its power to prevent commission of the crime of genocide”. Nor did it comply with the measure indicated in paragraph 52 A (2) of the Order of 8 April 1993, reaffirmed in the Order of 13 September 1993, insofar as that measure required it to “ensure that any . . . organizations and persons which may be subject to its . . . influence . . . do not commit any acts of genocide”.

457. However, the remainder of the Applicant’s seventh submission claiming that the Respondent failed to comply with the provisional measures indicated must be rejected for the reasons set out above in respect of the Applicant’s other submissions (paragraphs 415 and 424).

458. As for the request that the Court hold the Respondent to be under an obligation to the Applicant to provide symbolic compensation, in an amount to be determined by the Court, for the breach thus found, the Court observes that the question of compensation for the injury caused to the Applicant by the Respondent’s breach of aspects of the Orders indicating provisional measures merges with the question of compensation for the injury suffered from the violation of the corresponding obligations under the Genocide Convention. It will therefore be dealt with below, in connection with consideration of points (b) and (c) of the Respondent’s sixth submission, which concern the financial compensation which the Applicant claims to be owed by the Respondent.

\* \* \*

## XI. THE QUESTION OF REPARATION

459. Having thus found that the Respondent has failed to comply with its obligations under the Genocide Convention in respect of the prevention and punishment of genocide, the Court turns to the question of reparation. The Applicant, in its final submissions, has asked the Court to decide that the Respondent

“must redress the consequences of its international wrongful acts and, as a result of the international responsibility incurred for . . . violations of the Convention on the Prevention and Punishment of the Crime of Genocide, must pay, and Bosnia and Herzegovina is entitled to receive, in its own right and as *parens patriae* for its citizens, full compensation for the damages and losses caused” (submission 6 (b)).

The Applicant also asks the Court to decide that the Respondent

“shall immediately take effective steps to ensure full compliance with its obligation to punish acts of genocide under the Convention on the Prevention and Punishment of the Crime of Genocide or any other act prohibited by the Convention and to transfer individuals accused of genocide or any other act prohibited by the Convention to the International Criminal Tribunal for the former Yugoslavia and to fully co-operate with this Tribunal” (submission 6 (a)),

and that the Respondent “shall provide specific guarantees and assurances that it will not repeat the wrongful acts complained of, the form of which guarantees and assurances is to be determined by the Court” (submission 6 (d)). These submissions, and in particular that relating to compensation, were however predicated on the basis that the Court would have upheld, not merely that part of the Applicant’s claim as relates to the obligation of prevention and punishment, but also the claim that the Respondent has violated its substantive obligation not to commit genocide, as well as the ancillary obligations under the Convention concerning complicity, conspiracy and incitement, and the claim that the Respondent has aided and abetted genocide. The Court has now to consider what is the appropriate form of reparation for the other forms of violation of the Convention which have been alleged against the Respondent and which the Court has found to have been established, that is to say breaches of the obligations to prevent and punish.

460. The principle governing the determination of reparation for an internationally wrongful act is as stated by the Permanent Court of International Justice in the *Factory at Chorzów* case: that “reparation must, so far as possible, wipe out all the consequences of the illegal act and reestablish the situation which would, in all probability, have existed if that act had not been committed” (*P.C.I.J., Series A, No. 17*, p. 47: see



also Article 31 of the ILC's Articles on State Responsibility). In the circumstances of this case, as the Applicant recognizes, it is inappropriate to ask the Court to find that the Respondent is under an obligation of *restitutio in integrum*. Insofar as restitution is not possible, as the Court stated in the case of the *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, "[i]t is a well-established rule of international law that an injured State is entitled to obtain compensation from the State which has committed an internationally wrongful act for the damage caused by it" (*I.C.J. Reports 1997*, p. 81, para. 152.; cf. *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 198, paras. 152-153; see also Article 36 of the ILC's Articles on State Responsibility). It is therefore appropriate to consider what were the consequences of the failure of the Respondent to comply with its obligations under the Genocide Convention to prevent and punish the crime of genocide, committed in Bosnia and Herzegovina, and what damage can be said to have been caused thereby.

461. The Court has found that the authorities of the Respondent could not have been unaware of the grave risk of genocide once the VRS forces had decided to take possession of the Srebrenica enclave, and that in view of its influence over the events, the Respondent must be held to have had the means of action by which it could seek to prevent genocide, and to have manifestly refrained from employing them (paragraph 438). To that extent therefore it failed to comply with its obligation of prevention under the Convention. The obligation to prevent the commission of the crime of genocide is imposed by the Genocide Convention on any State party which, in a given situation, has it in its power to contribute to restraining in any degree the commission of genocide. To make this finding, the Court did not have to decide whether the acts of genocide committed at Srebrenica would have occurred anyway even if the Respondent had done as it should have and employed the means available to it. This is because, as explained above, the obligation to prevent genocide places a State under a duty to act which is not dependent on the certainty that the action to be taken will succeed in preventing the commission of acts of genocide, or even on the likelihood of that outcome. It therefore does not follow from the Court's reasoning above in finding a violation by the Respondent of its obligation of prevention that the atrocious suffering caused by the genocide committed at Srebrenica would not have occurred had the violation not taken place.

462. The Court cannot however leave it at that. Since it now has to rule on the claim for reparation, it must ascertain whether, and to what extent, the injury asserted by the Applicant is the consequence of wrongful conduct by the Respondent with the consequence that the Respondent should be required to make reparation for it, in accordance with the

principle of customary international law stated above. In this context, the question just mentioned, whether the genocide at Srebrenica would have taken place even if the Respondent had attempted to prevent it by employing all means in its possession, becomes directly relevant, for the definition of the extent of the obligation of reparation borne by the Respondent as a result of its wrongful conduct. The question is whether there is a sufficiently direct and certain causal nexus between the wrongful act, the Respondent's breach of the obligation to prevent genocide, and the injury suffered by the Applicant, consisting of all damage of any type, material or moral, caused by the acts of genocide. Such a nexus could be considered established only if the Court were able to conclude from the case as a whole and with a sufficient degree of certainty that the genocide at Srebrenica would in fact have been averted if the Respondent had acted in compliance with its legal obligations. However, the Court clearly cannot do so. As noted above, the Respondent did have significant means of influencing the Bosnian Serb military and political authorities which it could, and therefore should, have employed in an attempt to prevent the atrocities, but it has not been shown that, in the specific context of these events, those means would have sufficed to achieve the result which the Respondent should have sought. Since the Court cannot therefore regard as proven a causal nexus between the Respondent's violation of its obligation of prevention and the damage resulting from the genocide at Srebrenica, financial compensation is not the appropriate form of reparation for the breach of the obligation to prevent genocide.

463. It is however clear that the Applicant is entitled to reparation in the form of satisfaction, and this may take the most appropriate form, as the Applicant itself suggested, of a declaration in the present Judgment that the Respondent has failed to comply with the obligation imposed by the Convention to prevent the crime of genocide. As in the *Corfu Channel (United Kingdom v. Albania)* case, the Court considers that a declaration of this kind is "in itself appropriate satisfaction" (*Merits, Judgment, I.C.J. Reports 1949*, pp. 35, 36), and it will, as in that case, include such a declaration in the operative clause of the present Judgment. The Applicant acknowledges that this failure is no longer continuing, and accordingly has withdrawn the request made in the Reply that the Court declare that the Respondent "has violated *and is violating* the Convention" (emphasis added).

464. The Court now turns to the question of the appropriate reparation for the breach by the Respondent of its obligation under the Convention to punish acts of genocide; in this respect, the Applicant asserts the existence of a continuing breach, and therefore maintains (*inter alia*) its request for a declaration in that sense. As noted above (paragraph 440), the Applicant includes under this heading the failure "to transfer individuals accused of genocide or any other act prohibited by the Conven-

tion to the International Criminal Tribunal for the former Yugoslavia and to fully co-operate with this Tribunal”; and the Court has found that in that respect the Respondent is indeed in breach of Article VI of the Convention (paragraph 449 above). A declaration to that effect is therefore one appropriate form of satisfaction, in the same way as in relation to the breach of the obligation to prevent genocide. However, the Applicant asks the Court in this respect to decide more specifically that

“Serbia and Montenegro shall immediately take effective steps to ensure full compliance with its obligation to punish acts of genocide under the Convention on the Prevention and Punishment of the Crime of Genocide or any other act prohibited by the Convention and to transfer individuals accused of genocide or any other act prohibited by the Convention to the International Criminal Tribunal for the former Yugoslavia and to fully co-operate with this Tribunal.”

465. It will be clear from the Court’s findings above on the question of the obligation to punish under the Convention that it is satisfied that the Respondent has outstanding obligations as regards the transfer to the ICTY of persons accused of genocide, in order to comply with its obligations under Articles I and VI of the Genocide Convention, in particular in respect of General Ratko Mladić (paragraph 448). The Court will therefore make a declaration in these terms in the operative clause of the present Judgment, which will in its view constitute appropriate satisfaction.

466. In its final submissions, the Applicant also requests the Court to decide “that Serbia and Montenegro shall provide specific guarantees and assurances that it will not repeat the wrongful acts complained of, the form of which guarantees and assurances is to be determined by the Court”. As presented, this submission relates to all the wrongful acts, i.e. breaches of the Genocide Convention, attributed by the Applicant to the Respondent, thus including alleged breaches of the Respondent’s obligation not itself to commit genocide, as well as the ancillary obligations under the Convention concerning complicity, conspiracy and incitement. Insofar as the Court has not upheld these claims, the submission falls. There remains however the question whether it is appropriate to direct that the Respondent provide guarantees and assurances of non-repetition in relation to the established breaches of the obligations to prevent and punish genocide. The Court notes the reasons advanced by counsel for the Applicant at the hearings in support of the submission, which relate for the most part to “recent events [which] cannot fail to cause concern as to whether movements in Serbia and Montenegro calling for genocide have disappeared”. It considers that these indications do not constitute sufficient grounds for requiring guarantees of non-repetition. The Applicant also referred in this connection to the question of non-compliance with provisional measures, but this matter has already been examined above (paragraphs 451 to 458), and will be mentioned further below. In

the circumstances, the Court considers that the declaration referred to in paragraph 465 above is sufficient as regards the Respondent's continuing duty of punishment, and therefore does not consider that this is a case in which a direction for guarantees of non-repetition would be appropriate.

467. Finally, the Applicant has presented the following submission:

"That in failing to comply with the Orders for indication of provisional measures rendered by the Court on 8 April 1993 and 13 September 1993 Serbia and Montenegro has been in breach of its international obligations and is under an obligation to Bosnia and Herzegovina to provide for the latter violation symbolic compensation, the amount of which is to be determined by the Court."

The provisional measures indicated by the Court's Order of 8 April 1993, and reiterated by the Order of 13 September 1993, were addressed specifically to the Respondent's obligation "to prevent commission of the crime of genocide" and to certain measures which should "in particular" be taken to that end (*I.C.J. Reports 1993*, p. 24, para. 52 (A) (1) and (2)).

468. Provisional measures under Article 41 of the Statute are indicated "pending [the] final decision" in the case, and the measures indicated in 1993 will thus lapse on the delivery of the present Judgment (cf. *Anglo-Iranian Oil Co. (United Kingdom v. Iran)*, *Preliminary Objections, Judgment*, *I.C.J. Reports 1952*, p. 114; *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, *Jurisdiction and Admissibility, Judgment*, *I.C.J. Reports 1984*, p. 442, para. 112). However, as already observed (paragraph 452 above), orders made by the Court indicating provisional measures under Article 41 of the Statute have binding effect, and their purpose is to protect the rights of either party, pending the final decision in the case.

469. The Court has found above (paragraph 456) that, in respect of the massacres at Srebrenica in July 1995, the Respondent failed to take measures which would have satisfied the requirements of paragraphs 52 (A) (1) and (2) of the Court's Order of 8 April 1993 (reaffirmed in the Order of 13 September 1993). The Court however considers that, for purposes of reparation, the Respondent's non-compliance with the provisional measures ordered is an aspect of, or merges with, its breaches of the substantive obligations of prevention and punishment laid upon it by the Convention. The Court does not therefore find it appropriate to give effect to the Applicant's request for an order for symbolic compensation in this respect. The Court will however include in the operative clause of the present Judgment, by way of satisfaction, a declaration that the Respondent has failed to comply with the Court's Orders indicating provisional measures.

470. The Court further notes that one of the provisional measures indicated in the Order of 8 April and reaffirmed in that of 13 September 1993 was addressed to both Parties. The Court's findings in paragraphs 456 to 457 and 469 are without prejudice to the question whether the Applicant did not also fail to comply with the Orders indicating provisional measures.

\* \* \*

## XII. OPERATIVE CLAUSE

471. For these reasons,

THE COURT,

(1) by ten votes to five,

*Rejects* the objections contained in the final submissions made by the Respondent to the effect that the Court has no jurisdiction; and *affirms* that it has jurisdiction, on the basis of Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide, to adjudicate upon the dispute brought before it on 20 March 1993 by the Republic of Bosnia and Herzegovina;

IN FAVOUR: *President Higgins; Vice-President Al-Khasawneh; Judges Owada, Simma, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna; Judge ad hoc Mahiou;*

AGAINST: *Judges Ranjeva, Shi, Koroma, Skotnikov; Judge ad hoc Kreća;*

(2) by thirteen votes to two,

*Finds* that Serbia has not committed genocide, through its organs or persons whose acts engage its responsibility under customary international law, in violation of its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide;

IN FAVOUR: *President Higgins; Judges Ranjeva, Shi, Koroma, Owada, Simma, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; Judge ad hoc Kreća;*

AGAINST: *Vice-President Al-Khasawneh; Judge ad hoc Mahiou;*

(3) by thirteen votes to two,

*Finds* that Serbia has not conspired to commit genocide, nor incited the commission of genocide, in violation of its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide;

IN FAVOUR: *President Higgins; Judges Ranjeva, Shi, Koroma, Owada, Simma, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; Judge ad hoc Kreća;*

AGAINST: *Vice-President Al-Khasawneh; Judge ad hoc Mahiou;*

(4) by eleven votes to four,

*Finds* that Serbia has not been complicit in genocide, in violation of its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide;

IN FAVOUR: *President Higgins; Judges Ranjeva, Shi, Koroma, Owada, Simma, Tomka, Abraham, Sepúlveda-Amor, Skotnikov; Judge ad hoc Kreća;*

AGAINST: *Vice-President Al-Khasawneh; Judges Keith, Bennouna; Judge ad hoc Mahiou;*

(5) by twelve votes to three,

*Finds* that Serbia has violated the obligation to prevent genocide, under the Convention on the Prevention and Punishment of the Crime of Genocide, in respect of the genocide that occurred in Srebrenica in July 1995;

IN FAVOUR: *President Higgins; Vice-President Al-Khasawneh; Judges Ranjeva, Shi, Koroma, Owada, Simma, Abraham, Keith, Sepúlveda-Amor, Bennouna; Judge ad hoc Mahiou;*

AGAINST: *Judges Tomka, Skotnikov; Judge ad hoc Kreća;*

(6) by fourteen votes to one,

*Finds* that Serbia has violated its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide by having failed to transfer Ratko Mladić, indicted for genocide and complicity in genocide, for trial by the International Criminal Tribunal for the former Yugoslavia, and thus having failed fully to co-operate with that Tribunal;

IN FAVOUR: *President Higgins; Vice-President Al-Khasawneh; Judges Ranjeva, Shi, Koroma, Owada, Simma, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; Judge ad hoc Mahiou;*

AGAINST: *Judge ad hoc Kreća;*

(7) by thirteen votes to two,

*Finds* that Serbia has violated its obligation to comply with the provisional measures ordered by the Court on 8 April and 13 September 1993 in this case, inasmuch as it failed to take all measures within its power to prevent genocide in Srebrenica in July 1995;

IN FAVOUR: *President Higgins; Vice-President Al-Khasawneh; Judges Ranjeva, Shi, Koroma, Owada, Simma, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna; Judge ad hoc Mahiou;*

AGAINST: *Judge Skotnikov; Judge ad hoc Kreća;*

(8) by fourteen votes to one,

*Decides* that Serbia shall immediately take effective steps to ensure full compliance with its obligation under the Convention on the Prevention

and Punishment of the Crime of Genocide to punish acts of genocide as defined by Article II of the Convention, or any of the other acts proscribed by Article III of the Convention, and to transfer individuals accused of genocide or any of those other acts for trial by the International Criminal Tribunal for the former Yugoslavia, and to co-operate fully with that Tribunal;

IN FAVOUR: *President Higgins; Vice-President Al-Khasawneh; Judges Ranjeva, Shi, Koroma, Owada, Simma, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; Judge ad hoc Mahiou;*

AGAINST: *Judge ad hoc Kreća;*

(9) by thirteen votes to two,

*Finds* that, as regards the breaches by Serbia of the obligations referred to in subparagraphs (5) and (7) above, the Court's findings in those paragraphs constitute appropriate satisfaction, and that the case is not one in which an order for payment of compensation, or, in respect of the violation referred to in subparagraph (5), a direction to provide assurances and guarantees of non-repetition, would be appropriate.

IN FAVOUR: *President Higgins; Judges Ranjeva, Shi, Koroma, Owada, Simma, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; Judge ad hoc Kreća;*

AGAINST: *Vice-President Al-Khasawneh; Judge ad hoc Mahiou.*

Done in English and in French, the English text being authoritative, at the Peace Palace, The Hague, this twenty-sixth day of February, two thousand and seven, in three copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of Bosnia and Herzegovina and the Government of Serbia, respectively.

(Signed) Rosalyn HIGGINS,  
President.

(Signed) Philippe COUVREUR,  
Registrar.

Vice-President AL-KHASAWNEH appends a dissenting opinion to the Judgment of the Court; Judges RANJEVA, SHI and KOROMA append a joint dissenting opinion to the Judgment of the Court; Judge RANJEVA appends a separate opinion to the Judgment of the Court; Judges SHI and KOROMA append a joint declaration to the Judgment of the Court; Judges OWADA and TOMKA append separate opinions to the Judgment of the Court; Judges KEITH, BENNOUNA and SKOTNIKOV append declarations

to the Judgment of the Court; Judge *ad hoc* MAHIU appends a dissenting opinion to the Judgment of the Court; Judge *ad hoc* KREĆA appends a separate opinion to the Judgment of the Court.

(*Initialled*) R.H.

(*Initialled*) Ph.C.

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# Exhibit 04



## **UNHCR's ELIGIBILITY GUIDELINES FOR ASSESSING THE INTERNATIONAL PROTECTION NEEDS OF IRAQI ASYLUM-SEEKERS**

This report has been produced by UNHCR on the basis of information obtained from a variety of publicly available sources, analyses and comments, as well as from information received by UNHCR staff or staff of implementing partners in Iraq. The report is primarily intended for those involved in the asylum determination process, and concentrates on the issues most commonly raised in asylum claims lodged in various jurisdictions. The information contained does not purport to be either exhaustive with regard to conditions in the country surveyed nor conclusive as to the merit of any particular claim to refugee status or asylum. The inclusion of third party information or views in this report does not constitute an endorsement by UNHCR of this information or views.

**United Nations High Commissioner for Refugees (UNHCR)  
Geneva  
August 2007**

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## LIST OF ABBREVIATIONS

AFP	Agence France-Presse
AI	Amnesty International
AMS	Association of Muslim Scholars
AP	Additional Protocol (to the four Geneva Conventions)
BBC	British Broadcasting Company
CAT	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (United Nations)
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women (United Nations)
CERD	International Convention for the Elimination of All Forms of Racial Discrimination (United Nations)
CFR	Council on Foreign Relations
CPA	Coalition Provisional Authority
CPJ	Committee to Protect Journalists
CRRPD	Commission for the Resolution of Real Property Disputes
CRC	Constitutional Review Committee
CRC	Convention on the Rights of the Child (United Nations)
CRS	Congressional Research Service
CSIS	Center for Strategic and International Studies
DPA	Deutsche Presse-Agentur
ECOSOC	Economic and Social Council of the United Nations
ExCom	Executive Committee (UNHCR)
FAO	Food and Agriculture Organization
FGM	Female Genital Mutilation
FPS	Facilities Protection Service
HRW	Human Rights Watch
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights (United Nations)
ICESCR	International Covenant on Economic, Social and Cultural Rights (United Nations)
ICG	International Crisis Group
ICRC	International Committee of the Red Cross
ICTY	International Criminal Tribunal for the former Yugoslavia
ICTR	International Criminal Tribunal for Rwanda
IDP	Internally Displaced Person
IED	Improvised Explosive Device
IFA/IRA	Internal Flight Alternative / Internal Relocation Alternative
IFJ	International Federation of Journalists
IGC	Iraqi Governing Council
IIG	Interim Iraqi Government
IIP	Iraqi Islamic Party
ILO	International Labour Organization
IMA	Iraqi Medical Association

IOM	International Organization for Migration
IPS	Inter Press Service
IRCS	Iraqi Red Crescent Society
IRIN	United Nations Integrated Regional Information Networks
ISF	Iraqi Security Forces
ISU	Iraqi Sports Union
ITF	Iraqi Turkmen Front
IWPR	Institute for War and Peace Reporting
KDP	Kurdistan Democratic Party
KRG	Kurdistan Regional Government
LGBT	Lesbian, gay, bisexual and transgender
MNF	Multi-National Forces
MIPT	Memorial Institute for the Prevention of Terrorism
MoDM	Ministry of Displacement and Migration
NCCI	NGO Coordination Committee in Iraq
NGO	Non-governmental Organization
NIE	National Intelligence Estimate
OHCHR	(United Nations) Office of the High Commissioner for Human Rights
PDS	Public Distribution System
PJAK	Party for a Free Life in Kurdistan
PKK	Kurdistan Workers' Party
PUK	Patriotic Union of Kurdistan
RCC	Revolutionary Command Council
RFE/RL	Radio Free Europe / Radio Liberty
RPG	Rocket-propelled grenade
RSD	Refugee Status Determination
RSF	Reporters sans Frontières (Reporters Without Borders)
SC	(United Nations) Security Council
SCIRI	Supreme Council for the Islamic Revolution in Iraq
SGBV	Sexual and gender-based violence
SOITM	Iraqi Turkmen Human Rights Research Foundation
TAL	Law of Administration for the State of Iraq for the Transitional Period
TI	Transparency International
TNA	Transitional National Assembly
UN	United Nations
UNAMI	United Nations Assistance Mission for Iraq
UNAMI HRO	United Nations Assistance Mission for Iraq, Human Rights Office
UNCT	United Nations Country Team
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIDO	United Nations Industrial Development Organization

UNOPS	United Nations Office for Project Services
UNSC	United Nations Security Council
UPI	Union for Peace in Iraq
US	United States
USIP	United States Institute of Peace
WFP	World Food Programme
WHO	World Health Organization



## **EXECUTIVE SUMMARY**

### ***A. Current Situation in Iraq***

The present situation in Central and Southern Iraq<sup>1</sup> is characterized by pervasive extreme violence, serious violations of human rights and a general lack of law and order. There have been some positive political developments in the country, including the Iraqi Government's stated commitment to reconciliation, but these have not translated into increased physical and material security for its citizens. Individuals are regularly subject to violence due to their actual or perceived religious, ethnic, or political backgrounds and/or views by various actors. There are consistent reports of abuse and torture by insurgent groups, Iraqi Security Forces (ISF) and Shi'ite militias. The armed conflict between the Multi-National Forces (MNF)/ISF and the Sunni-led insurgency has resulted in civilian deaths, destruction of property and displacement.

State protection from those perpetrating acts of violence is generally not available. The dismantling and slow reconstitution of Iraqi security forces, who are themselves the target of continuous attacks, have left a security vacuum in the country. Acts of violence are thus increasingly committed in a climate of impunity. Weak law enforcement and judicial structures, and the reported involvement of law enforcement in human rights abuses, further aggravate this situation.

The overall security situation in the three Northern Governorates of Sulaymaniyah, Erbil and Dahuk, while less precarious than the situation in Central and Southern Iraq, remains tense and unpredictable. Disputes over the status of "arabized" areas, possible spill-over of violence from other parts of the country and the presence of militant groups in the area all threaten to destabilize the region.

### ***B. Summary of Main Groups Perpetrating Violence and Groups at Risk***

#### **1. Main Groups Practicing Violence**

##### *Insurgent Groups*

Sunni Arabs, who had largely dominated the country under the previous regime, form the backbone of the current insurgency in Iraq. The insurgency appears to consist of a number of groups, including former Ba'athists, former army and intelligence officers, indigenous and foreign Islamists, and nationalists fighting foreign occupation. While differences exist

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<sup>1</sup> For the purposes of this paper, "Central Iraq" covers the Governorates of Anbar, Baghdad, Diyala, Ninewa (including the city of Mosul), Salah al-Din and Tameem (including the city of Kirkuk). This includes those areas in Central Iraq that are under the control of the KRG as stipulated in Article 53(A) of the Law of Administration for the State of Iraq for the Transitional Period (TAL), which continues to be valid under the Constitution (Article 143). "Southern Iraq" consists of the Governorates of Babil, Basrah, Kerbala, Najaf, Missan, Muthanna, Qadissiya, Thi-Qar and Wassit. Throughout these Guidelines, the three Northern Governorates referred to are those of Dahuk, Erbil and Sulaymaniyah. See also: "Annex XI: Maps of Iraq".

in the goals and tactics of the different groups forming the insurgency, the expulsion of the MNF from Iraq and the undermining of the new political structures in the country are evidently common objectives. There are reports that members of the insurgency have infiltrated parts of the ISF and carried out attacks in this capacity. The insurgency is mainly active in the “Sunni triangle”, as well as in mixed areas of the Governorates of Diyala, Babel and Kirkuk.

#### *Iraqi Security Forces and Shi’ite Militias*

Much of the Shi’ite generated violence in Iraq has been attributed to two rival Shi’ite militias, the Badr Organization and the Mehdi Army. Shi’ite militia members have increasingly entered the ISF, such as the Facilities Protection Services (FPS) and the Special Commando Units /Iraqi National Police, and have reportedly conducted kidnappings, torture and summary executions of mainly Sunni Arabs. There have also been increasing reports of abuse and torture of government-held detainees, especially in detention facilities operated by the Ministry of Interior.

#### *Criminal Groups*

Criminal gangs have taken full advantage of the collapse of law and order in Iraq, engaging in various illegal activities such as kidnappings and killings. These acts are often influenced, if not directed, by those responsible for the sectarian or political violence that surrounds them. For example, victims are often targeted because of their sect (e.g., kidnappings for sale to sectarian groups), (perceived) role in public life and/or perceived lack of State or tribal protection. Gangs increasingly operate in collusion with, or as members of, the ISF. Given this situation, a well-founded fear of harm based on one of the grounds of the 1951 Convention will often be present.

#### *Kurdish Armed Forces*

The Kurdish parties and their armed forces (*Peshmerga*) have been blamed for acts of violence committed in areas under their control against (perceived) political opponents, (perceived) Islamists, and members of ethnic/religious minorities.

#### *Family, Community, Tribe*

Acts of violence, most notably “honour killings”, are frequently committed throughout the country by members of the victim’s family, community or tribe.

## **2. Main Groups at Risk**

#### *Religious Groups*

The sectarian violence in Iraq has placed both Muslims and non-Muslims at risk of harm. With regard to Muslims, Sunni-Shi’ite violence is the most prevalent. Sunni armed groups have targeted Shi’ite dominated ISF bases and recruitment centers, Shi’ite religious sites

and gatherings, Shi'ite religious leaders and Shi'ite civilians at large. Shi'ite militias are held responsible for attacks on Sunni mosques, religious leaders and Sunni neighborhoods. Both groups have conducted kidnappings, torture, rape and execution-style killings of persons belonging to, or perceived to belong to, the other sect. Mixed Shi'ite-Sunni families have suffered discrimination and, at times, physical violence, from both sides. Systematic forced displacement is also occurring, with both Shi'ite and Sunni armed groups seeking to drive the other community from their areas. Areas particularly affected by Sunni-Shi'ite sectarian violence are those with (formerly) mixed populations.

Members of non-Muslim religious minorities (e.g., Christians, Sabaeen-Mandaeans, Yazidis, Baha'i, Kaka'i and Jews) have increasingly become victims of sectarian violence, often perceived as a threat to the Islamic nature of the State or as supporters of the US-led invasion and the current Iraqi Government. Some groups have been branded as infidels while religious edicts (*fatwas*) have been issued against others, calling for their conversion to Islam or death. Members of these groups have suffered discrimination, harassment, inability to practice their religion, restrictions on movement, and acts of violence (destruction of property, including attacks on religious sites; kidnappings; rape; forced conversion and murder). Women of these faiths have been particularly affected, often forced to comply with strict Islamic dress codes and unable to move freely due to fear of kidnapping or rape. Perceived as wealthy (due to their traditional professions and generally good education) and lacking State or other protection, members of non-Muslim religious minorities are also often the victims of general criminality, which also, however, bears a sectarian component.

### *Ethnic Groups*

A number of different ethnic groups exist in Iraq, including, for example, Kurds, Arabs, Turkmen, ethnic-based Christian groups (Assyrians, Chaldeans, Armenians), Yazidis, Shabak and Roma. Inter-ethnic tensions and violence have become increasingly prevalent in ethnically mixed areas of the country that had been the focus of previous governments' Arabization policies (e.g., Governorates of Kirkuk, Ninewa, Salah Al-Din and Diyala). Kurdish parties have been actively seeking to incorporate these areas into the Region of Kurdistan. Many ethnic minorities have charged that Kurdish political parties and military forces have subjected them to violence, forced assimilation, discrimination, political marginalization, arbitrary arrests and detention. Insurgent groups are reported to actively stir ethnic tensions and violence in these areas, in particular among the Arab and Kurdish populations. Inter-ethnic violence is reportedly on the rise in view of the referendum on the status of these disputed areas scheduled for the end of 2007.

The Roma (Kawliyah), an ethnic group with its own language, traditions and culture, has long suffered discrimination in Iraq, although it received some protection under the former regime. Since the fall of that regime, the Kawliyah have been increasingly targeted by conservative local communities and members of Shi'ite militias, who object to their differing social norms and associate them with the former regime or the ongoing insurgency.

### *Actual or Perceived Supporters of the Former Regime and/or Insurgency*

Individuals who are perceived to be supporters of the former regime and/or the ongoing insurgency, including, most notably, Sunni Arabs, have been subjected to physical violence and other forms of intimidation and harassment. Sunni Arabs are often blamed for the human rights abuses that occurred under the former regime (due to the key positions that many Sunni Arabs held in the army and security and intelligence agencies) and are also broadly perceived to be supporters of the insurgency. As such, they have been targeted by Shi'ite death squads and certain elements of the ISF.

Members and associates of the Ba'ath Party and the former regime have been similarly targeted. The degree to which these individuals are at risk depends on such factors as the extent to which they are identified with the Ba'athist ideology and the human rights abuses that occurred under the former regime, the rank or position previously held, and public recognition. Rank or seniority alone is not dispositive, as many low-level officials have been targeted at the community level. Finally, other groups perceived as having received preferential treatment under the former regime, e.g., Roma (Kawliyah), Palestinians, and professionals whose careers are perceived to have advanced due to Ba'ath Party membership, have been targeted. Given the current climate of impunity and lack of law and order, personal revenge killings against perpetrators of detention, torture or other human rights violations have also occurred.

### *Actual or Perceived Sympathizers of the US-Led Invasion and/or the MNF in Iraq*

Individuals working for certain entities in Iraq are perceived by the insurgency as supporting the US-led invasion of Iraq and its "occupation" by the MNF. These individuals are thus targeted by elements of the insurgency. Individuals include those Iraqis who are working for the MNF, foreign embassies, foreign companies, the former Coalition Provisional Authority (CPA), the United Nations (UN), the International Committee of the Red Cross (ICRC) as well as other humanitarian and human rights organizations. In addition, humanitarian workers may be targeted by militant elements for assisting civilian members belonging to other sectarian groups. There have been reports of threats made against employees and their families. Kidnappings, physical attacks and murder have been perpetrated against these workers. Neither the UN nor local employers can provide the security that is necessary but otherwise unavailable from the Iraqi authorities or the MNF.

Kurds have also been perceived as supporters of the "foreign occupation," given their staunch support of the US-led invasion in 2003 and presence in the country, full involvement in the political process, political efforts to achieve federalism in Iraq (viewed by many Sunni Arabs as a precursor to the break-up of Iraq), and reported relations with Israel. This has resulted in a number of attacks on Kurdish political and military representatives, offices of the Kurdistan Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK), and Kurdish civilians.

### *Government Officials and Other Persons Associated with the Current Iraqi Government, Administration and Institutions*

As with those who are perceived as supporting the US-led invasion and the presence of the MNF in Iraq, Iraqis who are employed by or otherwise affiliated with the current Government, as well as their families, are similarly at risk. This includes politicians, members/employees of the Iraqi Government (at both the national and local level), employees of state-owned companies, and members of political parties.

### *Actual or Perceived Opponents of the Ruling Parties in the Region of Kurdistan, as well as in Areas under the De Facto Control of the KRG*

There have been reports of human rights abuses by Kurdish authorities and security forces in the Region of Kurdistan and areas under its *de facto* control against suspected supporters/members of the insurgency, the former regime and opponents of the KDP and PUK. Individuals suspected of links with the insurgency or other “terrorist” activities are often held without charge or trial for indefinite periods of time. The possible use of torture and ill-treatment is of significant concern. Those who oppose the ruling parties, for example, through participation in demonstrations or publication of critical newspaper articles, risk arrest and detention.

### *Certain Professions*

Targeted attacks and assassinations against certain professionals have been on the increase throughout Central and Southern Iraq. Those targeted have included, in particular, academics, journalists and media workers, artists, doctors and other medical personnel, judges and lawyers and athletes and sports officials. Individuals in these professions have been singled out by Shi’ite and Sunni extremists and criminals for a variety of reasons, including their public status, (perceived) political views, sectarian identity, engagement in “Western” activities or other alleged “un-Islamic” behaviour, and perceived wealth.

### *Other Groups*

➤ Women: Since the fall of the previous regime, the security, economic and human rights situation of women in Central and Southern Iraq has dramatically declined and continues to worsen. Women are generally perceived as “softer” targets, and also suffer violence as a means of humiliating members of the “other” sect. Perpetrators of violent acts against women include militias, insurgents, Islamic extremists and family members. “Honour killings” have reportedly increased for behaviour considered to have brought shame on the family (e.g., loss of virginity (even if by rape), infidelity, divorce demands or marriage refusals). The Iraqi Penal Code, as applicable in Central and Southern Iraq, provides for lenient punishments if the killing was provoked or done with “honourable motives.” Women who fear “honour killings” will not be protected within their communities by their tribes in view of the increasing weakness of tribal structures and mediation systems as a result of the overall situation of violence in Central and Southern Iraq. Women increasingly must also conform to strict Islamic dress and morality codes, risking

harassment and death threats if they fail to do so. In general, single women and women-headed households are at increased risk of harm.

In the Region of Kurdistan, while “honour killings” are considered crimes under local law, they continue to occur in high numbers, often concealed as accidents, suicides or suicide attempts. Forced or early marriages are of concern and female genital mutilation (FGM) is prevalent in some areas.

➤ Sexual Orientation: Iraq’s lesbian, gay, bi-sexual and transgender (LGBT) community has historically been subject to attacks in Iraq. Since the fall of the previous regime, however, with the rise of strict Islamic values that are often enforced through extra-legal means, violence against the LGBT community has increased. Killings are often conducted in especially brutal manners, with burnings and mutilations reported. “Honour killings” of gay family members have also been reported. Those who commit acts of violence against homosexuals and others often do so with impunity, with the police reportedly themselves blackmailing, torturing or sexually abusing homosexuals in their custody.

➤ Persons Accused of Un-Islamic Behaviour: As with women and homosexuals, others who are perceived as not complying with strict Islamic values and traditions have been subjected to discrimination, threats, kidnappings, mutilations and killings. Those who have been victimized include women who fail to dress appropriately, drive cars or work outside the home; men who shave their beards, wear shorts or have long hair; students who sing, dance or mingle with the other sex; homosexuals and those believed to have HIV/AIDS; barbers, for shaving beards or giving Western-style haircuts; male doctors for treating female patients; owners of alcohol, CD and DVD shops; and owners of shops that sell musical instruments or what is considered “inappropriate” clothing.

### **3. Arab Refugees**

While this paper addresses the international protection needs of Iraq asylum-seekers, note is also made of the particular needs of Arab refugees in Iraq who have since become displaced by the current violence. In particular, there are increasing reports of refugees of Sunni Arab origin, for example Palestinians, Syrians and Iranians (Ahwazis), being targeted due to their perceived affiliation with the former regime and the ongoing Sunni-led insurgency. Shi’ite-dominated ISF and militias have been identified as the main perpetrators of attacks against these refugees. In general, many refugees do not hold valid documentation, limiting their freedom of movement, access to services and putting them at risk of detention and possibly *refoulement*. As such, in adjudicating the refugee claims of individuals who were previously refugees in Iraq, it should be noted that the current situation in Iraq is such that “effective protection” in the country is generally unavailable.

## ***C. Assessing the International Protection Needs of Iraqi Asylum-Seekers***

### **1. Overall Approach**

### *Iraqi Asylum-Seekers From Central and Southern Iraq*

In view of the current situation in Central and Southern Iraq, the United Nations High Commissioner for Refugees (UNHCR) considers Iraqi asylum-seekers from these areas to be in need of international protection. In those countries where the numbers of Iraqis are such that individual refugee status determination is not feasible, UNHCR encourages the adoption of a *prima facie* approach.

In relation to countries which are signatory to the 1951 Convention relating to the Status of Refugees<sup>2</sup> (“1951 Convention”) and/or its 1967 Protocol, and have in place procedures requiring refugee status determination under the Convention on an individual basis, Iraqi asylum-seekers from Central and Southern Iraq should be considered as refugees based on the 1951 Convention criteria. Where, however, such asylum-seekers are not recognized under the 1951 Convention refugee criteria, international protection should be afforded through the application of an extended refugee definition,<sup>3</sup> or otherwise through a complementary form of protection.

UNHCR considers that an internal flight or relocation alternative (IFA/IRA) in Central and Southern Iraq is on the whole not available, because of the overall ability of agents of persecution to perpetrate acts of violence with impunity, the widespread violence and human rights violations, risks associated with travel, and the hardship faced in ensuring even basic survival in areas of relocation. When, however, the availability of an IFA/IRA must be assessed as a requirement in a national eligibility procedure, it should be examined carefully and on a case-by-case basis, bearing in mind the strong cautions in these Guidelines and, in general, UNHCR’s 2003 Guidelines on International Protection on Internal Flight Relocation/Alternative.<sup>4</sup>

### *Iraqi Asylum-Seekers From Northern Governorates*

International protection needs of asylum-seekers from the three Northern Governorates of Sulaymaniyah, Erbil and Dahuk should be individually assessed based on the 1951 Convention refugee definition. In cases where an asylum-seeker is not recognized as a refugee under the 1951 Convention but nevertheless demonstrates protection needs for which complementary forms of protection may be appropriate, the case should be assessed accordingly. Taking into consideration the tenuous and unpredictable nature of the situation in the region and the possibility of sudden and dramatic change, the approach outlined in these Guidelines for asylum-seekers from Central and Southern Iraq may likewise, at some point, have to be followed.

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<sup>2</sup> Convention relating to the Status of Refugees, adopted on 28 July 1951, entered into force on 22 April 1954, available in UNHCR’s Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3be01b964>.

<sup>3</sup> See for more on the extended refugee definition: “Overall Approach”, and in particular footnote 719.

<sup>4</sup> UNHCR, *Guidelines on International Protection No. 4: “Internal Flight or Relocation Alternative” Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, HCR/GIP/03/04, 23 July 2003, available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3f2791a44>.

In regard to availability of an internal flight alternative in the Central and Southern regions, no such alternative is available for Iraqi asylum-seekers originating from the Northern Governorates due to the widespread violence, insecurity and human rights violations in those areas. Whether an internal flight alternative is available within the Northern Governorates must be examined carefully on a case-by-case basis. The evaluation should take into account factors such as the background, profile and circumstances of the individual concerned; the existence of legal and physical barriers to accessing the area of relocation, which are known to be prevalent; possibilities of new risks of harm in the area of relocation; and whether undue hardship is likely to be faced by living in the area of relocation. Furthermore, as explained in these Guidelines, certain categories of individuals with given profiles are clearly not able to find an internal flight or relocation alternative in the three Northern Governorates.

#### *Additional Considerations*

In cases where Iraqi asylum-seekers find themselves in countries where there is no national legislative or administrative framework for refugee status determination, concerned Governments should permit Iraqis from Central and Southern Iraq to enter and/or remain in those countries, even only on a temporary basis, according to any appropriate framework which may facilitate this and allow access to basic protection measures. In relation to persons from the three Northern Governorates, international protection needs may be assessed individually, bearing in mind the caution highlighted already concerning the situation there, which thus may justify the same approach as for asylum-seekers from Central and Southern Iraq, should the situation deteriorate. Persons assessed to be in need of international protection should be permitted lawful stay or residence.

## **2. Refugee Status Under the 1951 Convention relating to the Status of Refugees**

Where refugee status determination is not granted on a *prima facie* basis, and/or claims for refugee status are required to be lodged and decided upon on an individual basis under the 1951 Convention, regard should be paid to the following considerations summarized below.

#### *Well-Founded Fear*

The refugee definition of the 1951 Convention relating to the Status of Refugees contains both a subjective and an objective element. The former refers to an individual's fear of harm while the latter refers to the well-foundedness of that fear. An applicant's fear is well-founded if there is a reasonable likelihood that the harm feared, or some other form thereof, will materialize.

Whether or not an applicant's fear is well-founded needs to be assessed in the context of the situation in the country of origin, taking into account the personal profile, experiences and activities of the applicant, and, where relevant, of others. Given the pervasive and extreme forms of violence and human rights violations in Central and Southern Iraq, the fear of harm claimed by Iraqi asylum-seekers from these parts of the country should normally be



considered to be well-founded. To the extent that the harm feared is from non-State actors, State protection is on the whole not available in Central and Southern Iraq. Moreover, state agents are themselves accused of carrying out violence and other forms of human rights transgressions. Consequently, an asylum-seeker should not be expected to seek the protection of the authorities, and failure to do so should not be the sole reason for doubting credibility or rejecting the claim.

### *Persecution*

There is no definition of the term “persecution” in international law. Whether or not any measure amounts to persecution must be determined in light of all the circumstances of the case taking into account the personal profile, experiences and activities of the applicant which would put him or her at risk. A threat to life or freedom, other serious harm or serious violations of human rights would constitute persecution. Severe discrimination could also amount to persecution, in particular where livelihood is threatened. Measures which are not of a serious character by themselves may amount to persecution on a cumulative basis.

Acts of extreme violence and serious human rights violations, as in large parts of Iraq today, would rise to the level of persecution. There is no requirement under refugee criteria that an individual has to be “targeted” for persecution in order to qualify for refugee status. Violence perceived as generalized in nature, including against civilians, can often be linked to one of more of the 1951 Convention grounds. Car bombs, killings, torture, kidnappings, and other types of physical harm would amount to persecution. An asylum-seeker’s failure to identify the perpetrator of violence should not be considered as detrimental to his/her credibility.

Other forms of persecution are also present in relation to particular groups. They include restrictions on the ability to practice one’s religion (as a result of legal restrictions and/or threats of violence), severe discriminatory treatment, harassment and intimidation rising to the level of persecution, and domestic violence, including “honour killings.”

### *Link to a Convention Ground*

In order to fall within the refugee criteria, there must be a nexus between the relevant act or measure and at least one of the Convention grounds. In the context of Iraq, the most relevant Convention grounds are political opinion and religion. The main religious divide is between the Sunnis and the Shi’ites. At the same time, given that the insurgency is Sunni-driven and the Government is predominantly Shi’ite, there are also clear political overtones. The ground “membership of a particular group” is also clearly applicable in some cases. Grounds for persecution are often overlapping. Even in instances of common criminal activity, victims are often targeted, at least in part, because of their religious or ethnic backgrounds or membership in a particular social group.

### *Internal Flight or Relocation Alternatives (IFA/IRA)*

UNHCR considers that an internal flight or relocation alternative within Central or Southern Iraq for those fleeing violence and human rights violations is on the whole not available. The security situation throughout the region is highly volatile, with a risk of persecution or other serious harm present throughout. Travel within Central and Southern Iraq is also generally unsafe. Physical and legal barriers impede both travel to and residence in other areas. Finally, restrictions in access to food, shelter, basic services, income/employment and education are such that a relatively normal life generally cannot be pursued without undue hardship. When, however, the availability of an internal flight or relocation alternative must be assessed in a national procedure, it should be examined cautiously, taking into account the particular circumstances of the applicant.

The availability of an IFA/IRA for individuals from Central and Southern Iraq in the three Northern Governorates must be carefully assessed on a case-by-case basis, taking into consideration, in particular, the relevance and reasonable analyses in these Guidelines. The Governorates are not easily accessible from Central and Southern Iraq, with travel by road highly dangerous, and many parts of the unofficial borders heavily mined and subject to security checks. Travel by air, while relatively safer, is not without risks. Entry and residency measures require certain preconditions to be met, including having a sponsor and satisfying security checks. Political and demographic reasons may affect whether a person is admitted and granted legal residence. Even for those admitted, State or family/tribal protection from persecution may not be guaranteed due to their background. Others may have problems in accessing food, education, health and employment. A non-exhaustive listing of categories of persons who may not be able to find protection upon relocation to the three Northern Governorates is provided in these Guidelines.<sup>5</sup>

With regard to an IFA/IRA within the three Northern Governorates, it should be noted that, despite the unification of the KDP-administration in Erbil/Dahuk and the PUK-administration in Sulaymaniyah in January 2006, the two administrations still remain largely split. Thus, access to legal residence for those who relocate from one administered area to the other is highly unpredictable, and may be restricted, or, if obtained, could be withdrawn for political reasons. Basic services may also be difficult to access and protection from persecution may not be available. Each claim must thus be assessed on its individual merits.

### *Exclusion*

In light of Iraq's history of serious human rights violations and transgressions of international humanitarian law in the country's long experience with conflicts, exclusion considerations may well arise in individual claims for refugee status. This may be particularly the case for Iraqis with certain backgrounds and profiles, including those affiliated with the previous Ba'athist regime, its armed forces, the police, the security and intelligence apparatus and the judiciary; members of armed groups that opposed the former regime; members of the current ISF; members of militias or insurgency groups; and those

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<sup>5</sup> See "Persons Who May Not Be Able to Find Protection".

affiliated with criminal groups. Individual responsibility for possible crimes against peace, war crimes, crimes against humanity, serious non-political crimes, or acts contrary to the purposes and principles of the United Nations, all under Article 1F of the 1951 Convention, would need to be assessed. In the context of Iraq, a presumption of individual responsibility for excludable crimes may arise as a result of a person's continued and voluntary functioning in very senior positions of the former regime, the Ba'ath Party or the security or military apparatus of the former regime as these institutions were clearly engaged in activities falling within the scope of Article 1F.



## I. INTRODUCTION

*“In the most significant displacement in the Middle East since the dramatic events of 1948, one in eight Iraqis have been driven from their homes. Some 1.9 million Iraqis are currently displaced inside the country and up to 2 million others have fled abroad.”*

UN High Commissioner for Refugees, António Guterres,  
opening speech at the International Conference on Addressing  
the Humanitarian Needs of Refugees and Internally Displaced  
Persons inside Iraq and in Neighbouring Countries,  
17 April 2007

The fall of the regime of Saddam Hussein in April 2003, one of the most brutal and repressive governments in the world, was a water-shed event in the history of Iraq. For millions of Iraqis, it brought to a close an era marked by violence and fear. There was hope of new government institutions that would operate according to the rule of law and respect fundamental human rights. For hundreds of thousands of refugees who fled Iraq during the preceding three decades, the fall of the regime of Saddam Hussein raised the possibility of returning home. Indeed, more than 300,000 Iraqis returned home between 2003 and 2005, either spontaneously or through the facilitation of UNHCR.

Four years have passed since then. Unfortunately, population movements have reversed. With the deteriorating security situation, increasing sectarianism and the lack of reconstruction and economic recovery, returns of refugees to Iraq have come to a standstill. The fatal bombing of the holy shrine in Samarra in February 2006 was a critical turning point in this regard. As the number of those returning to Iraq declined, those departing increased, unnoticed at first, but soon evolving into what has now been described as an exodus from the country. Iraqis from all walks of life, including Sunnis, Shi'ites, Kurds, Christians and members of other religious and ethnic minorities, the educated elite, former Ba'athists and persons suspected of being aligned with the current Government or the MNF, are now fleeing their homes for safety. It is estimated that between 1,000 and 1,500 Iraqis flee the country every day. There are some 1.9 million Iraqis displaced internally in Iraq, and up to two million in neighbouring countries, particularly Syria and Jordan. Increasingly, Iraqis are also seeking refuge outside the region.

These Guidelines<sup>6</sup> are intended to facilitate the assessment of the international protection needs of Iraqi asylum-seekers. They complement UNHCR's *Return Advisory and Position on International Protection Needs of Iraqis Outside Iraq*<sup>7</sup> issued in December 2006, and

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<sup>6</sup> Information in this paper is updated as of mid-February 2007, except where otherwise stated. For more recent reporting, see: UN Assistance Mission in Iraq, Human Rights Office (UNAMI HRO), *Human Rights Report 1 January – 31 March 2007*, available at <http://www.uniraq.org/aboutus/HR.asp>. Links to Internet sites in the footnotes were accessed in February 2007, unless otherwise indicated, except for links to UNHCR's Refworld website ([www.refworld.org](http://www.refworld.org)) which were accessed in July 2007.

<sup>7</sup> UNHCR, *UNHCR Return Advisory and Position on International Protection Needs of Iraqis Outside Iraq*, 18 December 2006 (Corr., April 2007), available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=46371aa72> (further: “UNHCR, 2006 Return Advisory”).

expand on the legal and policy guidance provided therein, while providing a comprehensive review and analysis of available country-of-origin information. The Guidelines are intended to assist, among others, those responsible for the adjudication of individual claims for refugee status and those involved in the establishment of government policy in relation to this caseload. These Guidelines supersede UNHCR's *Guidelines Relating to the Eligibility of Iraqi Asylum-seekers* issued in October 2005.<sup>8</sup>

These Guidelines are divided into six sections including this Introduction (Section I). Section II provides background information regarding Iraq, including an overview of the current security, political and human rights situation, and information on the country's constitutional and legislative framework.

Sections III and IV provide detailed country-of-origin information relevant to the assessment of the international protection needs of Iraqi asylum-seekers. Section III provides an overview of the main groups currently perpetrating violence in Iraq, while Section IV sets out the main groups which are particularly at risk. The Guidelines elaborate on the groups' background, their treatment under the regime of Saddam Hussein (if relevant), events affecting them at present, and the reasons why they are considered to be particularly at risk today. Given that the security situation is different in Central and Southern Iraq and the three Northern Governorates of Sulaymaniyah, Erbil and Dahuk, information on the situation of these groups in each of these two regions of Iraq is provided as necessary.

Section V of the Guidelines sets out UNHCR's recommendations on the approaches to be taken to ensure the protection of Iraqis who are in need of international protection and provides the legal framework for analysing claims under Article 1A(2) of the 1951 Convention relating to the Status of Refugees. The various elements of the refugee criteria are evaluated in the context of the current situation in Iraq. Guidance on assessing the availability of an internal flight alternative as well as the applicability of the exclusion clauses is also provided.

Section VI deals with the international protection needs of Arab refugees in Iraq (i.e. Palestinians, Syrians and Iranians) who have fled the country due to the current conflict. Finally, the Guidelines contain a number of annexes chronicling specific attacks on particular groups-at-risk. Several annexes, including maps of Iraq, are also provided.

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<sup>8</sup> UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum-Seekers*, October 2005, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=4354e3594> (further: "UNHCR, 2005 Eligibility Guidelines").

## II. BACKGROUND INFORMATION

### A. *Security, Political and Human Rights Situation*

Since the invasion of Iraq in March 2003 by the US-led Coalition Forces and the fall of the Saddam Hussein regime shortly thereafter, Iraq has been plagued by extreme violence perpetrated for sectarian or political reasons, as well as a general collapse of the law and order system. A number of positive political developments have taken place, including the approval of a Constitution<sup>9</sup> in October 2005, the holding of Council of Representatives elections in December 2005, and the formation of a national unity government in May 2006. On the other hand, there have been limited tangible improvements in the political or security situation. Despite the priority apparently given by the Iraqi authorities to re-establishing security and furthering national reconciliation, the situation has deteriorated over the past year, particularly in areas where mixed religious or ethnic groups reside. Daily suicide attacks, bombings, kidnappings and assassinations have become widespread and common in most of Central and Southern Iraq. Sectarian violence has fully erupted since the bombing of a holy Shi'ite shrine in Samarra in February 2006. The civilian death toll is high and millions of Iraqis have been displaced within and outside of Iraq.<sup>10</sup>

Daily life in Iraq, largely with the exception of the three Northern Governorates of Sulaymaniyah, Erbil and Dahuk, has been ruled by an extremely precarious security and human rights situation. Iraq's ethnic and religious mosaic is threatened by sectarian violence, in particular the escalation of violence between its Shi'ite and Sunni populations. Tensions and violence are also rising among the Arab, Turkmen and Kurdish communities as well as with other minorities. Even within the Shi'ite majority, tensions often flare among its political representatives and its armed militias.<sup>11</sup> Other religious and ethnic groups thus find themselves in an increasingly hostile environment.

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<sup>9</sup> See "Constitutional and Legislative Situation".

<sup>10</sup> According to UNAMI HRO, a total of 34,452 civilians have been violently killed and 36,685 wounded in 2006 only; see: UNAMI HRO, *Human Rights Report, 1 November – 31 December 2006*, p. 2 and 4, [http://www.uniraq.org/FileLib/misc/HR\\_Report\\_Nov\\_Dec\\_2006\\_EN.pdf](http://www.uniraq.org/FileLib/misc/HR_Report_Nov_Dec_2006_EN.pdf) (further: "UNAMI HRO, *December 2006 Human Rights Report*"). The Iraqi Government's estimate is considerably lower, at 12,357 persons killed in 2006; see: Ewen MacAskill, *UN clashes with Iraq on civilian death toll*, The Guardian, 17 January 2007, <http://www.guardian.co.uk/Iraq/Story/0,,1992010,00.html>. See also the website of "Iraq Body Count", which is run by academics and peace activists and bases its figures on reports from at least two public media sources. It estimates that between 56,256 and 61,974 civilians have been killed since the beginning of the conflict (by 14 February 2007); see: Iraq Body Count, *The Iraq Body Count Database*, available at <http://www.iraqbodycount.net/database>. Finally, a US research team, led by Gilbert Burnham of Johns Hopkins Bloomberg School of Public Health, estimates that 655,000 Iraqis, or around one in 40 of the Iraqi population, have died as a result of the 2003 invasion of their country; see: Gilbert Burnham, Riyadh Lafta, Shannon Doocy, Les Roberts, *Mortality after the 2003 invasion of Iraq: a cross-sectional cluster sample survey*, The Lancet, 11 October 2006, <http://www.thelancet.com/webfiles/images/journals/lancet/s0140673606694919.pdf>.

<sup>11</sup> Members of the Shi'ite coalition at times threaten to leave the alliance or suspend their participation in the Council of Representatives or the Cabinet. For example, the political movement of Shi'ite cleric Muqtada Al-Sadr boycotted the Council of Representatives for a period of two months in late 2006/early 2007; see: BBC News, *Sadr group ends political boycott*, 21 January 2007, [http://news.bbc.co.uk/2/hi/middle\\_east/6283975.stm](http://news.bbc.co.uk/2/hi/middle_east/6283975.stm). In addition, Shi'ite militias, in particular the Badr Organization and Mehdi Army,

The general chaos following the invasion of the country and toppling of the former Government has provided fertile ground for many organized armed groups to fight the presence of international troops and the ongoing political process as well as target any perceived collaborators through the use of violence, often with total impunity. Other groups such as Al-Qa'eda in Iraq make use of the breakdown of law and order to pursue their goals through violent means, with mainly innocent civilians once again paying the price. Pervasive criminality adds to the insecurity.<sup>12</sup>

Armed conflict between the ISF and the MNF<sup>13</sup> on the one hand, and insurgency groups – in particular in Al-Anbar Governorate and in Tel Afar (Ninewa Governorate) – on the other, has resulted in civilian deaths, destruction of property and displacement.<sup>14</sup> Reports further point consistently to the systematic use of torture during interrogations at police stations and in unofficial detention centres of the Ministry of Interior and the Kurdish security and intelligence apparatus. Iraq is party to some key international human rights instruments, and the Iraqi Constitution provides guarantees in respect of a number of basic human rights.<sup>15</sup> The situation, however, is such that both institutional and legislative

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have clashed violently on several occasions. See also: UNHCR, *2005 Eligibility Guidelines*, p. 62-64 and 89, see above footnote 8.

<sup>12</sup> For more information on the various actors to the conflicts in Iraq, see “Main Groups Perpetrating Violence”.

<sup>13</sup> See the website of the MNF at <http://www.mnf-iraq.com/>.

<sup>14</sup> The hostilities between the MNF/ISF and the armed insurgency following the hand-over of sovereignty on 28 June 2004 to the Iraqi Interim Government have been qualified by the ICRC as a non-international armed conflict. See: ICRC, *Iraq post 28 June 2004: Protecting persons deprived of freedom remains a priority*, 5 August 2004, <http://www.icrc.org/Web/Eng/siteeng0.nsf/iwpList322/89060107D77D7299C1256EE7005200E8>. For a discussion of whether the conflict (or “conflicts”, given that the insurgency is not monolithic) could be considered as an “internationalized internal armed conflict”, see: Knut Dörmann and Laurent Colassis, *International Humanitarian Law in the Iraq Conflict*, German Yearbook of International Law, No. 47, 2004, p. 293-342, re-published at [http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/Iraq-legal-article-31122004/\\$File/IHL\\_in\\_Iraq\\_conflict.pdf](http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/Iraq-legal-article-31122004/$File/IHL_in_Iraq_conflict.pdf). On the issue of “internationalized internal armed conflict”, see: James G. Stewart, *Towards a single definition of armed conflict in international humanitarian law: A critique of internationalized armed conflict*, International Review of the Red Cross, No. 850, p. 313-350, June 2003, [http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/5PYAXX/\\$File/irrc\\_850\\_Stewart.pdf](http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/5PYAXX/$File/irrc_850_Stewart.pdf).

<sup>15</sup> The instruments and their date of ratification are as follows:

- *International Covenant on Civil and Political Rights* (ICCPR, 25 January 1971), available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b3aa0>
- *International Covenant on Economic, Social and Cultural Rights* (ICESCR, 25 January 1971), available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3b00f47924>
- *International Convention for the Elimination of All Forms of Racial Discrimination* (CERD, 14 January 1970), available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=4269048a4>
- *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW, 13 August 1986), available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b3970>
- *Convention on the Rights of the Child* (CRC, 15 June 1994), available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b38f0>.

Iraq is not a party to the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT), and has neither signed nor ratified the 1951 *Convention relating to the Status of Refugees* or its 1967 *Protocol*.



structures in the country are not adequate to ensure or enforce implementation of human rights standards.

The dismantling of the former Iraqi army and security forces, the slow training of Iraq's new security forces and the high level of corruption and lack of equipment, resulted in a security "gap" that the current authorities have been unable to fill. Members of the ISF are themselves the target of insurgency attacks. The Ministry of Interior forces are reported to have been infiltrated by members of various armed groups, and their loyalty to the central Government has been questionable. In addition, the country suffers from high unemployment<sup>16</sup> and corruption,<sup>17</sup> chronic fuel, electricity and water shortages,<sup>18</sup> and serious shortcomings in health<sup>19</sup> and educational services,<sup>20</sup> creating the potential for major social unrest.

The situation in Iraq has led to massive displacement of Iraqis inside and outside the country. By May 2007, estimates by the UN's Cluster F<sup>21</sup> suggested that over two million persons<sup>22</sup> had been displaced inside Iraq, and up to two million others fled to nearby

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<sup>16</sup> The Brookings Institution estimates that unemployment ranges between 25 and 40 percent, but underemployment may be a much more significant factor; see: The Brookings Institution, *Iraq Index. Tracking Variables of Reconstruction & Security in Post-Saddam Iraq*, 26 February 2007, <http://www3.brookings.edu/fp/saban/iraq/index20070226.pdf>. UNAMI HRO has put the unemployment rate at 50 percent with up to 70 percent in Al-Anbar Governorate.

<sup>17</sup> Transparency International (TI) said, in its annual *Corruption Perceptions Index 2006* covering 163 countries, that Iraq is among the world's most corrupt countries; see TI, *Corruption Perceptions Index 2006*, 6 November 2006, [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2006](http://www.transparency.org/policy_research/surveys_indices/cpi/2006).

<sup>18</sup> Fuel and electricity supplies continue to be below pre-2003 levels; see: The Brookings Institution, *Iraq Index*, see above footnote 16.

<sup>19</sup> According to the Iraqi Medical Association (IMA), Iraq's healthcare system is continuing to deteriorate as not enough qualified staff or equipment is available. IMA says 90 percent of the nearly 180 hospitals countrywide are lacking resources; see: Integrated Regional Information Networks (IRIN), *Iraq: Country's healthcare system rapidly deteriorating*, 7 November 2006, <http://www.irinnews.org/report.aspx?reportid=61923>.

<sup>20</sup> Statistics from the Ministry of Education indicate that only 30 percent of Iraq's 3.5 million students are attending classes. This compares to approximately 75 percent of students attending classes in 2005, according to UK-based NGO Save the Children. See: IRIN, *Iraq: School attendance rates drop drastically*, 18 October 2006, <http://www.irinnews.org/report.aspx?reportid=61896>.

<sup>21</sup> Within the framework of the UN's coordinated support, and pursuant to its mandate of direct protection and assistance, Cluster F will support "the Iraqi authorities in providing adequate assistance and effective protection to uprooted populations in Iraq, preventing new displacement, and creating conditions conducive to achieving durable solutions." The Cluster partners are UNHCR (Coordinator), IOM (Deputy Coordinator), UNAMI, UNOPS, UN-Habitat, WHO, UNICEF, WFP, ILO, UNIDO, UNEP, UNDP, OHCHR and FAO, all with wide-ranging experience in providing assistance, protection and durable solutions in conflict and transition situations. Since 2003, Cluster F has coordinated closely on protection and capacity building initiatives with national counterparts, including Iraq's Ministries of Displacement and Migration, Interior, Labour and Social Affairs, Justice, Human Rights, Health, Housing and Municipality along with other relevant line ministries, the Permanent Committee on Refugee Affairs, the Inter-Ministerial Committee on Displacement and Migration, the Commission for the Resolution of Real Property Disputes (CRRPD) and regional and local authorities. In addition, Cluster F advocates before other Clusters and the World Bank, and collaborates with humanitarian actors including both local and international NGOs.

<sup>22</sup> Cluster F, *Internally Displaced Persons in Iraq*, Update 23 May 2007, [http://www.unhcr.org/ig/clusterFreports/Cluster\\_F\\_Update\\_on\\_IDPs\\_May\\_23.pdf](http://www.unhcr.org/ig/clusterFreports/Cluster_F_Update_on_IDPs_May_23.pdf). Cluster F continues to issue regular updates on the situation of IDPs in Iraq, including on issues such as restriction of admission and access to basic services, which are made available at <http://www.unhcr.org/ig/>.

countries. While a good part of the displacement took place before 2003, increasing numbers of Iraqis are now fleeing escalating sectarian and political violence. In 2006 alone, Nearly 640,000 Iraqis are estimated to have fled within Governorates or to other areas inside the country, and between 40,000 and 50,000 continue to flee their homes every month. UNHCR's planning figures under its latest appeal are for up to 2.3 million internally displaced people within Iraq by the end of 2007.<sup>23</sup>

The violence inflicted upon ordinary Iraqis often has sectarian underpinnings, since militant elements of religious and ethnic groups target individuals (e.g., religious figures, politicians, tribal leaders) as well as the civilian population of other groups at large. Violence is perpetrated by both state and non-state actors. Both the MNF and the ISF have been accused of inflicting torture and inhuman and degrading treatment upon individuals whom they have arrested and detained. Shi'ite-dominated militias and parts of the ISF, particularly the Ministry of Interior, also are accused of committing serious violations of human rights, including kidnappings and unlawful arrests, torture and extra-judicial killings, against individuals perceived to be supporters of Sunni-dominated insurgency groups.<sup>24</sup> The insurgency groups have also been involved in the kidnapping, torture and extra-judicial killings of civilians.<sup>25</sup>

The lack of an effectively functioning law enforcement system<sup>26</sup> and the weak judiciary<sup>27</sup> generally prevent victims from receiving effective protection from, or remedy for, human rights abuses.<sup>28</sup> While the security situation in the three Northern Governorates is relatively calm and stable compared to Central and Southern Iraq, it nevertheless remains tense and unpredictable. There is the dispute over the status of *arabized* areas, mainly Kirkuk,<sup>29</sup> possible spill-over of violence from other parts of the country, the presence of both home-grown Islamist militant groups and the Kurdistan Workers' Party (PKK), and the population's growing dissatisfaction with alleged corruption and human rights abuses.<sup>30</sup>

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<sup>23</sup> UNHCR, *UNHCR launches new appeal for Iraq operations*, Press Release, 8 January 2007, available at <http://www.unhcr.org/news/NEWS/45a243a54.html>.

<sup>24</sup> See "Iraqi Security Forces and Shi'ite militias" and "Sunni Arabs".

<sup>25</sup> See "Insurgent Groups".

<sup>26</sup> UNAMI HRO stated that "(L)aw enforcement agencies are insufficient, inadequately equipped and in need of further training"; see UNAMI HRO, *Human Rights Report, 1 July – 31 August 2006*, p. 1, [http://www.uniraq.org/documents/HR\\_Report\\_July\\_August\\_2006\\_EN.pdf](http://www.uniraq.org/documents/HR_Report_July_August_2006_EN.pdf) (further: "UNAMI HRO, *August 2006 Human Rights Report*").

<sup>27</sup> UNAMI HRO reported that the Iraqi judiciary's capacity is limited, "particularly in cases involving organized crime, corruption, terrorism and militia-sponsored armed activities [...] due to the high level of intimidation and threats, limited protection mechanisms for both witnesses and judiciary, as well as limited number of investigative judges"; see UNAMI HRO, *Human Rights Report, 1 May – 30 June 2006*, p. 5, [http://www.uniraq.org/documents/HR\\_Report\\_May\\_Jun\\_2006\\_EN.pdf](http://www.uniraq.org/documents/HR_Report_May_Jun_2006_EN.pdf) (further: "UNAMI HRO, *June 2006 Human Rights Report*").

<sup>28</sup> US Department of State (USDOS), Bureau of Democracy, Human Rights and Labor, *International Religious Freedom Report 2006 – Iraq*, 15 September 2006, <http://www.state.gov/g/drl/rls/irf/2006/71422.htm>.

<sup>29</sup> See also "Kurds, Arabs, Turkmen"<sup>428F</sup>, Ethnic-Based Christian Groups (Assyrians, Chaldeans, Armenians)<sup>429F</sup>, Yazidis<sup>430F</sup> and Shabak<sup>431F</sup> in Ethnically Mixed Areas".

<sup>30</sup> See also "IFA/IRA in the Three Northern Governorates of Sulaymaniyah, Erbil and Dahuk".

## B. Constitutional and Legislative Situation

With the approval of the Iraqi Constitution<sup>31</sup> in a popular referendum on 15 October 2005, its publication in the Official Gazette and the seating of the new Government on 20 May 2006, the Constitution entered into force.<sup>32</sup> It was drafted in 2005 by members of the Iraqi Constitutional Committee to replace the *Law of Administration for the State of Iraq for the Transitional Period* (TAL).<sup>33</sup>

The drafting and adoption of the new Constitution was not without controversy, as sectarian tensions figured heavily in the process. Under a last-minute compromise brokered just days before the referendum in order to prevent another Sunni Arab election boycott, it was agreed that the first parliament elected pursuant to the new Constitution would institute a *Constitutional Review Committee* (CRC) with a view to determine whether the Constitution should be amended (Article 142).<sup>34</sup> Any amendments would have to be ratified by popular referendum. The referendum will be successful if approved by the majority of the voters, and if not rejected by two-thirds of the voters in three or more governorates. The 27-member CRC was formed by the Council of Representatives on 25 September 2006 and is slated to complete its work within one year.<sup>35</sup> The CRC, chaired by Iyad Al-Samarra'i of the Iraqi Islamic Party (IIP), established four subcommittees on political issues, the completion of the constitution, drafting text and public outreach.<sup>36</sup> To date, the CRC has not drafted any proposed amendments.<sup>37</sup>

Constitutional review is widely considered essential to national reconciliation.<sup>38</sup> Major issues at stake include federalism,<sup>39</sup> *de-Ba'athification*<sup>40</sup> and the allocation of oil

<sup>31</sup> See the unofficial English translation of the *Constitution of the Republic of Iraq* by UNAMI, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=454f50804>.

<sup>32</sup> See Article 144 of the Constitution, *ibidem*.

<sup>33</sup> *Law of Administration for the State of Iraq for the Transitional Period*, available in UNHCR's Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=45263d612>.

<sup>34</sup> On the Constitution drafting process and the reported flaws of its outcome, see, for example, Jonathan Morrow, *Weak Viability – The Iraqi Federal State and the Constitutional Amendment Process*, United States Institute of Peace (USIP), Special Report, July 2006, <http://www.usip.org/pubs/specialreports/sr168.pdf>. See also: *ibidem*, *Iraq's Constitutional Process II – An Opportunity Lost*, USIP, Special Report, November 2005, <http://www.usip.org/pubs/specialreports/sr155.pdf>. See also: International Crisis Group (ICG), *Unmaking Iraq: A Constitutional Process Gone Awry*, Middle East Briefing No. 19, 26 September 2005, [http://www.crisisgroup.org/library/documents/middle\\_east\\_north\\_africa/iraq\\_iran\\_gulf/b19\\_unmaking\\_iraq\\_a\\_constitutional\\_process\\_gone\\_awry.pdf](http://www.crisisgroup.org/library/documents/middle_east_north_africa/iraq_iran_gulf/b19_unmaking_iraq_a_constitutional_process_gone_awry.pdf).

<sup>35</sup> James A. Baker, III and Lee H. Hamilton (Co-Chairs) *et al.*, *The Iraq Study Group Report*, December 2006, p. 19, [http://www.usip.org/isg/iraq\\_study\\_group\\_report/report/1206/iraq\\_study\\_group\\_report.pdf](http://www.usip.org/isg/iraq_study_group_report/report/1206/iraq_study_group_report.pdf) (further: “Iraq Study Group Report”).

<sup>36</sup> UNAMI, *UNAMI Focus - Voice of the Mission*, First Issue, Mid February 2007, p. 2-3, [http://www.reliefweb.int/rw/RWFiles2007.nsf/FilesByRWDocUnidFilename/643453B526CAC7108525728F006E90BB-Full\\_Report.pdf/\\$File/Full\\_Report.pdf](http://www.reliefweb.int/rw/RWFiles2007.nsf/FilesByRWDocUnidFilename/643453B526CAC7108525728F006E90BB-Full_Report.pdf/$File/Full_Report.pdf).

<sup>37</sup> Kenneth Katzmann, *Iraq: Elections, Constitution, and Government*, CRS Report for Congress, 26 January 2007, p. 5, <http://italy.usembassy.gov/pdf/other/RS21968.pdf>.

<sup>38</sup> Prime Minister Al-Maliki, soon after entering office, announced a national reconciliation programme, which, *inter alia*, included constitutional review; see *Iraq Study Group Report*, p. 43, see above footnote 35.

<sup>39</sup> Federalism is a core issue dividing Iraq's major political groups. While the Kurdish and major Shi'a parties such as SCIRI favour a decentralized structure, Sunni Arabs vow for a strong central government, fearing federalism will lead to the break-up of the country and leave them with no access to the country's oil.

revenues.<sup>41</sup> An understanding of various aspects of the Constitutional as well as legislative framework in relation to a number of key issues, facilitates assessment of the international protection needs of Iraqis with certain types of claims.

## 1. Freedom of Religion

There are constitutional ambiguities pertaining to the separation of religion and state institutions as well as the protection of freedom of religion. In general, while the

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Article 118 of the Constitution empowers the Council of Representatives to pass a law which provides for the mechanism for forming autonomous federal regions that would hold considerable self-rule powers. An enabling law was passed by a slim majority on 11 October 2006 after an agreement was reached to form the CRC and to defer implementation of the law for 18 months, a concession to Sunni concerns. Legislators from the Sunni-dominated Iraqi Accord Front as well as the Shi'a Sadrist Movement and the Islamic Virtue Party opposed the bill and boycotted the voting. See: Reuters Alertnet, *Iraqi parliament approves federal law*, 11 October 2006, <http://www.alertnet.org/thenews/newsdesk/IBO145418.htm>. See also: Amit R. Paley, *Parliament Approves Measure Allowing Autonomous Regions*, The Washington Post, 12 October 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/10/11/AR2006101100809.html>. Under the law, a region can be created out of one or more existing governorates or two or more existing regions. A governorate can also join an existing region to create a new region. There is no limit to the number of governorates that can form a region, unlike the TAL which limited it to three. A new region can be proposed by one third or more of the Governorate Council members in each affected governorate plus 500 voters or by one tenth or more of the voters in each affected governorate. A referendum must then be held within three months, which requires a simple majority in favour to pass. See, for example, The Associated Press (AP), *Sunni accuse Shi'ites of dirty tricks in passing controversial federalism law*, 12 October 2006, [http://www.iht.com/articles/ap/2006/10/12/africa/ME\\_GEN\\_Iraq\\_Federalism.php](http://www.iht.com/articles/ap/2006/10/12/africa/ME_GEN_Iraq_Federalism.php). See also: Steve Negus, *Iraq approves controversial federalism law*, Financial Times, 11 October 2006, <http://www.ft.com/cms/s/dfe59c52-594c-11db-9eb1-0000779e2340.html>; Kathleen Ridolfo, *Iraq: Divisive Federalism Debate Continues*, Radio Free Europe / Radio Liberty (RFE/RL), 14 September 2006, <http://www.rferl.org/featuresarticle/2006/09/ef6b9842-9cab-4d93-a3f8-bed27c398756.html>.

<sup>40</sup> See "Members and Associates of the Ba'ath Party and the Former Regime".

<sup>41</sup> Article 111 of the Constitution provides that "(o)il and gas are owned by all the people of Iraq in all the regions and governorates" while Article 112 tasks the federal government with "the management of oil and gas extracted from current fields." This language has led to controversy over what constitutes a "new" or an "existing" resource, a question that has ramifications for the control of future oil revenue. The distribution of oil shall be regulated by law. Sectarianism was the major obstacle in reaching an agreement on a draft oil and gas law, which touches upon the division of powers between the central government and regional governments. While many Kurds and Shi'ites want to retain control of Iraq's oil resources, Sunni Arabs favour a strong role for the central Government. The law is widely considered a crucial means to foster national reconciliation as it provides the guidelines for the distribution of Iraq's oil wealth, the third-largest oil reserves in the world. The Iraq Study Group said that an equitable distribution of oil is necessary for national reconciliation and recommended that the central government retain full control of revenues and oil fields. On 27 February 2007, the cabinet approved a draft oil law which states that oil revenues will be spread evenly according to population around the country rather than staying in the region where the oil is found. However, this would require a politically sensitive census to be undertaken. The draft law also grants regional governments or oil companies the right to draw up contracts with foreign companies for the exploration and development of new oil fields. The draft has yet to be approved by the Council of Representatives before it can take effect later this year. See: BBC News, *Breakthrough in Iraq oil standoff*, 27 February 2007, [http://news.bbc.co.uk/2/hi/middle\\_east/6399257.stm](http://news.bbc.co.uk/2/hi/middle_east/6399257.stm); Edward Wong, *Iraqi oil law stalled by dispute over division of powers*, International Herald Tribune, 14 December 2006, <http://www.iht.com/articles/2006/12/14/news/iraq.php>. See also *Iraq Study Group Report*, p. 22-23 and 45, see above footnote 35. The draft *Oil and Gas Law* of 15 February 2007 can be found at: [http://www.iraqrevenuewatch.org/documents/oil\\_law\\_english\\_20070306.pdf](http://www.iraqrevenuewatch.org/documents/oil_law_english_20070306.pdf).

Constitution endeavours to provide baseline protection of freedom of religion, such protection is constrained by numerous state objectives.

Article 2 and Article 40 of the Iraqi Constitution guarantee religious rights and freedom of religious practices and worship for all individuals as well as administration of religious endowments. The protection of Shi'ite religious rites is specifically mentioned in Article 40. At the same time, Article 2 guarantees the Islamic identity of the “majority of the Iraqi people” and provides that Islam is the official religion of the State and a basic source of legislation. The provision provides specifically that no law may be enacted contrary to “*established provisions of Islam*”. The interpretation of the scope and legal meaning of the “*established provisions of Islam*” remains ambiguous, and, based on analysis of the Constitution’s provisions, it will likely be tasked to the Federal Supreme Court, the highest court of the land, which according to Article 93(2) has jurisdiction over “(i)nterpreting the provisions of the Constitution”.<sup>42</sup> Until this is clarified, the scope of protection of non-Islamic religious practices, provided by Article 2 and Article 40 remains unclear. In particular, this pertains to the teaching of non-Islamic faiths to Muslims, blasphemy, conversion of Muslims to other beliefs and activities considered as contrary to the Islamic religion.

The prominence given to the Islamic faith and the Islamic identity of the state would also appear to be at odds with Article 14 which provides for equality before the law of all Iraqis without discrimination on basis of “sex, ethnicity, nationality, origin, color, religion, sect, belief, opinion or social or economic status”. It is therefore unclear the extent to which non-Muslims are protected under the Constitution against serious discrimination by the Muslim majority.

## **2. De-Arabization**

Article 140 of the Constitution provides for the “normalization” of the situation in Kirkuk and other *arabized* areas by 31 December 2007.

The former Governments’ *Arabization* policies, which began in the 1930s and included the settlement of Arab tribes in certain areas, sought to change the demographic make-up of Kirkuk and other mixed areas. In particular, after the unsuccessful Kurdish Uprising in the aftermath of the 1991 Gulf War, *Arabization* policies were further intensified, with the forced assimilation and deportation of Kurds, Turkmen, Christians, Yazidis and Shabak from Kirkuk and other multi-ethnic areas. Most settled in the Kurdish-controlled three Northern Governorates.<sup>43</sup>

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<sup>42</sup> The wording is not clear as to whether this provision applies only to legislation passed after the Constitution was adopted or to all Iraqi legislation; see: Nathan J. Brown, *The Final Draft of the Iraqi Constitution: Analysis and Commentary*, Carnegie Endowment for International Peace, 16 September 2005, p. 3, <http://www.carnegieendowment.org/files/FinalDraftSept16.pdf>. See also: United States Commission on International Religious Freedom (USCIRF), *USCIRF Analysis of Proposed Iraqi Constitution: Ambiguities in Text Threaten Human Rights Protections*, Press release, 6 October 2005, [http://www.uscifr.gov/mediaroom/press/2005/october/10062005\\_iraq.html](http://www.uscifr.gov/mediaroom/press/2005/october/10062005_iraq.html).

<sup>43</sup> According to Human Rights Watch (HRW), from the 1991 Gulf War until 2003, the former Iraqi Government systematically expelled an estimated 120,000 Kurds, Turkmen and Assyrians from Kirkuk and



Article 140 of the Constitution calls for a three-step process to normalize the situation in Kirkuk and other disputed areas by reversing the *Arabization* policy, including the return of the formerly displaced and restitution of their properties, the taking of a census and, finally, the holding of a referendum no later than 31 December 2007 to determine the status of these areas. To date, developments linked to the “normalization” of Kirkuk have been highly controversial and delayed by political disputes. After the fall of the former regime in 2003, thousands of Kurds returned to Kirkuk and other mixed areas, and reports appeared that Arab and Turkmen residents in some neighbourhoods of Kirkuk were pressured by Kurdish armed groups to leave their homes.<sup>44</sup>

In particular, there has been considerable ethnic violence in the city of Kirkuk among various communities as it is claimed by Kurds, Turkmen and Arabs. The issues of demographics and numbers, and therefore political influence, are highly disputed. Each of the three groups has its own evidence proving that Kirkuk has historically been dominated by it.

A *Kirkuk Normalization Committee* was first established in January 2005. However, with no funds and staff, it never came to function. Accused of being pro-Kurdish by Turkmen and Arab representatives, Prime Minister Nouri Al-Maliki appointed Mr. Ali Mahdi, a Shi'ite Turkoman from Kirkuk, as the Committee's chair, on 4 July 2006, a move that was, however, rejected by the Kurdish coalition. On 9 August 2006, the Prime Minister announced that the Kirkuk Normalization Committee would be replaced by the “*Article 140 Implementation Committee*”, to be chaired by Mr. Hashim Abdulrahman Al-Shibli, the current Minister of Justice. The Committee was allocated US \$200 million to perform its task.<sup>45</sup> On 4 February 2007, the Committee ruled that Arabs who relocated to Kirkuk and other disputed areas as part of the Governments' *Arabization* policies would be returned to their original home towns in Central and Southern Iraq and given land and financial compensation. This decision implies that thousands of Arabs may lose their right to vote in the referendum on the status of the disputed areas if they are returned to their original towns

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other towns and villages in this oil-rich region; see: HRW, *Claims in Conflict: Reversing Ethnic Cleansing in Northern Iraq*, August 2004, <http://hrw.org/reports/2004/iraq0804/iraq0804.pdf>. See also: *ibidem*, *Iraq: Forcible Expulsion of Ethnic Minorities*, March 2003, <http://www.hrw.org/reports/2003/iraq0303/>.

<sup>44</sup> According to Judith Yaphe, a senior fellow at the National Defense University, as many as 150,000 Arabs have left the city since the war as a result of violence and intimidation. See: Soner Cagaptay and Daniel Fink, *The Battle for Kirkuk: How to Prevent a New Front in Iraq*, Policy Watch No. 1183, The Washington Institute, 16 January 2007, <http://www.washingtoninstitute.org/templateC05.php?CID=2552>; HRW, *World Report 2003, Iraq and Iraqi Kurdistan*, <http://www.hrw.org/wr2k3/mideast4.html>; Daniel Williams, *11 Killed In Ethnic Violence In N. Iraq*, The Washington Post, 24 August 2003, <http://www.washingtonpost.com/ac2/wp-dyn/A37367-2003Aug23>. See also “Kurds, Arabs, Turkmen428F, Ethnic-Based Christian Groups (Assyrians, Chaldeans, Armenians)429F, Yazidis430F and Shabak431F in Ethnically Mixed Areas”.

<sup>45</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 23, see above footnote 10; Sumedha Senanayake, *Iraq: Ethnic Tensions Increasing In Oil-Rich City*, RFE/RL, 2 November 2006, <http://www.rferl.org/featuresarticle/2006/11/304874c7-d3ff-471c-bfa3-087b0618c459.html>.

before then. This decision, which faces resistance from Arabs and Turkmen, has yet to be endorsed by the Iraqi cabinet.<sup>46</sup>

The Iraq Study Group said that a referendum on Kirkuk by the end of 2007 “*would be explosive*” and recommended that it be delayed. It further called for international arbitration on the issue to prevent communal violence.<sup>47</sup> In addition, Turkey has called for the referendum to be postponed. The Kurdish parties consider such statements an affront to Iraq’s sovereignty, particularly since the Kirkuk referendum is enshrined in the Constitution.<sup>48</sup> They indicated that the Kirkuk issue should not be deferred and, that if it was not solved politically, then military options would come into play.<sup>49</sup> In October 2006, the Iraqi Turkmen Front (ITF) announced that it would not take part in the referendum on Kirkuk, indicating the potential turmoil that may arise in connection to the referendum.<sup>50</sup> Kurdish politicians have called new Arab IDPs arriving in Kirkuk from the South and Centre “*a new style of Arabisation*”, which, in their view, “*makes de-Arabisation extremely difficult, if not impossible.*”<sup>51</sup>

### 3. Personal Status

Before 1959, family laws were based on tradition or customary law and had not been codified. Since the adoption of the Personal Status Law (Law No. 188 of 1959)<sup>52</sup>, it, and subsequent amendments, govern the manner in which courts settle disputes in marriage, divorce, child custody, inheritance, endowments and other similar matters. It applies to both Sunnis and Shi’ites<sup>53</sup> and is considered one of the most progressive personal status laws in

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<sup>46</sup> RFE/RL, Sumedha Senanayake, *Iraq: Committee Decision Increases Tensions In Kirkuk*, 8 February 2007, <http://www.rferl.org/featuresarticle/2007/02/3a63f415-eb59-4a80-b97e-64c245661555.html>; Al Jazeera, *Kirkuk Arabs face relocation*, 6 February 2007, [http://www.iraqupdates.com/p\\_articles.php?refid=DH-S-07-02-2007&article=14276](http://www.iraqupdates.com/p_articles.php?refid=DH-S-07-02-2007&article=14276); Asharq Al-Awsat, *Iraqi Supreme Committee Attempts to Normalize Kirkuk*, 5 February 2007, <http://www.aawsat.com/english/news.asp?section=1&id=7901>.

<sup>47</sup> *Iraq Study Group Report*, p. 45, see above footnote 35.

<sup>48</sup> Sumedha Senanayake, *Iraq: Kurds Warn Against Delaying Kirkuk Referendum*, RFE/RL, 14 December 2006, <http://rfe.rferl.org/featuresarticle/2006/12/38b72bcc-9ef3-4fd7-a7f3-05a650dcd190.html?rapage=2>.

<sup>49</sup> For example, Sadi Ahmed Pire, leader of the PUK, said, “*Kirkuk can be solved two ways: We can discuss it with the neighboring countries and Iraqi communities and solve the situation politically or we can solve it militarily. We hope to solve it peacefully, but this is an issue that cannot wait. It will be resolved.*” See: The Chicago Tribune, *Iraq’s Kurds press their claim on Kirkuk*, 10 November 2006, <http://kurdistanmedia.org/english/modules.php?name=News&file=article&sid=367>.

<sup>50</sup> The Kurdish Globe, *Turkoman Front to boycott Kirkuk Referendum*, 6 October 2006, <http://www.moerakrg.org/articles/detail.asp?smap=01030000&lngnr=12&anr=11548&rmr=140>.

<sup>51</sup> KurdishMedia.com, *During last 8 months 800 Arab families settled in Kirkuk, official*, 30 January 2007, <http://www.kurdmedia.com/news.asp?id=13973>.

<sup>52</sup> Law No. (188) of 1959, *Personal Status Law* (as amended), available in UNHCR’s Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=469cdf3011>. See also: Emory Law School, *Iraq, Republic Of*, <http://www.law.emory.edu/IFL/legal/iraq.htm>.

<sup>53</sup> Non-Muslims were allowed to keep their separate systems. Their family matters are adjudicated by the Personal Matters Court, which seeks advice from the relevant religious authorities. See also: UNHCR, *Country of Origin Information Iraq*, October 2005, p. 122, available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=435637914> (further: “UNHCR, 2005 *Country of Origin Information Iraq*”).

the Middle East in terms of women's rights.<sup>54</sup> Where, however, the Personal Status Law does not make explicit provision for a situation, Shari'a law is applicable. It may then be applied differently to members of the two communities as they follow different schools of jurisprudence.

On 29 December 2003, the former Iraqi Governing Council (IGC) issued Resolution 137 that would have cancelled the 1959 Personal Status Law and placed issues of family law under religious rather than civil jurisdiction. Former CPA administrator Paul Bremer did not endorse the decision after domestic and international human rights groups protested the resolution on the grounds that the imposition of Islamic law would erode Iraqi women's rights. The IGC finally repealed Decision 137 by a vote of 15 to 10.<sup>55</sup> The role of Islam and Shari'a law vis-à-vis the more secular 1959 Personal Status Law was a major issue in the drafting of the Constitution and continues to be highly contentious because enabling legislation is required for Article 41 of the Constitution (requiring that Iraqis be free in matters of personal status according to their religions, sects, beliefs or choices). It remains unclear whether the Personal Status Law will be modified or cancelled altogether, leaving different sects to apply their own sets of laws and interpretation as was done before 1959. Certainly, any such decision will strongly affect the lives of Iraqis as it regulates relationships within families.<sup>56</sup> Particular concerns are thereby expressed with regard to women, LGBT and minority rights.<sup>57</sup>

#### 4. Criminal Sanctions

The two main sources of criminal law are the *Law on Criminal Proceedings* (Law No. 23 of 1971)<sup>58</sup> – which details the procedures to be followed for the investigation of offences, the collection of evidence, trials and appeals – and the *Penal Code* (Law No. 111 of 1969),<sup>59</sup> which lists offences and applicable sentences. In addition, a number of laws and orders of the Revolutionary Command Council (RCC)<sup>60</sup> also exist. The Penal laws of the

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<sup>54</sup> Isobel Coleman, *Women, Islam, and the New Iraq*, Foreign Affairs, January/February 2006, <http://www.foreignaffairs.org/20060101faessay85104-p10/isobel-coleman/women-islam-and-the-new-iraq.html>; Edward Wong, *Draft Iraqi charter backs Islamic law*, The New York Times, 20 July 2005, <http://www.ihf.com/articles/2005/07/19/news/charter.php>.

<sup>55</sup> Coleman, *ibid.*; The New Standard, Chris Shumway, *Rise of Extremism, Islamic Law Threaten Iraqi Women*, 30 March 2005, <http://newstandardnews.net/content/?items=1600>; IRIN, *Iraq: New family law on hold*, 4 February 2004, <http://www.irinnews.org/report.aspx?reportid=23381>.

<sup>56</sup> Coleman, *Women, Islam, and the New Iraq*, see above footnote 54; Nathan J. Brown, *Debating Islam in Post-Baathist Iraq*, Carnegie Endowment for International Peace, p. 6-7, March 2005, <http://www.carnegieendowment.org/files/PO13.Brown.FINAL2.pdf>.

<sup>57</sup> See also above "Freedom of Religion".

<sup>58</sup> *Law No. 23 of 1971, Law on Criminal Proceedings*, 4 February 1971, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=468a674a2>. See also Case Western Reserve University / School of Law, *Summary of Iraqi Criminal Procedure Law*, [http://law.case.edu/saddamtrial/documents/Iraqi\\_Crim\\_Procedure\\_Code\\_Summary.pdf](http://law.case.edu/saddamtrial/documents/Iraqi_Crim_Procedure_Code_Summary.pdf).

<sup>59</sup> The unofficial English translation, as prepared by the US Armed Forces Judge Advocate General, is available in UNHCR's Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=452514424>. For further information on Iraq's Penal Law, see UNHCR, *2005 Country of Origin Information Iraq*, p. 116-117, see above footnote 53.

<sup>60</sup> The RCC was established after the military coup in 1968 and was the ultimate decision making body in Iraq until the fall of the former regime. It exercised executive and legislative authority in Iraq, whereas the



former Iraqi regime remain in effect, though they exist in slightly different versions in the three Northern Governorates which introduced a number of changes to the Iraqi *Penal Code* and the *Law on Criminal Proceedings* after obtaining *de facto* autonomy in 1991.

The CPA undertook a review of the *Penal Code* and the *Law on Criminal Proceedings* in order to assess their compatibility with international human rights standards. CPA Memorandum No. 3 amended the *Law on Criminal Proceedings*, introducing new procedural rights such as the right to be silent, the right to legal counsel, the right against self-incrimination, the right to be informed of these rights and the exclusion of evidence obtained by torture.<sup>61</sup> By Order No. 7, the CPA amended the Iraqi *Penal Code*, repealing a number of provisions introduced by the Ba'athist regime that listed acts detrimental to the political goals of the state as crimes, and suspended the death penalty.<sup>62</sup> However, Order No. 3 of 2004 of the Interim Iraqi Government (IIG), passed on 8 August 2004, reintroduced the death penalty and provides for capital punishment for certain crimes affecting internal state security, public safety, attacks on means of transportation, premeditated murder, drug trafficking, and abduction.<sup>63</sup> The first executions under the amended law were carried out on 1 September 2005, when three people were put to death. Since then, the death penalty has been pronounced on a regular basis by Iraqi Courts, in particular the Central Criminal Court of Iraq (CCCI). Concerns have been raised by the UN and human rights organizations about the high number of death sentences and actual executions.<sup>64</sup> In addition, following a trial by the Iraqi High Tribunal, set up to try the most senior members of the former regime, former President Saddam Hussein and other ex-senior officials were executed.<sup>65</sup> On 2 September 2006, the Kurdistan National Assembly

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National Assembly could only enact laws approved by the RCC. As of 1979, Saddam Hussein was the Chairman of the RCC; all members of the RCC were high-ranking members of the Ba'ath Party. See, for example, FAS Intelligence Resource Program, *Introduction*, <http://www.fas.org/irp/world/iraq/intro.htm> [last updated 15 December 1997]. See also: *Iraq Interim Constitution* of 1990, Articles 37-45, available in UNHCR's Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b4ec44>.

<sup>61</sup> Coalition Provisional Authority (CPA) Memorandum No. 3 (revised), *Criminal Procedures*, 27 June 2004, available in UNHCR's Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=469cd1b32>. The complete Refworld collection of national legislation from Iraq is available at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=type&skip=0&coi=IRQ&type=LEGISLATION>.

<sup>62</sup> CPA Order No. 7, *Penal Code*, Section 2 para. 1, 10 June 2003, available in UNHCR's Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=452524304>.

<sup>63</sup> See UNHCR, *2005 Country of Origin Information Iraq*, p. 142, see above footnote 53.

<sup>64</sup> Officially, since August 2004, more than 150 individuals have received death sentences, 51 of whom have already been executed. The UN Secretary General's Special Representative for Iraq, Ashraf Qazi, called for a moratorium on death sentences, urging the Iraqi Government "to commute all sentences of capital punishment and to base its quest for justice on the protection and promotion of the right to life"; see United Nations Security Council (UNSC), *Report of the Secretary-General pursuant to paragraph 30 of resolution 1546* (2004), 5 December 2006, p. 9-10, [http://www.uniraq.org/FileLib/misc/SG\\_Report\\_S\\_2006\\_945\\_EN.pdf](http://www.uniraq.org/FileLib/misc/SG_Report_S_2006_945_EN.pdf). See also: UNAMI, *The Special Representative of the Secretary-General for Iraq Ashraf Qazi expresses concern over capital punishment in Iraq*, 23 September 2006, <http://www.uniraq.org/newsroom/articles.asp?pagename=pressreleases&category=P>. See also: IPS, Srabani Roy, *Increase in Executions Condemned*, 13 October 2006, <http://ipsnews.net/news.asp?idnews=35096>.

<sup>65</sup> See "Members and Associates of the Ba'ath Party and the Former Regime".

repealed the CPA's decision to suspend the death penalty, and on 21 September 2006, 11 alleged members of the insurgency group Ansar Al-Islam were hanged in Erbil.<sup>66</sup>

## **5. National Security**

The Order of Safeguarding National Security of 2004 grants the Prime Minister extraordinary powers, including the authority to impose curfews, restrict movement between cities and set up around-the-clock courts where the Government can obtain arrest warrants. Measures on the basis of this Order have resulted in frequent abuse by those implementing them.<sup>67</sup> The measures, in place everywhere except in the three Northern Governorates, have been renewed by successive parliaments every month since they were first authorized in November 2004.<sup>68</sup> Curfews and other restrictions on freedom of movement limit the possibilities of individuals relocating from one place to another, including for purpose of safety.

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<sup>66</sup> UNAMI HRO, *Human Rights Report, 1 September – 31 October 2006*, p. 20, [http://www.uniraq.org/documents/HR\\_Report\\_Sep\\_Oct\\_2006\\_EN.pdf](http://www.uniraq.org/documents/HR_Report_Sep_Oct_2006_EN.pdf) (further: "UNAMI HRO, *October 2006 Human Rights Report*"); Amnesty International, *Iraq: Amnesty International alarmed at rise in executions*, 25 September 2006, <http://web.amnesty.org/library/Index/ENGMDE140332006?open&of=ENG-IRQ>.

<sup>67</sup> See, for example, "Sunni Arabs".

<sup>68</sup> See UNHCR, *2005 Country of Origin Information Iraq*, p. 17-18, see above footnote 53.

### III. MAIN GROUPS PRACTICING VIOLENCE

#### A. General

While non-state actors were identified as the main groups violating human rights and international humanitarian law, when UNHCR's issued its *Guidelines Relating to the Eligibility of Iraqi Asylum-seekers*<sup>69</sup> in October 2005, increasingly state actors have come to the forefront, including members of the ISF. Furthermore, with the escalation of sectarian violence since 2006, armed militias have not only filled the security vacuum in the country, but have also become responsible for targeted attacks and displacement. Militias are linked to major Shi'ite political parties and personalities such as the Supreme Council for the Islamic Revolution in Iraq (SCIRI) and Muqtada Al-Sadr,<sup>70</sup> and have infiltrated the Shi'ite-dominated law enforcement agencies or closely collaborate with them. In addition, criminal groups have also become involved in human rights violations targeting individuals of specific profile.

In many cases, it will prove difficult, if not impossible, for victims to identify who harmed them or why they were targeted. Perpetrators of violence often remain unidentified for a number of reasons, such as the failure or inability of the State to undertake criminal investigation or the sheer number of actors actively engaged in violent activities in today's Iraq. Although they have diverse agendas, these actors often share common targets, e.g. members of religious minorities or certain professions.

#### B. Lack of National Protection

Pervasive violence, institutional weaknesses, and a general lack of rule of law seriously impede the ability of Iraqi authorities to provide protection to its citizens. The ISF is itself a major target of the insurgency<sup>71</sup> and has been infiltrated by, or has collaborated with, armed groups practicing violence. The ISF also reportedly lacks leadership, training, equipment and personnel and continues to be highly dependent on the support of the MNF.<sup>72</sup>

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<sup>69</sup> See above footnote 8.

<sup>70</sup> For an overview of these Shi'ite militias, see: UNHCR, UNHCR, 2005 *Country of Origin Information Iraq*, p. 59 and further, see above footnote 53.

<sup>71</sup> On 24 December 2006, Jawad Al-Bolani, the Iraqi Minister of Interior, indicated that 12,000 police officers had been killed since 2003, an average of ten police officers every day. See: BBC News, *Iraqi police deaths "hit 12,000"*, 24 December 2006, [http://news.bbc.co.uk/2/hi/middle\\_east/6208331.stm](http://news.bbc.co.uk/2/hi/middle_east/6208331.stm).

<sup>72</sup> UNAMI HRO assessed that "(L)aw enforcement agencies are insufficient, inadequately equipped and in need of further training"; see UNAMI HRO, *August 2006 Human Rights Report*, p. 1, see above footnote 26. According to the CRS, "President Bush tacitly acknowledged the lack of capability of the ISF by announcing that 'we will increase the embedding of American advisers in Iraqi Army units and partner a Coalition brigade with every Iraqi Army division'"; see: The Library of Congress, Congressional Research Service, *The Iraqi Security Forces: The Challenge of Sectarian and Ethnic Influences*, CRS Report for Congress, 18 January 2007, p. 3, <http://fpc.state.gov/documents/organization/79272.pdf>. See also *Iraq Study Group Report*, p. 12-14, see above footnote 35.

The Iraqi judiciary continues to be understaffed and badly equipped<sup>73</sup> and generally lacks the capacity to provide judicial redress or protection. The Human Rights Office of the United Nations Assistance Mission for Iraq (UNAMI HRO) stated that “(e)xisting mechanisms for redressing violations are insufficient”, and expressed serious concern that

*“(The) investigative capacity of the State remains limited because of security conditions as well as for lack of adequate resources and the limited number of investigative judges. Allegations made that some sectors of the security forces are colluding with armed militias or other armed groups risk eroding support for the security forces and increase the perception that the impunity gap in Iraq is growing.”*<sup>74</sup>

As a result of these institutional weaknesses, most human rights violations are committed with impunity,<sup>75</sup> with protection generally unavailable from national law enforcement or security bodies.<sup>76</sup> It is common that victims or their families do not report attacks to the police, either because they do not expect the police to investigate the case for lack of resources, inertia or sympathy with the perpetrators, or for fear of repercussions.<sup>77</sup> The MNF is generally unable to fill this protection void. Like the ISF, the MNF is itself a frequent target of armed groups, having suffered 3,410 troop fatalities by 25 February 2007, and also has a restrictive mandate with regard to the overall protection of civilians.<sup>78</sup>

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<sup>73</sup> According to UNAMI HRO, “(C)ourts require adequate facilities, more investigative judges, computerized and integrated management systems and greater security for all judicial personnel”. Furthermore, the capacity of the Iraqi judiciary is limited, “particularly in cases involving organized crime, corruption, terrorism and militia-sponsored armed activities are due to the high level of intimidation and threats, limited protection mechanisms for both witnesses and judiciary, as well as limited number of investigative judges”. UNAMI HRO, *December 2006 Human Rights Report*, p. 1 and 5, see above footnote 10. See also US Department of Defense, *Measuring Stability and Security in Iraq*, Report to Congress in accordance with the Department of Defense Appropriations Act 2007 (Section 9010, Public Law 109-289), p. 8, November 2006, <http://www.defenselink.mil/pubs/pdfs/9010Quarterly-Report-20061216.pdf>.

<sup>74</sup> UNAMI HRO, *Human Rights Report, 1 March – 30 April 2006*, p. 5-6, [http://www.uniraq.org/documents/HR\\_Report\\_Mar\\_Apr\\_06\\_EN.PDF](http://www.uniraq.org/documents/HR_Report_Mar_Apr_06_EN.PDF) (further: “UNAMI HRO, April 2006 Human Rights Report”).

<sup>75</sup> See, for example, UNAMI HRO, *December 2006 Human Rights Report*, p. 2, 3 and 13, see above footnote 10.

<sup>76</sup> The mandate of the MNF in Iraq, as laid down in UNSC Resolution 1546 (2004) and the letters annexed to it, is to “contribute to the maintenance of security in Iraq, including by preventing and deterring terrorism and protecting the territory of Iraq. The goal of the MNF will be to help the Iraqi people to complete the political transition and will permit the United Nations and the international community to work to facilitate Iraq’s reconstruction”; see UNSC, *Resolution 1546 (2004)*, 8 June 2004, available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=411340244d>. In November 2006, the UNSC voted to extend the mandate of the MNF until 31 December 2007. The presence of the MNF is at the request of the Iraqi Government, which says the troops were needed for another year while it continues to build up its own security forces; see UNSC, *Resolution 1723 (2006)*, 28 November 2006, <http://www.un.org/News/Press/docs/2006/sc8879.doc.htm>. The MNF are a frequent target by various armed groups and, by 25 February 2007, have suffered 3,410 troop fatalities; see: The Brookings Institution, *Iraq Index*, see above footnote 16.

<sup>77</sup> For example, it was reported that Sabaeen-Mandaeans “encounter intimidation by public and religious officials”; see UNAMI HRO, *December 2006 Human Rights Report*, p. 13, see above footnote 10. The Iraq Study Group assessed that the “Iraqi police cannot control crime, and they routinely engage in sectarian violence, including the unnecessary detention, torture, and targeted execution of Sunni Arab civilians”; see *Iraq Study Group Report*, p. 13, see above footnote 35.

<sup>78</sup> The Brookings Institution, *Iraq Index*, see above footnote 16.

Traditional mechanisms<sup>79</sup> of conflict resolution, e.g. by tribal or religious leaders, may not always be available or be ineffective in providing protection to the individual concerned. In some cases, reliance on these mechanisms may result in further harm, for example, for women who fear “honour killings” or individuals who fear becoming victims of a blood feud.<sup>80</sup>

### ***C. Main Groups Perpetrating Violence***

The analysis which follows below provides a non-exhaustive overview of the main groups in Iraq currently perpetrating violence.

#### **1. Insurgent Groups**

With the fall of the former regime in 2003, political power in Iraq shifted to the Shi’ite majority, which dominated the national elections in January and December 2005.<sup>81</sup> Sunni Arabs, who had largely dominated the country under the previous regime, perceived themselves as politically and economically marginalized, particularly by two far-reaching decisions of the CPA, namely the *de-Ba’athification* Order and the Order to dissolve the Iraqi Army.<sup>82</sup> Sunni Arabs now form the backbone of the ongoing insurgency in Iraq. The insurgency appears to consist of a number of groups, including former Ba’athists, army and intelligence officers, and indigenous and foreign Islamists as well as nationalists fighting foreign “occupation”.

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<sup>79</sup> These comprise of the protection provided by family networks and tribal links. Because Iraq is a largely tribal society with at least three-quarters of the Iraqi people belonging to one of the country’s 150 tribes, people often rely on community leaders to resolve disputes instead of going to court. See also: UNHCR, 2005 *Country of Origin Information Iraq*, p. 17, see above footnote 53.

<sup>80</sup> See: UNHCR, 2005 *Country of Origin Information Iraq*, p. 123, see above footnote 53. See also: UNHCR, *UNHCR Position on Claims for Refugee Status Under the 1951 Convention relating to the Status of Refugees Based on a Fear of Persecution Due to an Individual’s Membership of a Family or Clan Engaged in a Blood Feud*, 17 March 2006, available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=44201a574>.

<sup>81</sup> The Shi’ite coalition *United Iraqi Alliance* currently holds 128 of the 275 seats in the Council of Representatives. The main Sunni Arab bloc, the *Tawafoq Iraqi Front*, won 44 seats; Independent Electoral Commission in Iraq, *Certification of the Council of Representatives Elections Final Results*, 10 February 2006, [http://www.ieciraq.org/English/Frameset\\_english.htm](http://www.ieciraq.org/English/Frameset_english.htm).

<sup>82</sup> CPA Order No. 1, *De-Ba’athification of Iraqi Society*, 16 May 2003, available in UNHCR’s Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=468d097d2>; CPA Order No. 2, *Dissolution of Entities*, 23 August 2003, available in UNHCR’s Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=4691f4d62>. See also “Members and Associates of the Ba’ath Party and the Former Regime”.



Several groups, including the *Mujahedeen Shura Council*,<sup>83</sup> the *Jaish Al-Fatiheen* (a break-away from the Islamic Army in Iraq), *Jund Al-Sahaba*, *Kataeb Ansar Al-Tawheed Wal-Sunna* and several tribal chiefs,<sup>84</sup> announced the establishment of the *Islamic State of Iraq* on 15 October 2006. According to these groups, the Islamic State of Iraq consists of Sunni areas of Baghdad and the Governorates of Al-Anbar, Diyala, Kirkuk, Salah Al-Din, Ninewa and parts of Babil and Wassit. Abu Omar Al-Hussaini Al-Qurahsi Al-Baghdadi has been declared the state's *Emir*.<sup>85</sup> Other groups, which appear to be composed of former regime officials, members of the former security and intelligence agencies and paramilitary forces, include, but are not limited to, *Al-Awda*, *Al-Awda Al-Jadida* and the New Ba'ath Party. Also Mohammed's Army (*Jaish Mohammed*) is believed to have links to former Ba'athists. Other Sunni groups, some with a more Islamist orientation, others with a more nationalist orientation, include, *inter alia*, the Islamic Army in Iraq (*Al-Jaish Al-Islami fil-Iraq*), the 1920 Revolutionary Brigade (*Kata'ib Thawrat 'Ashrin*), Al-Rashideen Army (*Jaish Al-Rashideen*), *Jaish Al-Mujahideen*, Jihad Factions of Iraq (*Asaeb Al-Iraq Al-Jihadiya*), Abu Bakr Al-Siddiq Army, Al-Qassas Brigade (Revenge Brigades), *Salahuddin Al-Ayyubi* Brigades (Iraqi Islamic Resistance Front), *Saraya Al-Dawa Wal Ribat* (Missionary and Frontier Guarding Movement).<sup>86</sup> Yet other groups appear locally or only in relation to a certain event. For example, the *Fallujah Mujahideen* is a group with suspected links to Al-Qa'eda in Iraq and operates exclusively in the city of Fallujah.<sup>87</sup> The *Mujahideen of Nineveh* abducted three members of the Iraqi Independent Electoral Commission prior to the January 2005 elections in Mosul and threatened attacks against polling stations.<sup>88</sup>

While these groups do not necessarily share a common ideology, they are unified by a common desire to expel the MNF from Iraq and undermine the new political order in the country.<sup>89</sup> Other goals, however, vary. Al-Qa'eda in Iraq and Ansar Al-Sunna, for example,

<sup>83</sup> The Mujahedeen Shura Council operated as an umbrella organization with the goal of unifying Iraqi insurgent efforts. It included Al-Qa'eda in Iraq, the Victorious Army Group (*Jaish Al-Taifa Al-Mansoura*), Monotheism Supporters Brigades, Saray Al-Jihad Group, *Al-Ghuraba* Brigades, *Al-Ahwal* Brigades, Army of *Al-Sunnah Wal Jama'a* and possibly, despite its Salafist/Islamist orientation, more nationalist groups; see MIPT Terrorism Knowledge, *Mujahideen Shura Council*, <http://www.tkb.org/Group.jsp?groupID=4575> [last updated 16 January 2007]; SITE Institute, *The Army of al-Sunnah Wal Jama'a Announces its Intention to Join the Mujahideen Shura Council, which is Accepted by the Council*, 30 January 2006, <http://www.siteinstitute.org/bin/articles.cgi?ID=publications143306&Category=publications&Subcategory=0>.

<sup>84</sup> According to commander Abu Omar Al-Hussaini Al-Qurahsi Al-Baghdadi of the Islamic State, the following tribes are represented: Al-Dulaim, Al-Jabbour, Al-Obaid, Zoubaa, Qays, Azza, Al-Tai, Al-Janabiyeen, Al-Halalyeen, Al-Mushahada, Al-Dayniya, Bani Zayd, Al-Mujamaa, Bani Shammam, Ineza, Al-Suwaitah, Al-Nuaim, Khazraj, Bani Al-Heem, Al-Buhayrat, Bani Hamdan, Al-Saadun, Al-Ghanem, Al-Saadiya, Al-Maawid, Al-Karabla, Al-Salman and Al-Qubaysat. See: Evan F. Kohlmann, *State of the Sunni Insurgency in Iraq: 2006*, Global Terror Alert, 29 December 2006, p. 2, <http://www.globalterroralert.com/pdf/1206/iraqinsurgency1206.pdf>.

<sup>85</sup> MIPT Terrorism Knowledge Base, *Mujahideen Shura Council*, see above footnote 83; Kohlmann, *ibidem*.

<sup>86</sup> Kohlmann, see above footnote 84. For profiles of the various groups, see MIPT Terrorism Knowledge Base, *Iraq*, <http://www.tkb.org/Country.jsp?countryCd=IZ>. See also: UNHCR, *2005 Country of Origin Information Iraq*, p. 66-73, see above footnote 53.

<sup>87</sup> MIPT Terrorism Knowledge Base, *Fallujah Mujahideen*, <http://www.tkb.org/Group.jsp?groupID=4550> [last updated 16 January 2007].

<sup>88</sup> MIPT Terrorism Knowledge Base, *Ninawa Mujahideen in the City of Mosul*, <http://www.tkb.org/Group.jsp?groupID=4539> [last updated 16 January 2007].

<sup>89</sup> See, for example, *Iraq Study Group Report*, p. 10, see above footnote 35.

also aim to foment civil war, including by targeting Shi'ite civilians. The *Islamic State of Iraq* in an internet statement in December 2006, called for a war on Iraq's Shi'ites, saying

*“Stand like one man ... and cut their (Shi'ites') throats, spill their blood, burn the ground underneath them, and rain bombs on them.”*<sup>90</sup>

Furthermore:

*“They (Shi'ites) have done more than the crusaders (U.S.-led forces) have been doing. They killed men, rendering women widows and children orphans, burned houses of God and tore his book.”*<sup>91</sup>

They and others also aim for the establishment of an Islamic State based on Shari'a law. However, there are major divisions among some of the groups, in particular among foreign and indigenous groups, for example over the legitimacy of targeting civilians,<sup>92</sup> the goal of establishing an Islamic state<sup>93</sup> and their willingness to consider an amnesty and join the political process under certain conditions.<sup>94</sup>

The insurgency against the MNF and the present Government is mainly active in the “Sunni triangle”,<sup>95</sup> in which Arab Sunnis make up the majority as well as in mixed areas in the Governorates of Diyala, Babel and Kirkuk.<sup>96</sup>

Insurgency groups continue to target persons affiliated with or supporting the MNF/ISF<sup>97</sup> as well as the Iraqi Government.<sup>98</sup> Furthermore, they are considered responsible for attacks on members of the Shi'ite community<sup>99</sup> as well as religious minorities<sup>100</sup> in an aim to create a situation of civil war and bring Iraq's institutions to collapse. Most high-profile attacks causing large numbers of civilian casualties are attributed to Al-Qa'eda in Iraq and Ansar

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<sup>90</sup> According to Reuters, the authenticity of the posted recording could not be verified; see: Reuters Alertnet, *Iraq Qaeda-linked group calls for war on Shi'ites*, 17 December 2006, <http://www.alertnet.org/thenews/newsdesk/L17355726.htm>.

<sup>91</sup> *Ibid.*

<sup>92</sup> See, for example, Khalid Al-Ansary and Ali Adeeb, *Most Tribes in Anbar Agree to Unite Against Insurgents*, The New York Times, 18 September 2006, <http://www.nytimes.com/2006/09/18/world/middleeast/18iraq.html>.

<sup>93</sup> See, for example, Rick Jervis, *General sees rift in Iraq enemy*, USA Today, 25 January 2006, [http://www.usatoday.com/news/world/iraq/2006-01-25-insurgency-rift\\_x.htm](http://www.usatoday.com/news/world/iraq/2006-01-25-insurgency-rift_x.htm).

<sup>94</sup> Sabrina Tavernise and Dexter Filkins, *Evidence increases of an Iraqi-Qaeda split*, The New York Times, 12 January 2006, <http://www.ihf.com/articles/2006/01/12/news/rebels.php>; Sabrina Tavernise, *“Enemy on enemy” fire signals split among insurgents in Iraq*, The New York Times, 22 June 2005, <http://www.ihf.com/articles/2005/06/21/news/rebels.php>.

<sup>95</sup> The “Sunni triangle” comprises parts of the Governorates of Al-Anbar, Salah Al-Din, Ninewa and Baghdad.

<sup>96</sup> Military Review, Jeffrey White, *Assessing Iraq's Sunni Arab insurgency (political activities of Saddam Hussein)*, May-June 2006, <http://www.encyclopedia.com/doc/1G1-147346137.html>. For an overview on the insurgency in Iraq, see UNHCR, *2005 Country of Origin Information Iraq*, p. 64-73, see above footnote 53.

<sup>97</sup> See “Actual or Perceived Sympathizers of the US-Led Invasion and/or the Multi-National Force in Iraq” and “Employees of the Former CPA, MNF or Iraqis Employed by Foreign Embassies or Foreign Companies”.

<sup>98</sup> See “Government Officials and Other Persons Associated With the Current Iraqi Government, Administration and Institutions”.

<sup>99</sup> See “Shi'ites and Sunnis Civilians”.

<sup>100</sup> See “Non-Muslim Religious Groups”.

Al-Sunna. In addition, members of the educated elite such as journalists, doctors, academics and teachers, have been frequent targets.<sup>101</sup>

There are reports that insurgents have infiltrated parts of the ISF.<sup>102</sup> For example, several brigades of the Ministry of Defence in charge of protecting oil pipelines have been accused of running death squads killing (Shi'ite) Government officials and appear to have links to insurgency groups.<sup>103</sup>

Iraqi Government officials blame the Sunni parties for supporting “terrorism”, in particular the Iraqi Islamic Party (IIP), the largest Sunni Muslim bloc in the Council of Representatives, and the Association of Muslim Scholars (AMS), the most influential Sunni organization in Iraq.<sup>104</sup> However, it is unclear how closely these parties are involved in directing or funding the insurgency.

## 2. Iraqi Security Forces and Shi'ite militias

Shi'ite-dominated ISF and militias, often wearing police or Special Forces uniforms,<sup>105</sup> regularly target members of the Sunni population.<sup>106</sup> Those targeted include also Sunni Arab refugees such as Palestinians and those from Syria and Iran,<sup>107</sup> as well as former members of the Ba'ath Party and security services,<sup>108</sup> who are considered supporters of the former regime and the ongoing insurgency. The fact that Shi'ite militias have infiltrated or collaborate with the ISF<sup>109</sup> blurs the line between state and non-state actors.<sup>110</sup>

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<sup>101</sup> See “Certain Professions”.

<sup>102</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 8, see above footnote 10.

<sup>103</sup> Dexter Filkins, *Armed groups propel Iraq toward chaos*, The New York Times, 24 May 2006, <http://www.ihf.com/articles/2006/05/24/africa/web.0525police.php>.

<sup>104</sup> See, for example, Ned Parker and Ali Hamdani, *How violence is forging a brutal divide in Baghdad*, The Times, 14 December 2006, <http://www.timesonline.co.uk/tol/news/world/iraq/article753899.ece>. See also: UNHCR, *2005 Country of Origin Information Iraq*, p. 15, see above footnote 53.

<sup>105</sup> Damien Cave, *In Iraq, It's Hard to Trust Anyone in Uniform*, The New York Times, 3 August 2006, <http://www.nytimes.com/2006/08/03/world/middleeast/03uniforms.html>.

<sup>106</sup> See “Shi'ites and Sunnis Civilians” and “Sunni Arabs”.

<sup>107</sup> See “VI. EFFECTIVE PROTECTION OF REFUGEES OF ARAB ORIGIN IN IRAQ”.

<sup>108</sup> See “Members and Associates of the Ba'ath Party and the Former Regime”.

<sup>109</sup> According to the US Department of Defense, “(m)ilitia influence exists in the Iraqi Police”. However, “there is currently no screening process specifically designed to ascertain militia allegiance. Recruits take an oath of office denouncing militia influence and pledging allegiance to Iraq's constitution”; see US Department of Defense, p. 34, see above footnote 73. See also: Robert Perito, *Reforming the Iraqi Interior Ministry, Police, and Facilities Protection Service*, USIP, USIPeace Briefing, February 2007, [http://www.usip.org/pubs/usipeace\\_briefings/2007/0207\\_iraqi\\_interior\\_ministry.html](http://www.usip.org/pubs/usipeace_briefings/2007/0207_iraqi_interior_ministry.html); The Library of Congress, see above footnote 72; HRW, *Iraq: End Interior Ministry Death Squads*, 29 October 2006, <http://hrw.org/english/docs/2006/10/29/iraq14473.htm>.

<sup>110</sup> See, for example, Filkins, see above footnote 103.



Two rival Shi'ite militias<sup>111</sup> have been blamed for much of the violence. The Badr Organization, formerly known as the Badr Brigade and SCIRI's armed wing, is a powerful party that once took refuge in Iran from oppression by Saddam Hussein's regime.<sup>112</sup> The Mehdi Army, which has on several occasions clashed with the MNF, was formed in 2003 by the radical cleric Muqtada Al-Sadr.<sup>113</sup> Some reports suggest that parts of the Mehdi Army are no longer under the control of Muqtada Al-Sadr and act independently under the command of other individuals, e.g. Abu Dir, who became known for killing Sunnis.<sup>114</sup> According to the US Department of State, the Mehdi Army "*has replaced al-Qaeda in Iraq as the most dangerous accelerant of potentially self-sustaining sectarian violence in Iraq*".<sup>115</sup>

Since the Shi'ites came to power in the January 2005 elections, and in particular under the term of SCIRI Minister of Interior Bayan Jabr,<sup>116</sup> Shi'ite militia members entered the ISF in large numbers.<sup>117</sup> The Mehdi Army has built a strong presence in the regular Police and in the 150,000-strong Facilities Protection Service (FPS),<sup>118</sup> while the Badr Brigade

<sup>111</sup> In several incidents, the Badr Organization and the Mehdi Army have engaged in battles over power and influence among Iraq's Shi'ites. For example, after the killing of a local head of intelligence in Al-Amarah, a member of the Badr Brigade, his family kidnapped a local Mehdi Army chief in October 2006. This incident triggered a cycle of violent reprisals between the two parties, leaving some 25 people dead and several dozens wounded; see AP, *Relative quiet returns to Iraq's south; concerns linger over emboldened militias*, 21 October 2006, [http://www.usatoday.com/news/world/iraq/2006-10-20-shia-militias\\_x.htm](http://www.usatoday.com/news/world/iraq/2006-10-20-shia-militias_x.htm); John Ward Anderson, *Sadr Militia Briefly Seizes Southern City*, The Washington Post, 21 October 2006, [http://www.washingtonpost.com/wp-dyn/content/article/2006/10/20/AR2006102000244\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2006/10/20/AR2006102000244_pf.html). See also: ICG, *After Baker-Hamilton: What To Do in Iraq?*, Middle East Report No. 60, 19 December 2006, p. 9-10, [http://www.crisisgroup.org/library/documents/middle\\_east\\_north\\_africa/60\\_after\\_baker\\_hamilton\\_what\\_to\\_do\\_in\\_iraq.pdf](http://www.crisisgroup.org/library/documents/middle_east_north_africa/60_after_baker_hamilton_what_to_do_in_iraq.pdf); Reuters Alertnet, *Battle highlights splits in Iraq's Shi'ite south*, 29 August 2006, <http://www.uruknet.info/?p=26222>.

<sup>112</sup> For more information on the Badr Organization, see UNHCR, *2005 Country of Origin Information Iraq*, p. 61-62, see above footnote 53.

<sup>113</sup> For more information on the Mehdi Army and the armed confrontations with the MNF in 2004, see UNHCR, *2005 Country of Origin Information Iraq*, p. 62-64 and 89, see above footnote 53.

<sup>114</sup> Scott Johnson, *Iraq: A New Enemy Emerges – "The Shi'ite Zarqawi"*, Newsweek, 13 November 2006, <http://www.msnbc.msn.com/id/15564792/site/newsweek/>; Sudarsan Raghavan, *Militias Splintering Into Radicalized Cells*, The Washington Post, 19 October 2006, [http://www.washingtonpost.com/wp-dyn/content/article/2006/10/18/AR2006101801865\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2006/10/18/AR2006101801865_pf.html); Sabrina Tavernise, *Cleric Said to Lose Reins Over Part of Iraqi Militia*, The New York Times, 28 September 2006, <http://www.nytimes.com/2006/09/28/world/middleeast/28sadr.html>.

<sup>115</sup> US Department of Defense, p. 19, see above footnote 73.

<sup>116</sup> Bayan Jabr became Finance Minister in the Government of Prime Minister Al-Maliki where he continues to control the Interior Ministry's budget and police salaries; see: Perito, see above footnote 109.

<sup>117</sup> See, for example, Perito, see above footnote 109; Filkins, see above footnote 103; RFE/RL, Charles Recknagel, *Iraq: Sectarian Violence Highlights Increasing Power Of Militias*, 22 March 2006, <http://www.rferl.org/featuresarticle/2006/03/3f8ef645-5fec-497d-8502-99a72fc4c9d8.html>.

<sup>118</sup> The FPS was formed by the former CPA, and is charged with guarding government buildings and infrastructure, including hospitals, ports and power plants. See: CPA Order No. 27, *Establishment of the Facilities Protection Service*, 4 September 2003, available in UNHCR's Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=469cda862>. There is no unified command and the various FPS units stand under the control of the respective ministries. FPS officers were issued police-style uniforms, badges and weapons, but did not receive police training nor were they given police authority. Loyalists to Muqtada Al-Sadr control the ministries of health, transportation and agriculture and, according to the Iraq Study Group, FPS units employed by those ministries are "*a source of funding and jobs for the Mahdi Army*". Iraq's Minister of Interior, Jawad Al-Bolani, accused the FPS of running death squads, but rejected the notion that

dominated Special Police Commando units, which since May 2006 have been consolidated into the Iraqi National Police.<sup>119</sup> Consistent reports have indicated the involvement of the ISF in kidnappings, torture and summary executions of Sunnis.<sup>120</sup> In November 2005, a joint MNF/ISF raid on the Ministry of Interior's *Al-Jadiriyya Facility* in Baghdad discovered some 170 weakened and malnourished detainees, mostly Sunni Arabs, many bearing injuries consistent with torture. At least 18 others allegedly had died in custody and the fate of others remained unknown. The Government of Iraq initiated an investigation into the incident, but to date has failed to publish its findings or to initiate criminal proceedings against those involved in the abuse.<sup>121</sup> Between December 2005 and May 2006, joint MNF/ISF teams inspected at least eight facilities run by the Ministry of Interior and the Ministry of Defence in and around Baghdad. The inspectors found consistent evidence of detainee abuse at most locations, including the Ministry of Interior's *Site 4 Facility*. According to UNAMI HRO, the inspection at *Site 4* had revealed "systematic evidence of physical and psychological abuse." UNAMI HRO in December 2006 reported that while an investigation revealed that 57 employees, including high-ranking officers, of the Ministry of Interior were involved in degrading treatment of prisoners at *Site 4*, nobody has yet been held accountable. It further reported that it continues to receive information pointing to torture and other cruel, inhumane or degrading treatment in detention centres administered by the Ministry of Interior or security forces throughout Iraq.<sup>122</sup>

Apart from the forces of the Ministry of Interior, forces of the Ministry of Defence have also reportedly been infiltrated by Shi'ite militiamen. For example, the Iraqi Army's Fifth

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the Iraqi Police and Military were infiltrated by militias. Former Minister of Interior, Bayan Jabr, said that the FPS was "out of control". The Iraqi Government has plans to consolidate the various FPS units and bring them under control of the Ministry of Interior; however, the Iraq Study Group questions whether the Ministry of Interior had the capability to do so; see: *Iraq Study Group Report*, p. 14, see above footnote 35. See also: Perito, see above footnote 109; Walter Pincus, *U.S. Military Urging Iraq to Rein In Guard Force*, The Washington Post, 25 December 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/12/24/AR2006122400551.html>; Inter Press Service (IPS), Dahr Jamail, Ali al-Fadhily, *Iraqi Militias Take Refuge in Facilities Protection Service*, 8 November 2006, <http://www.antiwar.com/jamail/?articleid=9979>; Filkins, see above footnote 103; Ellen Knickmeyer, *Iraq Begins to Rein In Paramilitary Force*, The Washington Post, 14 May 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/05/13/AR2006051300843.html>; Scott Johnson, *Phantom Force*, Newsweek, 24 April 2006, <http://www.msnbc.msn.com/id/12335716/site/newsweek/>.

<sup>119</sup> See, for example, Pincus, *ibidem*; HRW, *Iraq: End Interior Ministry Death Squads*, 29 October 2006, <http://hrw.org/english/docs/2006/10/29/iraq14473.htm>; BBC News, *Guide: Armed groups in Iraq*, 15 August 2006, [http://news.bbc.co.uk/2/hi/middle\\_east/4268904.stm#badr](http://news.bbc.co.uk/2/hi/middle_east/4268904.stm#badr); Filkins, see above footnote 103; RFE/RL, Charles Recknagel, *Iraq: Sectarian Violence Highlights Increasing Power Of Militias*, 22 March 2006, <http://www.rferl.org/featuresarticle/2006/03/3f8ef645-5fec-497d-8502-99a72fc4c9d8.html>. See also: Christopher Allbritton, *Why Iraq's Police Are a Menace*, Time Magazine, 20 March 2006, <http://www.time.com/time/world/article/0,8599,1175055,00.html>.

<sup>120</sup> Perito, see above footnote 109; CBS / The Associated Press, *Sectarian Rhetoric Flies In Baghdad*, 5 January 2007, <http://www.cbsnews.com/stories/2007/01/05/iraq/main2332897.shtml>. See also: UNHCR, 2005 *Country of Origin Information Iraq*, p. 144 and 146-148, see above footnote 53.

<sup>121</sup> Edward Wong and John F. Burns, *Secret prison adds to divisions in Iraq*, The New York Times, 22 November 2005, <http://www.ihl.com/articles/2005/11/16/news/torture.php>; Ellen Knickmeyer and K.I. Ibrahim, *U.S. to Probe All Iraqi-Run Prisons*, The Washington Post, 18 November 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/11/17/AR2005111700649.html>.

<sup>122</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 19, see above footnote 10. See also: HRW, *World Report 2007, Iraq*, January 2007, <http://hrw.org/englishwr2k7/docs/2007/01/11/iraq14705.htm>.

Division, based in the Governorate of Diyala, was penetrated by a Shi'ite militia and conducted a campaign of intimidation against Sunnis in the mixed Governorate. Colonel Brian D. Jones, the commander of US Forces in Diyala, said "*I believe this is a larger plan to make Diyala a Shia province, rather than a Sunni province.*"<sup>123</sup>

Despite repeated announcements by the current Government of Prime Minister Nouri Al-Maliki to purge the ISF and crack down on militias, the government has shown little will and ability to confront these powerful groups.<sup>124</sup> On 18 January 2007, Iraqi officials announced that, for the first time, they had taken significant action against the Mehdi Army by arresting dozens of its senior leaders. Four days later, the US military announced it had arrested more than 600 Mehdi Army fighters.<sup>125</sup> On 8 February 2007, the MNF/ISF arrested Deputy Health Minister Al-Zamili, accusing him of diverting millions of dollars to the Mehdi Army and allowing death squads to use ambulances and government hospitals to carry out kidnappings and killings.<sup>126</sup> On 14 February 2007, the Iraqi Government declared a new security crackdown, dubbed "*Operation Imposing Law*" (or the Baghdad Security Plan), in conjunction with US forces in Iraq in an aim to put an end to sectarian violence. Al-Maliki vowed to go against all armed groups, irrespective of their religious affiliation.<sup>127</sup> Significant improvements of the security situation in Baghdad and Al-Anbar Governorate are not expected until the summer and fall 2007 and there is wide consensus that security measures must be accompanied by political steps towards reconciliation.<sup>128</sup> The U.S.

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<sup>123</sup> Solomon Moore, *A promising Iraqi province is now a tinderbox*, Los Angeles Times, 3 January 2007, <http://www.siteinstitute.org/bin/articles.cgi?ID=news234907&Category=news&Subcategory=0>; Richard A. Oppel Jr., *Sectarian rifts foretell pitfalls of Iraqi troops' taking control*, The New York Times, 11 November 2006, <http://www.iht.com/articles/2006/11/11/africa/web.1111diyala.php>.

<sup>124</sup> For example, on 28 October 2006, Al-Maliki criticised a raid carried out by the MNF/ISF on Sadr City, which, according to US military had taken place with the permission of the Iraqi Government; and on 31 October 2006, Al-Maliki ordered US and Iraqi units to lift a blockade around Sadr City, the stronghold of the Mehdi Army; Middle East Online, Hassen Jouini, *Iraqi PM hands Sadr victory over US blockade*, 31 October 2006, [http://www.iraqupdates.com/p\\_articles.php/article/11454](http://www.iraqupdates.com/p_articles.php/article/11454); Al Jazeera, *Iraqi PM criticises raid on Sadr City*, 28 October 2006, <http://english.aljazeera.net/news/archive/archive?ArchiveId=38105>; NPR, Jamie Tarabay, *Troops Raid Sadr City; Maliki Disavows Timeline*, 25 October 2006, <http://www.npr.org/templates/story/story.php?storyId=6383365>. On Al-Maliki's relationship with Muqtada Al-Sadr and his difficulties to rein in the militias, see also: Lionel Beehner, *Maliki and Sadr: An Alliance of Convenience*, 24 October 2006, Council on Foreign Relations (CFR), <http://www.cfr.org/publication/11787/>; Sumedha Senanayake, *Iraq: Shi'ite Militia Continues To Pose Dilemma*, RFE/RL, 20 October 2006, <http://www.rferl.org/featuresarticle/2006/10/62bf8567-beb1-4fbb-a3f9-773bc68560c7.html>.

<sup>125</sup> Sumedha Senanayake, *Iraq: Cracking Down On Al-Sadr No Easy Task*, RFE/RL, 26 January 2006, <http://www.rferl.org/featuresarticle/2007/01/6816daab-ebad-400e-a71a-bc852515f8b7.html>; Sabrina Tavernise, *Shi'ite Fighters Are Arrested, Iraq Says*, The New York Times, 18 January 2007, <http://www.nytimes.com/2007/01/18/world/middleeast/18mahdi.html>.

<sup>126</sup> Kim Gamel, *Iraqi Official Tied to Militia Jailed*, AP, 8 February 2007, <http://www.washingtonpost.com/wp-dyn/content/article/2007/02/08/AR2007020801049.html>.

<sup>127</sup> BBC News, *Iraqi PM wins key security vote*, 25 January 2007, [http://news.bbc.co.uk/2/hi/middle\\_east/6298839.stm](http://news.bbc.co.uk/2/hi/middle_east/6298839.stm).

<sup>128</sup> See Marc Santora, *Top U.S. General in Iraq Says New Plan to Pacify Baghdad May Take Months to Show Results*, The New York Times, 15 January 2007, <http://www.nytimes.com/2007/01/16/world/middleeast/16iraq.html?ex=1326603600&en=f09d6094c80a4294&ei=5090&partner=rssuserland&emc=rss>.

military commander in Iraq, General David Petraeus, said that Iraq was “doomed to continuing violence and civil strife” if the security plan failed.<sup>129</sup>

However, questions remain as to the political will and ability of the Government to move against the militia, which, through its social services network, is deeply embedded in the fabric of society and is considered by many the only protection against the Sunni-led insurgency.<sup>130</sup> A *National Intelligence Estimate* (NIE), prepared by the US National Intelligence Council in January 2007<sup>131</sup> and titled *Prospects for Iraq’s Stability: A Challenging Road Ahead*, questioned the Iraqi Government’s ability to effectively move against those militias that are linked to the ruling parties in Iraq in the coming 12 to 18 months.<sup>132</sup> Also, there are concerns that the advance publicity given to the new security plan provided militiamen with the opportunity to leave Baghdad or to keep a low profile, only to re-emerge after the operation is completed.<sup>133</sup> There have also been speculations that Muqtada Al-Sadr used the security operation to have his movement purged of undesirable elements.<sup>134</sup>

### 3. Criminal Groups

Criminal groups are also capitalizing on Iraq’s instability. It is increasingly difficult to distinguish common criminals from insurgents and militias, as all engage in kidnappings and extra-judicial killings and illegal activities such as trafficking in weapons, drugs and oil to fund their activities.<sup>135</sup> According to the Iraq Study Group, “some criminal gangs

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<sup>129</sup> See Reuters, *New US general warns Iraq doomed if crackdown fails*, 10 February 2007, <http://www.alertnet.org/thenews/newsdesk/L10750830.htm>; AP, *Stakes very high, says new US commander in Iraq*, 11 February 2007, [http://www.smh.com.au/news/world/new-us-commander-in-iraq-says-stakes-are-very-high/2007/02/11/1171128800952.html?s\\_cid=rss\\_smh](http://www.smh.com.au/news/world/new-us-commander-in-iraq-says-stakes-are-very-high/2007/02/11/1171128800952.html?s_cid=rss_smh).

<sup>130</sup> Senanayake, *Iraq: Cracking Down On Al-Sadr No Easy Task*, see above footnote 125; Tavernise, *Shi’ite Fighters Are Arrested, Iraq Says*, see above footnote 125; Beehner, see above footnote 124.

<sup>131</sup> The National Intelligence Council is a “center of strategic thinking within the US Government, reporting to the Director of National Intelligence (DNI) and providing the President and senior policymakers with analyses of foreign policy issues that have been reviewed and coordinated throughout the Intelligence Community”; see [http://www.dni.gov/nic/NIC\\_home.html](http://www.dni.gov/nic/NIC_home.html). The key judgements of the report can be found at: [http://dni.gov/press\\_releases/20070202\\_release.pdf](http://dni.gov/press_releases/20070202_release.pdf).

<sup>132</sup> National Intelligence Council, *Prospects for Iraq’s Stability: A Challenging Road Ahead*, January 2007, p. 7, [http://dni.gov/press\\_releases/20070202\\_release.pdf](http://dni.gov/press_releases/20070202_release.pdf).

<sup>133</sup> Reuters Alertnet, Ross Colvin, *Sadr orders militia heads out of Iraq – president*, 16 February 2007, <http://www.alertnet.org/thenews/newsdesk/L15740660.htm>; Senanayake, *Iraq: Cracking Down On Al-Sadr No Easy Task*, see above footnote 125; Leila Fadel and Zaineb Obeid, *Mahdi Army lowers its profile, anticipating arrival of U.S. troops*, McClatchy Newspapers, 13 January 2007, <http://www.realcities.com/mld/krwashington/16454939.htm>.

<sup>134</sup> Senanayake, *Iraq: Cracking Down On Al-Sadr No Easy Task*, see above footnote 125; Tavernise, *Shi’ite Fighters Are Arrested, Iraq Says*, see above footnote 125.

<sup>135</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 9, see above footnote 10. See also: US Department of Defense, p. 21, see above footnote 73; John F. Burns, Kirk Semple, *U.S. Finds Iraq Insurgency Has Funds to Sustain Itself*, The New York Times, 26 November 2006, <http://www.nytimes.com/2006/11/26/world/middleeast/26insurgency.html?ex=1322197200&en=1bd1f805c30e2ae2&ei=5088&partner=rssnyt&emc=rss>; Oliver Poole, *Shia killers rake in £500,000 a day from crime, says US*, The Telegraph, 22 September 2006, <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2006/09/22/wiraq22.xml>.



*cooperate with, finance, or purport to be part of the Sunni insurgency or a Shi'ite militia in order to gain legitimacy.*"<sup>136</sup>

Criminal activities often reveal a sectarian dimension.<sup>137</sup> At times, criminal gangs abduct victims in order to sell them to sectarian groups.<sup>138</sup> Accordingly, criminal groups are fuelling sectarian violence and causing displacement. Increasingly, criminal gangs are working in collusion with or have infiltrated the ISF, leaving victims without access to protection.<sup>139</sup>

#### **4. Kurdish Armed Forces**

The Kurdish parties and their armed forces are considered responsible for arbitrary arrests, incommunicado detention and torture of political opponents (e.g. (perceived) Islamists<sup>140</sup> and members of ethnic/religious minorities<sup>141</sup>) in their areas of jurisdiction in the three Northern Governorates and in areas under their *de facto* control further south, in particular the Governorates of Kirkuk and Ninewa. There are also concerns over the treatment of journalists perceived as critical of the authorities.<sup>142</sup>

#### **5. Family, Community, Tribe**

Iraqis might be at risk of harm at the hand of their own family, community or tribe; this is particularly the case with regard to so-called "honour killings".<sup>143</sup> Such "honour killings" occur mainly in conservative Muslim families (both Shi'ite and Sunni, of both Arab and Kurdish backgrounds), in all areas of Iraq. "Honour killings" are a "tribal custom stemming from the patriarchal and patrilineal society's interest in keeping strict control over familial power structures".<sup>144</sup> Cases of domestic violence (including "honour killings") are reportedly on the rise since the fall of the former regime.<sup>145</sup>

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<sup>136</sup> *Iraq Study Group Report*, p. 11, see above footnote 35.

<sup>137</sup> UNAMI HRO, *October 2006 Human Rights Report*, p. 1 and 15, see above footnote 66; *ibidem*, *August 2006 Human Rights Report*, p. 2, see above footnote 26. See also: Scott Peterson, *Kidnappings tear at Iraq's frayed social fabric*, The Christian Science Monitor, 8 June 2006, <http://www.csmonitor.com/2006/0608/p01s03-woiq.html>.

<sup>138</sup> US Department of Defense, p. 21, see above footnote 73.

<sup>139</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 2 and 9, see above footnote 10.

<sup>140</sup> See "Actual or Perceived Opponents of the Ruling Parties in the Region of Kurdistan as well as in Areas Under the *de facto* Control of the KRG".

<sup>141</sup> See "Kurds, Arabs, Turkmen428F, Ethnic-Based Christian Groups (Assyrians, Chaldeans, Armenians)429F, Yazidis430F and Shabak431F in Ethnically Mixed Areas".

<sup>142</sup> See "Journalists and Media Workers".

<sup>143</sup> See "Women" and "Sexual Orientation".

<sup>144</sup> See UNHCR, *2005 Country of Origin Information Iraq*, p. 37, see above footnote 53.

<sup>145</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 11, see above footnote 10.



## IV. PARTICULAR GROUPS AT RISK

### A. *Religious Groups*

#### 1. Muslims

##### a) Shi'ites and Sunnis Civilians

##### i) *Historical Background of the Sectarian Division in Iraq*

The religious division of the Muslim community into Sunni and Shi'ite sects traces back to the 7<sup>th</sup> century, when Muslim scholars disputed the question of who was rightfully qualified to lead the Muslim community after the Prophet Mohammed's death. This dispute resulted in the most important schism in Islam. The Shi'ites believed that leadership should stay within the family of the Prophet, and thus designated Ali ibn Abi Talib, Mohammed's son-in-law and cousin, as his successor (*caliph*). Sunni Muslims, however, believed that the caliph should be chosen based on a community consensus and elected Abdullah ibn Uthman (also known as Abu Bakr) as the first caliph. He was followed by Omar and Othman, while Ali ibn Abi Talib became only the fourth caliph. The Shi'a do not recognize Abu Bakr, Omar and Othman as the first three caliphs and instead consider Ali as the first caliph, which the Shi'ites call *Imam*. Ali moved the Islamic capital from Medina in present-day Saudi-Arabia to Kufa in Iraq. He was buried in Najaf, which is, therefore, of great religious significance for the Shi'ites.

The division over the question of succession led to a violent power struggle and split the community of Muslims into two branches. Both observe the same fundamental tenets of Islam, but have different approaches to religious law and practice. A major difference is the significance of the Imam. For the Shi'ites, the Imams have a spiritual significance which no Sunni cleric would be given. The 12<sup>th</sup> Shi'ite Imam disappeared in the 10<sup>th</sup> century and the majority of Shi'ites (Twelver Shi'a) believes that he will return at the end of time. He is known as the *Hidden Imam* or the *Mehdi*.<sup>146</sup>

Generally, Sunni Muslims constitute the vast majority in most Muslim countries (an estimated 85%), but the Muslim population in Iraq is divided into a 60 to 65% majority of Shi'ites and a 32 to 37% minority of Sunni Muslims, the latter including ethnic Arabs, Kurds and Turkmen.<sup>147</sup> Arabs of Sunni faith constitute between 15% and 20% of the total Iraqi population.<sup>148</sup> Shi'ites in Iraq are almost exclusively ethnic Arabs, with some Kurds and Turkmen. Iraq's Sunni Arabs are concentrated in the valleys of the Euphrates River north of Baghdad and of the Tigris River between Baghdad and Mosul in the so-called

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<sup>146</sup> Matthew S. Gordon, *Islam: Origins – Practices – Holy Texts – Sacred Persons – Sacred Places*, New York 2002, p. 16; Hussein Abdulwaheed Amin, *The Origins of the Sunni/Shia split in Islam*, <http://www.islamfortoday.com/shia.htm>; Mike Shuster, *The Origins of the Shia-Sunni Split*, NPR, 12 February 2007, <http://www.npr.org/templates/story/story.php?storyId=7332087>.

<sup>147</sup> CIA, *The World Factbook, Iraq*, <https://www.cia.gov/library/publications/the-world-factbook/geos/iz.html> [last updated 8 February 2007].

<sup>148</sup> CFR, *Iraq: The Sunnis*, 12 December 2003, <http://www.cfr.org/publication/7678/>.

“Sunni triangle”. Around half of them live in urban areas, mainly in Baghdad and Mosul, while the Shi’ites dominate the areas south of Baghdad as well as a large portion of Baghdad, in particular Sadr City.<sup>149</sup>

The contemporary divide between Shi’ites and Sunnis in Iraq, however, includes more than the above-described schism. In fact, there has been considerable intermarriage between the two groups among the urban middle class and some Iraqi tribes have both Sunni and Shi’ite branches.<sup>150</sup> In reality, the schism is also a result of the politics of the former regimes, exacerbated by post-2003 emphasis on religious and ethnic identities.<sup>151</sup> Despite the fact that, since its formation in 1921, Iraq has been largely secular, Sunni Arabs by-and-large dominated the country’s government, military and economy. The Ba’athist Government of Saddam Hussein targeted the Shi’a clergy and the Shi’ite population at large. According to Global Security,

*“Forces from the Intelligence Service (Mukhabarat), General Security (Amn al-Amm), the Military Bureau, Saddam’s Commandos (Fedayeen Saddam), and the Ba’ath Party [...] killed senior Shi’a clerics, desecrated Shi’a mosques and holy sites (particularly in the aftermath of the 1991 civil uprising), arrested tens of thousands of Shi’a, interfered with Shi’a religious education, prevented Shi’a adherents from performing their religious rites, and fired upon or arrested Shi’a who sought to take part in their religious processions. Security agents reportedly are stationed at all the major Shi’a mosques and shrines, and search, harass, and arbitrarily arrest worshippers.”*<sup>152</sup>

Furthermore, the regime of Saddam Hussein was responsible for military campaigns against Shi’ite civilians, extra-judicial killings, the confiscation of land and the drainage of the Southern marsh areas and forcible relocation of its original inhabitants, the Marsh Arabs. The unequal distribution of the country’s resources led to the under-development of the mainly Shi’ite South of Iraq.<sup>153</sup>

## ***ii) The Emergence of the Current Sectarian Violence***

The Sunni-driven insurgency initially targeted US troops. Soon, with the involvement of Al-Qa’eda in Iraq, parts of the insurgency deliberately attacked Shi’a targets. Igniting sectarian violence is central to Al-Qa’eda’s strategy in Iraq. In a 15 June 2004 letter purportedly authored by Abu Musab Al-Zarqawi, Al-Qa’eda’s former leader, and addressed

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<sup>149</sup> Global Security, *Sunni Islam in Iraq*, <http://www.globalsecurity.org/military/world/iraq/religion-sunni.htm> [last updated 22 June 2005].

<sup>150</sup> CFR, *Iraq: The Sunnis*, see above footnote 148.

<sup>151</sup> According to the ICG, Iraq’s electoral law, drafted in 2004, had also furthered “communalism” and “deepened ethnic and sectarian identities (...)”; see ICG, *After Baker-Hamilton*, p. 19, see above footnote 111. The USIP assessed that “(i)n order to gain power in a political vacuum, among an electorate with few institutions and little experience, leaders appealed to ethnic and sectarian identity with great success, mobilizing these sentiments and organizing coalitions on this basis, and thus furthering the division of Iraq largely along ethnic and sectarian lines”; Phebe Marr, *Iraq’s New Political Map*, USIP, Special Report, January 2007, p. 7, <http://www.usip.org/pubs/specialreports/sr179.pdf>.

<sup>152</sup> Global Security, *Sunni Islam in Iraq*, see above footnote 149. However, the Ba’athist regime of former President Saddam Hussein exploited religion to mobilize his people, in particular during the Iraq-Iran War in the 1980s. See: Global Security, *Shia-Baath Relations*, <http://www.globalsecurity.org/military/world/iraq/religion-shia-baath.htm> [last updated 22 June 2005].

<sup>153</sup> Global Security, *Shia-Baath Relations*, see above footnote 152.



to Osama Bin Laden, the Shi'ites are described as "*a sect of treachery and betrayal through the ages.*"<sup>154</sup> Ansar Al-Islam issued a statement in January 2007, calling on Sunnis to wage a war against the Shi'ites, saying

*"Come to jihad...those (Shi'ites) do not respond to condemnations or threats, only fire and steel bring good in dealing with them."*<sup>155</sup>

Furthermore:

*"Organise yourself in groups of four, each of which should cleanse their area from every spy, agent, traitor who stalks the mujahideen and all employees of the interior and defence ministries. Most of those are hateful rejectionists (Shi'ites)."*<sup>156</sup>

Suicide car bombs and improvised explosive devices (IEDs) became the main weapons to target Shi'ite civilians in mosques as well as Shi'ite-dominated police stations and recruiting centres. Sunni militants forced Shi'ites out of religiously mixed neighbourhoods and systematically killed bakers,<sup>157</sup> barbers<sup>158</sup> and trash collectors,<sup>159</sup> who are often Shi'ites.<sup>160</sup> To a large extent, the Shi'ites, including the various militias, did not answer with serious retribution. Grand Ayatollah Ali Al-Sistani repeatedly issued statements and *fatwas* speaking out against violence.<sup>161</sup> However, since May 2005, Sunni and Shi'ite victims of execution-style killings have routinely been discovered around the country.<sup>162</sup> The growing violence has also been reflected on the political level, with Sunni and Shi'ite

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<sup>154</sup> Abdel Bari Atwan, *Al Qaeda's hand in tipping Iraq toward civil war*, The Christian Science Monitor, 20 March 2006, <http://www.csmonitor.com/2006/0320/p09s01-coop.html?s=widep>.

<sup>155</sup> According to Reuters, the authenticity of the statement could not be verified; see: Reuters Alertnet, *Iraq Sunni militant group urges war on Shi'ites*, 17 January 2007, <http://www.alertnet.org/thenews/newsdesk/L17862862.htm>.

<sup>156</sup> *Ibid.*

<sup>157</sup> See, for example, BBC News, *Iraq ministry hostages "tortured"*, 16 November 2006, [http://news.bbc.co.uk/2/hi/middle\\_east/6153316.stm](http://news.bbc.co.uk/2/hi/middle_east/6153316.stm); Sabrina Tavernise, *Sects' Strife Takes a Toll on Baghdad's Daily Bread*, The New York Times, 21 July 2006, <http://www.nytimes.com/2006/07/21/world/middleeast/21bakers.html?pagewanted=2&ei=5088&en=0182007d054b4df7&ex=1311134400&partner=rssnyt&emc=rss>; Agence France-Presse (AFP), *Ten Iraqi bakers kidnapped*, 18 June 2006, <http://www.abc.net.au/news/newsitems/200606/s1665781.htm>; ABC News, *Iraq Violence Sweeps Up Unlikely Group – Bakers*, 15 April 2006, <http://abcnews.go.com/WNT/IraqCoverage/story?id=1846519&CMP=OTC-RSSFeeds0312&WNT=true>; NPR, *Bakeries Get Caught in Iraq's Sectarian Crossfire*, 4 April 2006, <http://www.npr.org/templates/story/story.php?storyId=5321698>; Agencies, *23 die in Iraq attacks on bakery, mosque*, 12 February 2005, [http://www.chinadaily.com.cn/english/doc/2005-02/12/content\\_416202.htm](http://www.chinadaily.com.cn/english/doc/2005-02/12/content_416202.htm).

<sup>158</sup> See "Persons Accused of "Un-Islamic" Behaviour".

<sup>159</sup> Michael Luo, *The danger in the trash of Baghdad*, The New York Times, 11 October 2006, <http://www.iht.com/articles/2006/10/11/news/trash.php>; Sabrina Tavernise, *As death toll mounts, middle class flees Iraq*, The New York Times, 19 May 2006, <http://www.iht.com/articles/2006/05/19/news/exodus.php>.

<sup>160</sup> Sabrina Tavernise, *District by District, Shiites Make Baghdad Their Own*, The New York Times, 22 December 2006, <http://www.nytimes.com/2006/12/23/world/middleeast/23shiites.html?ex=1324530000&en=127a0eb6a78cc578&ei=5088&partner=rssnyt&emc=rss>.

<sup>161</sup> AP, *Top Iraqi Shiite: Sectarian bloodshed aids agitators*, 3 February 2007, <http://www.cnn.com/2007/WORLD/meast/02/03/iraq.cleric.ap/index.html>. For earlier statements and fatwas, see: Ashraf Al-Khalidi and Victor Tanner, *Sectarian Violence: Radical Groups Drive Internal Displacement in Iraq*, The Brookings Institution/University of Bern Project on Internal Displacement, October 2006, p. 15, [http://www.brookings.edu/fp/projects/idp/20061018\\_DisplacementinIraq\\_Khalidi-Tanner.pdf](http://www.brookings.edu/fp/projects/idp/20061018_DisplacementinIraq_Khalidi-Tanner.pdf).

<sup>162</sup> Al-Khalidi and Tanner, p. 7, see above footnote 161. See also: UNHCR, *2005 Country of Origin Information Iraq*, p. 15 and Annex I, see above footnote 53.

politicians accusing each other of stirring sectarian tensions.<sup>163</sup> In addition to the insurgency, the lack of rule of law, the election of a sectarian-based government and its inability to promote reconciliation, the empowerment of militias and human rights abuses by Shi'ite-dominated ISF against Sunnis, have all contributed to further sectarianism.

After the bombing of the revered Shi'ite Al-Askari Shrine in the predominantly Sunni city of Samarra on 22 February 2006, allegedly by Sunni extremists, sectarian violence has escalated and “*has become one of the most significant forms of human rights violation.*”<sup>164</sup> The attack spawned days of reprisals and set off a cycle of sectarian violence across Iraq, including violent clashes between Sunnis and Shi'ites, targeted kidnappings and assassinations as well as attacks on mosques.<sup>165</sup> Ayatollah Ali Al-Sistani urged his followers not to retaliate against Sunnis, but revenge killings have now become a daily occurrence. The moderating influence of Al-Sistani appears to be waning.<sup>166</sup> Since the Samarra bombing, more Iraqis have died in execution-style sectarian killings than in terrorist attacks carried out by insurgents, which had previously been the major threat to security in Iraq.<sup>167</sup>

### *iii) Current Situation*

Sunni armed groups are held responsible for (suicide) attacks targeting Shi'ite-dominated ISF bases and recruitment centres, Shi'ite religious sites and gatherings (e.g. during the festivities of *Ashura*), as well as religious leaders and Shi'ite civilians at large. For example, on 3 February 2007, a suicide bombing hit a crowded market in Al-Sadriya, a predominantly Shi'ite district in Baghdad, leaving at least 130 Iraqis dead.<sup>168</sup> A series of car bombs and mortar attacks in Sadr City, home to more than two million Shi'ites, on 23 November 2006 caused the death of over 200 persons and injured many more.<sup>169</sup>

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<sup>163</sup> See, for example, Parker and Hamdani, see above footnote 104. See also: UNHCR, *2005 Country of Origin Information Iraq*, p. 15-16, see above footnote 53.

<sup>164</sup> UNAMI HRO, *April 2006 Human Rights Report*, p. 1, see above footnote 74.

<sup>165</sup> See, for example, UNAMI HRO, *Human Rights Report, 1 January – 28 February 2006*, p. 1-2, <http://www.uniraq.org/documents/HR%20Report%20Jan%20Feb%2006%20EN.PDF> (further: “UNAMI HRO, *February 2006 Human Rights Report*”).

<sup>166</sup> See, for example, *Iraq Study Group Report*, p. 16, see above footnote 35.

<sup>167</sup> The National Intelligence Estimate (NIE) on Iraq, written by the US National Intelligence Council, parts of which became public in early February 2007, emphasized that Iraqi-on-Iraqi violence has become the primary source of conflict. See: Karen DeYoung and Walter Pincus, *Iraq at Risk of Further Strife, Intelligence Report Warns*, The Washington Post, 2 February 2007, <http://www.washingtonpost.com/wp-dyn/content/article/2007/02/01/AR2007020101152.html>. The US Department of Defense assessed that “(i)t is likely that Shi'a militants were responsible for more civilian casualties than those associated with terrorist organizations”; see: US Department of Defense, p. 17, see above footnote 73; Farah Stockman and Bryan Bender, *Iraq militias' wave of death*, The Boston Globe, 2 April 2006, [http://www.boston.com/news/world/articles/2006/04/02/iraq\\_militias\\_wave\\_of\\_death/](http://www.boston.com/news/world/articles/2006/04/02/iraq_militias_wave_of_death/).

<sup>168</sup> BBC News, *Baghdad market bomb “kills 130”*, 3 February 2007, [http://news.bbc.co.uk/2/hi/middle\\_east/6327057.stm](http://news.bbc.co.uk/2/hi/middle_east/6327057.stm).

<sup>169</sup> Sudarsan Raghavan and Nancy Trejos, *Assault on Iraqi Civilians Is Deadliest Since 2003*, The Washington Post, 24 November 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/11/23/AR2006112300399.html>.

Shi'ite militias on the other hand are mainly operating in the form of death squads, but have also launched a series of mortar attacks on (homogenous) Sunni neighbourhoods.<sup>170</sup> For example, after the devastating attack in Sadr City on 23 November 2006, Shi'ites responded almost immediately with reprisals, firing ten mortar rounds at the Sunni Abu Hanifa mosque in Adhamiya, the holiest Sunni shrine in Baghdad, killing one person and wounding seven. The morning of 24 November 2006, AP reported that Shi'ite militiamen retaliated for the previous day's attacks, dousing six Sunni Arabs in kerosene and burning them alive. The Iraqi Army could not confirm the reports of Sunnis being burned alive, and found only one mosque that had suffered fire damage. However, the AP stood by its story after reconfirming its details with their sources.<sup>171</sup>

Both Sunni and Shi'ite armed groups are held responsible for running death squads that conduct kidnappings and execution-style killings in Baghdad and other parts of the country. Bodies are routinely found dumped in the streets, rivers and mass graves. Most bear signs of torture, including bound hands and feet and beheadings.<sup>172</sup> It has also been reported that armed groups and militias try individuals in extra-judicial courts before executing them.<sup>173</sup> The Observer reported that rape is being used to exact revenge and humiliate the other community.<sup>174</sup>

Kidnappings and extra-judicial killings reportedly often take place on the basis of the victim's name. As a result, Iraqis are resorting to changing their names, holding forged ID cards and learning religious history and customs in order to avoid being identified as belonging to either community.<sup>175</sup> Even selling or reading the "wrong" newspaper could

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<sup>170</sup> According to the ICG, "(t)erritorial polarization also makes possible a transformation in the nature of warfare: from individual killings to mortar attacks, labour-intensive operations, and other highly indiscriminate forms of violence"; see: ICG, *After Baker-Hamilton*, p. 8, see above footnote 111.

<sup>171</sup> AP, *AP Defies Military, Bloggers on Story of 6 Iraqis Set on Fire*, 29 November 2006, [http://www.editorandpublisher.com/eandp/news/article\\_display.jsp?vnu\\_content\\_id=1003439706](http://www.editorandpublisher.com/eandp/news/article_display.jsp?vnu_content_id=1003439706); AP, *Iraqi militias take fiery revenge for slaughter*, 25 November 2006, <http://www.msnbc.msn.com/id/15873863/>; AP, *Shi'ites burn six Sunni worshippers alive*, 25 November 2006, <http://www.kansas.com/mld/kansas/news/world/16089847.htm>; Robin Wright, *U.S. Says Violence Is Meant To Topple Iraqi Government*, The Washington Post, 25 November 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/11/24/AR2006112400203.html>; Multinational Force – Iraq, *One Mosque Burned in Hurriya*, 25 November 2006, [http://www.mnf-iraq.com/index.php?option=com\\_content&task=view&id=7540&Itemid=21](http://www.mnf-iraq.com/index.php?option=com_content&task=view&id=7540&Itemid=21).

<sup>172</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 8, see above footnote 10. See also: US Department of Defense, p. 19, see above footnote 73.

<sup>173</sup> UNAMI HRO, *April 2006 Human Rights Report*, p. 5, see above footnote 74. See also "Sexual Orientation".

<sup>174</sup> Peter Beaumont, *Hidden victims of a brutal conflict: Iraq's women*, The Observer, 8 October 2006, <http://observer.guardian.co.uk/world/story/0,,1890260,00.html>.

<sup>175</sup> Times Online, *Inside Iraq – The invisible man*, 11 December 2006, [http://timesonline.typepad.com/inside\\_iraq\\_weblog/2006/12/the\\_invisible\\_m.html](http://timesonline.typepad.com/inside_iraq_weblog/2006/12/the_invisible_m.html); Ahmad Ali, Oliver Poole, *Sunnis learn Shia customs to bluff Baghdad death squads*, The Telegraph, 10 October 2006, <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2006/10/09/wiraq109.xml>; Al-Khalidi and Tanner, p. 14, see above footnote 161; James Hider and Ali al-Hamdani, *Faking faith to fool death squads*, The Times, 15 August 2006, <http://www.timesonline.co.uk/tol/news/world/iraq/article609188.ece>; Patrick Cockburn, *Dozens Die as Sectarian Attacks Escalate in Iraq*, The Independent, 10 July 2006, <http://www.truthout.org/cgi-bin/artman/exec/view.cgi/62/21024>; Nancy A. Youssef, *Iraqis faking their IDs to hide religious affiliations*, Knight Ridder Newspaper, 26 April 2006, <http://www.wwrn.org/article.php?idd=21315&sec=46&con=34>; Sabrina Tavernise, *Sectarian Hatred Pulls Apart Iraq's Mixed Towns*, The New York Times, 20 November

reveal a person's identity and put him/her at risk of sectarian killings.<sup>176</sup> For example, on 9 July 2006, gunmen, believed to belong to the Mehdi Army, set up checkpoints in Baghdad's Al-Jihad neighbourhood, inspected ID cards and killed 42 unarmed Iraqis as soon as they identified them as Sunnis.<sup>177</sup> On 17 October 2006, in an area inhabited by Turkmen on the highway between Toz Khurmato and Tikrit, unknown gunmen arrested 17 Turkmen officials working in Tikrit at an illegal checkpoint and questioned them about their ethnicity. Those of Sunni identity were released while 15 Shi'ites were arrested and their whereabouts are unknown.<sup>178</sup> On 22 February 2006, ten Sunni Arab detainees accused of terrorism, both Iraqis and foreigners, were extra-judicially executed by gunmen in a detention facility inside Basrah's port.<sup>179</sup>

A more recent phenomenon is mass kidnappings of members of either sect. For example, on 14 November 2006, gunmen wearing police uniforms kidnapped up to 150 employees and visitors from the Ministry of Higher Education in Baghdad. Nine persons, all Shi'ites, were released shortly, while the others were reportedly brought to Sadr City. Seventy were released bearing signs of torture, while the whereabouts of another 70 persons, mostly Sunnis, are unknown to date.<sup>180</sup> In another incident, on 14 December 2006, gunmen in police uniforms kidnapped some 50 merchants, workers and customers from the Sinak wholesale market, near the headquarters of the Ministry of Defense. Some 29 were subsequently released, all of Shi'ite origin.<sup>181</sup>

In October 2006, open warfare between Shi'ite militias and armed Sunni groups broke out in Tigris river towns north of Baghdad in the Governorate of Salah Al-Din. The sectarian killings exploded after suspected Sunni insurgents kidnapped and beheaded 17 Shi'ite labourers from the predominantly Sunni area of Duluiyah, across the river from Shi'a-dominated Balad. In retaliation, Shi'ite militias forced out Sunni families, set their houses on fire and reportedly killed up to 90 Sunni men from Duluiyah and neighbouring Sunni towns. According to a physician at Balad's hospital, almost all had been shot and some had been tortured with electric drills. Sunni families fleeing Balad described Shi'ite militias going door-to-door, giving people two hours to leave.<sup>182</sup> Reportedly, two Iraqi police officers were detained for collaborating in the killings with the militias.<sup>183</sup> The incident

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2005, <http://www.globalpolicy.org/security/issues/iraq/sectarian/2005/1120towns.htm>; Tavernise, see above footnote 157.

<sup>176</sup> Institute for War and Peace Reporting (IWPR), Hussein Ali, *Baghdad Paper Sellers Risk Wrath of Militants*, Iraqi Crisis Report No. 190, 17 August 2006, [http://iwpr.net/?p=icr&s=f&o=323109&apc\\_state=heniicr200608](http://iwpr.net/?p=icr&s=f&o=323109&apc_state=heniicr200608).

<sup>177</sup> Phillip Robertson, *City of vengeance*, Salon, 12 July 2006, <http://www.salon.com/news/feature/2006/07/12/baghdad/>; BBC News, *Dozens Killed in Baghdad Attacks*, 9 July 2006, [http://news.bbc.co.uk/2/hi/middle\\_east/5162510.stm](http://news.bbc.co.uk/2/hi/middle_east/5162510.stm).

<sup>178</sup> UNAMI HRO, *October 2006 Human Rights Report*, p. 8, see above footnote 66.

<sup>179</sup> UNAMI HRO, *February 2006 Human Rights Report*, p. 2, see above footnote 165.

<sup>180</sup> *Ibidem*, *December 2006 Human Rights Report*, p. 10, see above footnote 10.

<sup>181</sup> *Ibid.*

<sup>182</sup> IRIN, *Iraq: No end to violence in Saddam's home province*, 24 January 2007, <http://www.irinnews.org/report.aspx?reportid=64549>; Ellen Knickmeyer and Muhanned Saif Aldin, *Families Flee Iraqi River Towns On 4th Day of Sectarian Warfare*, The Washington Post, 16 October 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/10/16/AR2006101600485.html>.

<sup>183</sup> UNAMI HRO, *October 2006 Human Rights Report*, p. 8, see above footnote 66.

underscored how explosive the conflict between Iraq's Sunni and Shi'ite communities has become and how little the ISF is able to do in preventing the violence, if they are not themselves involved.<sup>184</sup>

Both Sunni and Shi'ite armed groups use violence to drive the other community from their areas. Systematic forced displacement serves as a tool to increase territorial influence and political leverage.<sup>185</sup> According to the Brookings Institution, “(t)he displacements clearly help further the political agenda of these extremist groups.”<sup>186</sup>

UNAMI reported that

*“(T)his forced displacement has been achieved by means of large scale attacks targeting civilians, kidnappings, extra-judicial killings, dropping of threatening leaflets, destruction of properties, and intimidation.”*<sup>187</sup>

Both Sunni and Shi'ite armed groups are held responsible for widespread human rights violations directed against members of the other community or their own members if considered as “traitors”. Both sides operate largely with impunity. On the one hand, the MNF/ISF are largely unable to quell Sunni insurgent violence against civilians. On the other hand, consistent reports suggest that the Shi'ite-dominated ISF are infiltrated by militias, which collude with death squads in targeting Sunnis, e.g. through the facilitation of movement despite curfews and provision of advance warnings of upcoming security operations.<sup>188</sup>

Criminal gangs often work hand-in-hand with armed groups and militias, bolstering the latter's sectarian agenda.<sup>189</sup>

#### *iv) Affected Areas*

Particularly affected by the ongoing violence and sectarian cleansing are areas with (formerly) mixed populations such as the cities of Baghdad, Mosul and Basrah, the Governorates of Salah Al-Din and Diyala<sup>190</sup> (in particular Samarra, Tikrit, Balad, Dujail and Baqouba and Miqdadiyah) as well as Yusufiyah, Latifiyah and Mahmoudiyah in the so-called “Triangle of Death” south of Baghdad in the Governorate of Babel.<sup>191</sup> Sectarian

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<sup>184</sup> Nancy A. Youssef, *U.S. forces move to quell sectarian violence in Balad*, McClatchy Newspapers, 17 October 2006, <http://www.realcities.com/mld/kwashington/15782387.htm>.

<sup>185</sup> See, for example, Parker and Hamdani, see above footnote 104.

<sup>186</sup> Al-Khalidi and Tanner, p. 1, see above footnote 161. See also: ICG, *After Baker-Hamilton*, p. 9, see above footnote 111, which states that “among Iraqis, the feeling is widespread that the violence is more a function of expedient calculations by politicians obsessed with their short-term survival than a deep-seated and long-term animosity between Sunnis and Shi'ites.”

<sup>187</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 8, see above footnote 10.

<sup>188</sup> US Department of Defense, p. 18, see above footnote 73; Al-Khalidi and Tanner, p. 7-8, see above footnote 161.

<sup>189</sup> See “Criminal Groups”.

<sup>190</sup> On the situation in the Governorate of Diyala, and in particular the town of Baqouba, see: Oppel Jr., see above footnote 123.

<sup>191</sup> Al-Khalidi and Tanner, p. 16, see above footnote 161.



violence has also engulfed Kirkuk.<sup>192</sup> The fear caused by sectarian violence has led many Iraqi families to abandon their homes and move to areas within the country dominated by their own religious or ethnic group. Shi'ites flee to Shi'ite areas, Sunnis go to Sunni areas.<sup>193</sup> In 2006, according to Cluster F, an estimated 640,000 persons were forced to flee their homes due to sectarian violence after the 22 February Samarra bombing.<sup>194</sup> By March 2007, this figure had climbed to 736,000.

Baghdad, which features all ethnic and religious groups in Iraq and is home to one quarter of the Iraqi population, is particularly affected. Sunni and Shi'ite armed groups aim to take control of religiously mixed neighbourhoods such as Al-Doura, Hurriyah, Adhamiya, Khadimiyah, Ghazaliyah, Amiriyah and Qadissiyah, and drive out civilians belonging to the "other" group.<sup>195</sup> This violence is splitting Baghdad into sectarian enclaves as civilians move to their majority-areas, which become virtual no-go areas for outsiders.<sup>196</sup> The New York Times reported in December 2006 that according to residents, US and Iraqi military commanders and local officials, at least ten formerly mixed neighbourhoods are now almost entirely Shi'a.<sup>197</sup> Some reports suggest that Baghdad is being systematically cleansed of Sunnis, but to date no reliable data is available to support this claim.<sup>198</sup> Such developments have not provided any improvements in security, but rather led to an easier targeting of opposing groups and exacerbation of the violence.

The same groups involved in sectarian violence also offer humanitarian assistance to their own communities<sup>199</sup> and distribute illegally seized homes of displaced persons.<sup>200</sup> As part

<sup>192</sup> See also "Kurds, Arabs, Turkmen 428F, Ethnic-Based Christian Groups (Assyrians, Chaldeans, Armenians) 429F, Yazidis 430F and Shabak 431F in Ethnically Mixed Areas".

<sup>193</sup> Al-Khalidi and Tanner, p. 2-3, see above footnote 161; David Enders, *Shi'ite exodus from mixed towns*, The Christian Science Monitor, 13 April 2006, <http://www.csmonitor.com/2006/0413/p01s03-woiq.html>; Edward Wong and Kirk Semple, *Civilians in Iraq Flee Mixed Areas as Attacks Shift*, The New York Times, 2 April 2006, <http://www.nytimes.com/2006/04/02/world/middleeast/02iraq.html?pagewanted=1&ei=5088&en=2ea339a4c657df7f&ex=1301630400&partner=rssnyt&emc=rss>; Sabrina Tavernise, *Sectarian Hatred Pulls Apart Iraq's Mixed Towns*, The New York Times, 20 November 2005, <http://www.globalpolicy.org/security/issues/iraq/sectarian/2005/1120towns.htm>.

<sup>194</sup> Cluster F, *New Displacement in Iraq in 2006 from a Protection Perspective*, 15 February 2007, [http://www.unhcr.org/iq/cluster/Reports/Cluster\\_F\\_-\\_IDP\\_Update\\_for\\_2006\\_from\\_a\\_Protection\\_Angle\\_f.pdf](http://www.unhcr.org/iq/cluster/Reports/Cluster_F_-_IDP_Update_for_2006_from_a_Protection_Angle_f.pdf).

<sup>195</sup> Parker and Hamdani, see above footnote 104; John F. Burns, *Shi'ites rout Sunni families in mixed area of Baghdad*, The International Herald Tribune, 9 December 2006, <http://www.ihf.com/articles/2006/12/10/africa/web.1210baghdad.php>.

<sup>196</sup> Sumedha Senanayake, *Iraq: Growing Numbers Flee Sectarian Violence*, RFE/RL, 26 January 2007, <http://rfe.rferl.org/features/article/2007/01/022dcf6f-769e-4f17-b689-bd0b0bb7fa87.html>; IRIN, *Iraq: Baghdad most violent province in Iraq*, 17 January 2007, <http://www.irinnews.org/report.aspx?reportid=64493>; ICG, *After Baker-Hamilton*, p. 8, see above footnote 111; IRIN, *Iraq: Sectarian violence tears Baghdad into two parts*, 5 December 2006, <http://www.irinnews.org/Report.aspx?ReportId=62310>; Al-Khalidi and Tanner, p. 17, see above footnote 161.

<sup>197</sup> Tavernise, *District by District, Shi'ites Make Baghdad Their Own*, see above footnote 160. The New York Times also provides a map of Baghdad showing approximate boundaries of Sunni/Shi'ite neighbourhoods.

<sup>198</sup> IRIN, *Iraq: No end to the year-old sectarian strife*, 21 February 2007, <http://www.irinnews.org/Report.aspx?ReportId=70294>. See also: *ibid*.

<sup>199</sup> IRIN, *Iraq: Fighters fill humanitarian vacuum*, 14 February 2007, <http://www.irinnews.org/Report.aspx?ReportId=70170>.

<sup>200</sup> UNAMI HRO, *October 2006 Human Rights Report*, p. 16, see above footnote 66; UNAMI HRO, *August 2006 Human Rights Report*, p. 9, see above footnote 26.

of the latest security crack-down in Baghdad, the government has promulgated that those who had occupied the homes of displaced families would be given 15 days to return the properties to their original owners or prove they had permission to be there. This approach is meant to open the way to return.<sup>201</sup>

### **b) Shi'ite-Sunni Mixed Families**

The ongoing sectarian violence has also affected mixed Shi'ite-Sunni couples and their children, resulting in discrimination, pressure to divorce and, in individual cases, even killings at the hands of insurgents, militias or their own families. Before the fall of the former regime and escalating violence among the various communities in Iraq, mixed marriages between Sunnis and Shi'ites and also between Sunni Kurds and Arabs of both sects were common. According to Government estimates, two million of Iraq's 6.5 million marriages are between Arab Sunnis and Arab Shi'ites. An Iraqi organization called *Union for Peace in Iraq* (UPI) that aimed to protect mixed marriages from sectarian violence was forced to stop its activities after three mixed couples, including founding members of UPI, were killed. With many areas, in particular in Baghdad, being "cleansed" along sectarian lines and becoming virtual "no-go" zones for members of the other sect, mixed couples and their children are in a particular difficult situation with no majority area to seek refuge.<sup>202</sup>

### **c) Shabak**

According to the *Encyclopaedia of the Orient*, the Shabak are both

*"a people and a religion. The Shabaks live in the region of Mosul, Iraq, and are united in culture and language, but they cover more than one ethnic group and among them there is more than one religion."*<sup>203</sup>

The Encyclopaedia further explains that a large part of the Shabak is ethnically related to the Kurds and the Turkmen and subgroups of the Shabak include the *Gergari*, *Bajalan*, *Hariri* and *Mosul*.<sup>204</sup> Though some identify the Shabak as Kurds,<sup>205</sup> they have their own

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<sup>201</sup> IRIN, *Iraq: New security plan could make more homeless*, 15 February 2007, <http://www.irinnews.org/Report.aspx?ReportId=70208>; Senanayake, *Iraq: Growing Numbers Flee Sectarian Violence*, see above footnote 196.

<sup>202</sup> IRIN, *Iraq: Sectarian violence forces mixed couples to divorce*, 8 November 2006, <http://www.irinnews.org/report.aspx?reportid=61927>; Amit R. Paley, *Even Dating Is Perilous In Polarized Baghdad*, The Washington Post, 12 September 2006, [http://www.washingtonpost.com/wp-dyn/content/article/2006/09/11/AR2006091101044\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2006/09/11/AR2006091101044_pf.html); IRIN, *Iraq: Mixed marriages confront sectarian violence*, 6 April 2006, <http://www.irinnews.org/report.aspx?reportid=61927>; Babak Dehghanpisheh, Rod Nordland and Michael Hastings, *Love in a Time of Madness*, Newsweek, 13 March 2006, <http://www.msnbc.msn.com/id/11677916/site/newsweek/>; Sabrina Tavernise, *In Iraq, a sectarian identity crisis*, The New York Times, 19 February 2006, <http://www.ihl.com/articles/2006/02/19/news/sect.php>; Aqueel Hussein and Colin Freeman, *Iraqi mixed marriages dwindle as terror blitz divorces Sunni from Shia*, The Telegraph, 17 September 2005, <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2005/09/18/nirq118.xml>.

<sup>203</sup> Encyclopaedia of the Orient, *Shabak*, <http://lexicorient.com/e.o/shabak.htm> [accessed January 2007].

<sup>204</sup> *Ibid.*

<sup>205</sup> In particular the Kurdish parties view the Shabak as Kurds, thereby increasing their political leverage in the Ninewa Plain in view of the forthcoming referendum on the status of "disputed areas". UNHCR received information that the main representatives of Shabak tribes held meetings with the Kurdish authorities with the

values, traditions and dresses and consider themselves as a distinct ethnic group.<sup>206</sup> However, during the *Arabization*,<sup>207</sup> the Shabak were registered as either Kurds or Arabs. Most Shabak consider themselves Muslims (mainly belonging to the Shi'ite branch of Islam, with a smaller Sunni minority), though they follow their own unique form of Islam, which includes elements of Christianity and other religions and has its own sacred book known as *Buyruk*, written in the Turkoman language. There is a close relationship between the Shabak and the Yazidis, and the Shabak perform pilgrimage to Yazidi shrines.<sup>208</sup> The Shabak language is called *Shabaki* and is related to Kurdish, Turkish, Farsi and Arabic.<sup>209</sup>

As there is no recent or non-politicized census, there are no clear estimates as to the number of Shabak in Iraq and estimates range from 15,000 to 400,000 persons.<sup>210</sup> They predominantly reside in Mosul city (mainly on the left side of the Tigris river) and in towns and villages of the Ninewa Plain such as Nimrod, Qaraqosh, Bartilla, Basheqa and Telkep. According to Dr. Hunain Al-Qaddo,<sup>211</sup> the Shabak comprise a third of the inhabitants of the town of Bartilla.<sup>212</sup>

During the *Arabization* campaign, numbers of Shabak were forcibly expelled from their places of origin in the Governorate of Ninewa. According to Dr. Hunain Al-Qaddo, the former regime destroyed 22 Shabak villages and deported 3,000 families to the north of Iraq. Reportedly, many Shabak were falsely accused by the former regime of being members of the Shi'ite Dawa Party and were executed.<sup>213</sup>

Like other religious minorities, the Shabak have come under increasing pressure from Islamic extremists. The fact that the Shabak primarily adhere to the Shi'ite branch of Islam makes them a target for Sunni Islamists. Others may look at them as “infidels” altogether given that they adhere to a distinct form of Islam. Possibly, they may also be targetted based on their (perceived) Kurdish ethnicity.<sup>214</sup> UNAMI HRO reported that Shabak in the

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aim of being recognized as a distinct ethnic group; however this demand was not met with sympathy by the Kurds.

<sup>206</sup> In 1952, the Shabak were recognized as distinct ethnic group in Iraq. Therefore, consideration could also be given to persecution on the basis of ethnicity.

<sup>207</sup> On the former Governments' *Arabization* policies, see “De-Arabization”.

<sup>208</sup> Encyclopaedia of the Orient, *Shabak*, see above footnote 203. See also: AINA, *Kurdish Gunmen Open Fire on Demonstrators in North Iraq*, 16 August 2005, <http://www.aina.org/news/20050816114539.htm>.

<sup>209</sup> Dr. Hunain Al-Qaddo, *Iraq's Shabaks Are Being Oppressed By Kurds*, 28 August 2005, <http://www.aina.org/guesteds/20050828120403.htm>.

<sup>210</sup> During the former regime's *Arabization* campaign, the Shabak were defined as either Arabs or Kurds and as a result census figures do not exist for Shabak. See, for example, American Aid for Children of Nineveh, *Ethnic Groups in Nineveh, Shabak Culture*, <http://www.iraqkids.org/ethnicdetail.html> [accessed January 2007]. See also: Al-Qaddo, see above footnote 209, and *ibidem*, *A letter from the Rep. of Shabak in the National Assembly*, 23 August 2005, <http://www.christiansofiraq.com/shabak8235.html>.

<sup>211</sup> Dr. Hunain Al-Qaddo is the General Secretary of the Democratic Shabak Assembly and former Shabak representative in the TNA. He was also a member of Iraq's Constitution Drafting Committee and Chairman of the Iraqi Minorities Council.

<sup>212</sup> Al-Qaddo, see above footnote 209.

<sup>213</sup> *Ibid.*

<sup>214</sup> See also “Kurds, Arabs, Turkmen428F, Ethnic-Based Christian Groups (Assyrians, Chaldeans, Armenians)429F, Yazidis430F and Shabak431F in Ethnically Mixed Areas”, “Actual or Perceived



Ninewa Plains in particular have been pressured to convert to Islam.<sup>215</sup> The Shabak community in the Governorate of Ninewa reported being subjected to violence and intimidation with more than one hundred of their followers murdered since the beginning of June 2006.<sup>216</sup> Reportedly, over one thousand families have moved to villages outside Mosul city.<sup>217</sup> UNHCR received information that the Shabak in Mosul city are under constant threat of being kidnapped or killed by Sunni extremists and have stopped going to school and work. UNAMI HRO reported that it was given a list by Shabak representatives documenting the killings of 41 members of their community during June 2006 in Mosul.<sup>218</sup> It further reported that in late December 2006, two members of the Shabak community were murdered in Mosul. According to the police, they were targeted only on the basis of their religion.<sup>219</sup>

## 2. Non-Muslim Religious Groups

A number of non-Muslim minorities, principally Chaldean, Assyrian, Syriac, Armenian and Protestant Christians, as well as Yazidi, Sabaean-Mandaean, Kaka'i, Baha'i, and a small number of Iraqi Jews live in Iraq. Since the fall of the former regime, Iraq has been in a state of considerable political, social and economic transition and, as seen in both national elections held in 2005, is witnessing increased polarization along sectarian lines.<sup>220</sup>

Generally, the Government of Iraq undertakes to protect the right of all religious groups to believe, assemble and worship freely within the applicable legal framework.<sup>221</sup> However, such protection is strictly limited by ongoing violence and the limited capacity of the ISF.<sup>222</sup> While the upsurge in sectarian violence since the bombing of the Al-Askari Shrine in Samarra on 22 February 2006 has been between members of Iraq's Sunni minority and Shi'ite majority, non-Muslim minorities remain well within the current escalation in

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Sympathizers of the US-Led Invasion and/or the Multi-National Force in Iraq" and "Kurds and Other Segments of Iraqi Society".

<sup>215</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 3, 4 and 24, see above footnote 10.

<sup>216</sup> UNAMI HRO, *August 2006 Human Rights Report*, p. 13, see above footnote 26. See also: Keith Roderick, *The Unholy Month of Ramadan*, National Review Online, 18 October 2006, <http://article.nationalreview.com/?q=NGZhNmUwNjdmMDcwODhkNDMyMTQ2Y2UzYTfKMDQxNmY=>.

<sup>217</sup> *Ibid.*

<sup>218</sup> UNAMI HRO, *June 2006 Human Rights Report*, p. 12, see above footnote 27.

<sup>219</sup> *Ibidem*, *December 2006 Human Rights Report*, p. 14, see above footnote 10. Other incidents reported in public media include: (1) Shabak Faris Nasir Hussein, member of the Kurdish coalition in the Transitional National Assembly (TNA), was ambushed by gunmen on his way from Mosul to Baghdad where he was to attend a parliamentary session; and (2) on 16 September 2004, a Kurdish website reported the finding of two Shabaks' decapitated bodies near the village of Ali-Rash in the Governorate of Ninewa. See: Los Angeles Times, *Iraq's National Assembly OKs final draft of constitution*, 19 September 2005, [http://www.pittsburghlive.com/x/pittsburghtrib/s\\_375566.html](http://www.pittsburghlive.com/x/pittsburghtrib/s_375566.html); Dr. Rebwar Fatah, *When religious intolerance turns to deadly war*, Kurdishmedia.com, 5 July 2006, <http://www.kurdmedia.com/articles.asp?id=12779>.

<sup>220</sup> In both the elections for the National Assembly (held on 30 January 2005) and the elections for the Council of Representatives (held on 15 December 2005), Iraqis cast their ballots based on sectarian or ethnic allegiances. See: Phebe Marr, *Who Are Iraq's New Leaders? What Do They Want?*, USIP, Special Report, March 2006, p. 1, <http://www.usip.org/pubs/specialreports/sr160.pdf>.

<sup>221</sup> See "Constitutional and Legislative Situation".

<sup>222</sup> See USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28.

violence and have been subject to regular attacks since 2003.<sup>223</sup> The Brookings Institution/ University of Bern Project on Internal Displacement cited an Iraqi observer saying that the broader problem of sectarian violence in Iraq was not only an issue between the country's Shi'a and Sunni communities, "*but rather an organized effort to target all "other" communities*".<sup>224</sup> Largely without protection on the basis of tribe, militia or political party,<sup>225</sup> and often perceived as relatively wealthy, non-Muslim minorities are particularly vulnerable to attacks for perceived threat to the Islamic nature of the state, imputed affiliation with international actors, break-down of law and order, and general criminality. There is undoubtedly a strong subjective fear among religious communities in Iraq that their very existence is at stake.<sup>226</sup>

Members of non-Muslim religious minorities have become regular victims of discrimination, harassment and serious human rights violations, with incidents ranging from intimidation and threats to the destruction of property, kidnapping,<sup>227</sup> rape, forced conversion and murder. Along with the deterioration of the situation for Iraqi women in general due to the strict embracing of Islamic values and traditions as well as the high rate of criminality, women belonging to religious minority groups are often forced to comply with strict Islamic dress codes.<sup>228</sup> Their freedom of movement is also restricted due to the threat of kidnapping and rape.<sup>229</sup>

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<sup>223</sup> UNAMI HRO reported that "(W)hile the initial violence randomly targeted the Arab Sunni community, allegedly for their unproven association with the destruction of Al Askari Shrine, members of all communities were negatively affected by the unleashed violence and tit-for-tat attacks"; see UNAMI HRO, February 2006 Human Rights Report, p. 2, see above footnote 165. See also: USCIRF, Iraq: USCIRF Letter to Under Secretary of State Dobriansky Urges Refugee Protections for Iraqi Religious Minorities, 9 November 2006, <http://www.uscifr.gov/mediaroom/press/2006/november/20061109IraqRefugees.html>.

<sup>224</sup> Al-Khalidi and Tanner, p. 24-25, see above footnote 161.

<sup>225</sup> Christians currently have the following representation in the central government: Wijdan Mikha'il, a town planner and member of the secular Iraqi National List, is the Minister of Human Rights; Yonadem Kanna of the Assyrian Democratic Movement is a member of the Council of Representatives.

<sup>226</sup> UNAMI HRO indicated that "*Sabeen-Mandean continue to be targeted by extremists and their continuous presence in the country is endangered*"; see UNAMI HRO, October 2006 Human Rights Report, p. 3, see above footnote 66. In an earlier report it said: "*Members of Iraqi ethnic, religious or linguistic minorities feel that their identity and even physical existence is threatened*"; see UNAMI HRO, August 2006 Human Rights Report, p. 2 and 13, see above footnote 26.

<sup>227</sup> According to UNAMI HRO, "*(K)idnappings by criminal gangs have revealed a sectarian dimension*"; see UNAMI HRO, August 2006 Human Rights Report, p. 2 and 8, see above footnote 26.

<sup>228</sup> Strict Islamic dress codes includes the requirement that women wear an *abaya*, a traditional full-length cloak and a headscarf; see: IRIN, Iraq: Christians live in fear of death squads, 19 October 2006, <http://www.irinnews.org/report.aspx?reportid=61897>. According to the USDOS, Basrah's Education Director introduced a rule requiring all females in the schools to cover their hair. The same report states that female university students in Mosul, even non-Muslims, were required to wear the *hijab*; see: USDOS, International Religious Freedom Report 2006 – Iraq, see above footnote 28. UNAMI HRO reported that "*(I)ndividuals continue to face harassment and intimidation by extremist elements if they are not inclined to conform to traditional dressing. Women, national and religious minorities as well as homosexual were particularly targeted*"; see UNAMI HRO, June 2006 Human Rights Report, p. 8-10, see above footnote 27. See also "Persons Accused of 'Un-Islamic' Behaviour".

<sup>229</sup> UNAMI HRO, August 2006 Human Rights Report, p. 10, see above footnote 26.

The overall climate results in non-Muslim minority groups fearing to publicly practice their religion.<sup>230</sup> Members of non-Muslim minority groups also reported employment discrimination in the public sector due to their religious identity.<sup>231</sup> The US Department of State's 2006 *International Freedom Report* states that

*“(T)he combination of discriminatory hiring practices, attacks against non-Muslim businesses and the overall lack of rule of law, have also had a detrimental economic impact on the non-Muslim community and contributed to the significant numbers of non-Muslims who left the country.”*<sup>232</sup>

#### **a) Christians<sup>233</sup>**

##### **i) General**

The last census covering all of Iraq's Governorates<sup>234</sup>, in 1987, showed 1.4 million Christians. Since 2003, the number has decreased and estimates now place the number of Christians within Iraq at less than one million, with an estimated 700,000 Iraqi Christians living abroad.<sup>235</sup> Iraqi Christians belong to different churches, including the Chaldean Catholic Church,<sup>236</sup> the Syriac Orthodox Church,<sup>237</sup> the Syrian Catholic Church,<sup>238</sup> the

<sup>230</sup> See, for example, USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28.

<sup>231</sup> UNAMI HRO, *October 2006 Human Rights Report*, p. 14, see above footnote 66.

<sup>232</sup> USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28.

<sup>233</sup> Christians in Iraq, in particular Assyrians, Chaldeans and Armenians, consider themselves as both religious and ethnic minorities; therefore consideration could also be given to persecution on the basis of ethnicity. See also “Kurds, Arabs, Turkmen428F, Ethnic-Based Christian Groups (Assyrians, Chaldeans, Armenians)429F, Yazidis430F and Shabak431F in Ethnically Mixed Areas”.

<sup>234</sup> A later census was held by the Government of Iraq in October 1997; however, it did not include the three Northern Governorates of Sulaymaniyah, Erbil and Dahuk. See: UN, *Press Briefing on Iraq Demographics*, 8 August 2003, <http://www.un.org/News/briefings/docs/2003/iraqdemobrf.doc.htm>.

<sup>235</sup> USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28. According to the local Christians Peace Association about 700,000 Christians remain in Iraq; see: IRIN, *Iraq: Christians live in fear of death squads*, see above footnote 228; Judi McLeod, *Forgotten Christians of Iraq*, 19 October 2006, Canada Free Press, <http://www.canadafreepress.com/2006/cover101906.htm>. Statistics regarding the number of Christians currently in Iraq have varied somewhat. The Society for Threatened People, an independent German human rights organization with consultative status at the Economic and Social Council of the United Nations (ECOSOC) and participant status at the Council of Europe, estimates that 700,000 Christians were present in Iraq before 2003, of which at least 500,000 have since fled. The remaining 200,000 have either not the material means to flee or are afraid of being killed in the attempt to flee. The NGO estimates that the number of Christians in Baghdad has dropped from 400,000 to just 100,000. In Basrah only about 1,000 out of formerly 30,000 remain, and in Mosul, which was once inhabited by 80,000 Christians, only a few hundred are believed to be still there; see: Society for Threatened People, *Iraq: Germany must take Christian refugees!*, 22 December 2006, <http://www.gfbv.de/pressemit.php?id=788&stayInsideTree=1>.

<sup>236</sup> Chaldean Catholics have one patriarch (currently Mar Emmanuel III Delly, Patriarch of Babylon in Baghdad), four archdioceses (in Kirkuk, Mosul, Basrah and Erbil) and five dioceses (in Alqosh, Amadiyah, Akre, Sulaymaniyah and Zakho). See: The Chaldean Church, *The Christians in Iraq*, <http://www.byzantines.net/epiphany/chaldean.htm> [accessed December 2006].

<sup>237</sup> Led by the Patriarch of Antioch, currently Patriarch Moran Mor Ignatius Zakka I Iwas, who resides in Damascus, Syria. Often the Church is referred to as the Syrian Orthodox Church. However, in 2000, a Holy Synod ruled that the name of the church in English should be the Syriac Orthodox Church.

<sup>238</sup> The current Patriarch of Antioch and all the East of the Syrians is Mar Ignace Pierre VIII Abdel-Ahad, who resides in Beirut, Lebanon. The church has two archdioceses in Baghdad and Mosul; see Club Syriac, *History of The Syriac Catholic Church*, <http://www.clubsyriaque.org/glance-fr.html>.

Assyrian Church of the East,<sup>239</sup> the Roman Catholic Church,<sup>240</sup> the Armenian Catholic Church,<sup>241</sup> and the Armenian Orthodox Church. An estimated thirty percent of Iraq's Christians reside in the Northern Governorates of Dahuk, Erbil and Sulaymaniyah, which are administered by the Kurdistan Regional Government (KRG).<sup>242</sup> The remainder is principally located in Baghdad, in and around Mosul (Ninewa Plain) and Basrah. An estimated 15,000 Christians reside in Kirkuk.<sup>243</sup>

The Qur'an considers the Christians "People of the Book" (*Ahl Al-Kitab*) and provides them with toleration and protection by Islam, including the right to worship and protection of their properties. However, since the fall of the former regime a number of religious edicts (*fatwas*) and letters have been issued by Muslim clerics in Iraq calling the Christians "infidels" (*kuffar*).

## ii) *Displacement of Christians Since 2003*

Since the fall of the former regime in 2003, the Christian communities have seen a steady decline in numbers due to the generally dire security situation and targeted attacks on community members by armed groups. A steady outflow of Iraqi Christians from Iraq to countries in the region (in particular Jordan and Syria) as well as further abroad is taking place,<sup>244</sup> peaking with events such as the church bombings in 2004<sup>245</sup> and the consequences of the "cartoon controversy"<sup>246</sup> in early 2006. In August 2006, the Chaldean Catholic Auxiliary Bishop of Baghdad, Andreos Abouna, stated that insecurity and targeted attacks had forced half of Iraq's Christian population to depart the country since March 2003, and that those remaining were either too poor, old or sick to leave.<sup>247</sup> Many others have sought

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<sup>239</sup> The Church of the East emerged in the 5<sup>th</sup> century when it broke away from the Byzantine Orthodox Church during the Third Ecumenical Council (Nestorian Shism). In the late 1800s, the Church of the East officially took on the name *Assyrian Church of the East*. The current patriarch is Mar Dinkha IV. The Patriarch paid an official visit to Ainkawa in the Governorate of Erbil on 17 September 2006 to open new churches and other religious projects; see Assyrianchurchnews.com, *His Holiness Mar Dinkha IV Visits Iraq*, <http://www.assyrianchurchnews.com/index.php?modul=news&iy=1>.

<sup>240</sup> With one archdiocese in Baghdad. See: The Chaldean Church, *The Christians in Iraq*, <http://www.byzantines.net/epiphany/chaldean.htm> [accessed December 2006].

<sup>241</sup> *Ibid.*

<sup>242</sup> The geographical coverage of the Region of Kurdistan roughly approximates but is distinct from the former "Kurdish Autonomous Zone", a semi-autonomous area of Iraq administered by Kurdish political parties following the establishment of a no-fly zone above the 36<sup>th</sup> northern latitude.

<sup>243</sup> USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28.

<sup>244</sup> Between 17 March 2003 and 31 January 2007, 7,492 Christians had registered with UNHCR Jordan, constituting 38% of the total of 19,664 Iraqis who had registered with UNHCR Jordan during that period. UNHCR Syria registered a total of 45,150 Iraqis between 21 December 2003 and 6 February 2007, of whom 15,588 were Christians (34% of the total). It should be noted that the percentage of Iraqi Christians registered with UNHCR probably over represents their proportion in host states.

<sup>245</sup> See UNHCR, *2005 Country of Origin Information Iraq*, p. 160-161, see above footnote 53.

<sup>246</sup> See, further below, footnotes 257 and 258.

<sup>247</sup> The Guardian, "In 20 years, there will be no more Christians in Iraq", 6 October 2006, <http://www.guardian.co.uk/Iraq/Story/0,,1888848,00.html>; Simon Caldwell, *Half of all Christians have fled Iraq since 2003, says Baghdad bishop*, Catholic News Service, 6 August 2006, <http://www.catholicnews.com/data/stories/cns/0604409.htm>.

refuge in the three Northern Governorates, mainly the Governorate of Dahuk, and in the Ninewa Plain.<sup>248</sup>

### *iii) Current Situation*

The security environment and political climate has steadily worsened for religious minorities in Iraq since the 2003 toppling of the former regime. There have been a number of targeted attacks on Christian places of worship, religious figures<sup>249</sup> as well as individuals. After attacks on several Christian churches in 2004, several additional incidents were again reported in 2006.<sup>250</sup> According to UNAMI HRO, attacks against Christians in Iraq have intensified since September 2006 and are still on the rise.”<sup>251</sup>

Christian clergy have reported that priests in Iraq no longer dare to wear their clerical robes in public for fear of being attacked.<sup>252</sup> The Babel College, the only Christian theological university in the country, and the Chaldean St. Peter seminary were transferred from Baghdad to Ainkawa in Erbil Governorate in early 2007 after senior staff had been kidnapped.<sup>253</sup>

Acts of violence against many members of the Christian community include, *inter alia*, harassment and intimidation, killings (often with extreme violence), kidnappings, armed robbery, forced closure, destruction or confiscation of property, forced conversion to Islam<sup>254</sup> and rape and forced marriage of Christian women. The Director of the Iraqi Museum, Donny George, a respected Assyrian, says that he was forced to flee Iraq to Syria in fear for his life and that Islamic fundamentalists obstructed all of his work that was not

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<sup>248</sup> According to the Society for Threatened People, only about 40,000 Christians have been able to find refuge in the three Northern Governorates, while another 40,000 have fled to the Ninewa Plain; see: Society for Threatened People, *Iraq: Germany must take Christian refugees!*, 22 December 2006, <http://www.gfbv.de/pressemit.php?id=788&stayInsideTree=1>.

<sup>249</sup> See “Annex I: Attacks on Christian Religious and Political Representatives”.

<sup>250</sup> In the days following the attack in Samarra on 22 February 2006, militias shot at a church near Al-Sadr City, lightly wounding a priest; see UNAMI HRO, *February 2006 Human Rights Report*, p. 5, see above footnote 165. On 29 January 2006, car bombs targeted the Catholic Church of the Virgin Mary and the Orthodox Church in Kirkuk, the Saint Joseph’s Catholic Church and an Anglican Church in Baghdad, killing at least three people and wounding several. A car bomb also exploded outside the residence of the Apostolic Nuncio in Baghdad, without causing any casualties; see: USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28; BBC News, *Churches targeted in Iraq blasts*, 29 January 2006, [http://news.bbc.co.uk/2/hi/middle\\_east/4660104.stm](http://news.bbc.co.uk/2/hi/middle_east/4660104.stm). On 26 September 2006, attackers launched rockets against the Chaldean Church of the Holy Spirit, causing no injuries; see Asia News, *Second attack in three days against a Chaldean church*, 26 September 2006, <http://www.asianews.it/view.php?l=en&art=7321>.

<sup>251</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 3, see above footnote 10. See also: UNAMI HRO, *October 2006 Human Rights Report*, p. 3, see above footnote 66.

<sup>252</sup> UNAMI HRO, *October 2006 Human Rights Report*, p. 13, see above footnote 66. See also: Charles Tannock, *The Assyrians: Ignored among fears of an Iraqi Civil War*, The Daily Star, 10 July 2006, [http://www.dailystar.com.lb/article.asp?edition\\_id=1&categ\\_id=5&article\\_id=75907](http://www.dailystar.com.lb/article.asp?edition_id=1&categ_id=5&article_id=75907).

<sup>253</sup> Asia News, *Theological university and seminary leave unsafe Baghdad and head north*, 5 January 2007, <http://www.asianews.it/index.php?l=en&art=8150&size=A>.

<sup>254</sup> According to UNAMI HRO, “(...) and Assyrians in the Nineveh Plains in particular have been pressured to convert to Islam”; see UNAMI HRO, *December 2006 Human Rights Report*, p. 13, see above footnote 10.



focused on Islamic artifacts.<sup>255</sup> The predominantly Christian area of Camp Sara in central Baghdad has repeatedly come under attack, including by mortar fire and car bombs, causing a number of casualties.<sup>256</sup>

The situation further worsened with the onset of controversy regarding cartoons of the Prophet Mohammed<sup>257</sup> and the speech made by Pope Benedict XVI on 12 September 2006 that included the quotation of a 14<sup>th</sup> Century Byzantine emperor that outraged segments of the Muslim community worldwide and triggered protests and even attacks on churches in several Muslim countries.<sup>258</sup> In February 2006, Iraqi Christian students at Mosul University were attacked by other students who described the Christian students as atheists and US traitors. The attacks may have been motivated by *fatwas* and militia statements calling on Iraqis to expel Christians and atheists from schools, institutions and the streets of Iraq because they offended the Prophet. Following these attacks, one Christian female student at Mosul University was reportedly killed while awaiting transportation.<sup>259</sup> Christian students in Mosul face a climate of extreme insecurity, and UNHCR has received reports that Christian students have sharply curtailed their class attendance and strictly avoid moving alone. IRIN reported that Christian parents have stopped their children from attending schools and universities, after many fellow students made verbal threats against them.<sup>260</sup>

Hundreds of angry demonstrators burned an effigy of the Pope in the southern city of Basrah, angered that the Pope's speech had insulted Islam, and called for him to be tried by

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<sup>255</sup> BBC News, *Leading Iraq archaeologist flees*, 26 August 2006, [http://news.bbc.co.uk/2/hi/middle\\_east/5289046.stm](http://news.bbc.co.uk/2/hi/middle_east/5289046.stm).

<sup>256</sup> For example, on 14 February 2007, a car bomb near a hospital killed four people and wounded 10 others; see: Reuters Alertnet, *Factbox – Security developments in Iraq, Feb 14*, 14 February 2007, <http://www.reuters.com/article/latestCrisis/idUSL14532109>. On 4 October 2006, a car bomb and two roadside bombs killed 16 persons and injured at least 72; see: AP, *String of bomb blasts in Baghdad kills 13*, 4 October 2006, [http://www.usatoday.com/news/world/2006-10-04-baghdad-blasts\\_x.htm](http://www.usatoday.com/news/world/2006-10-04-baghdad-blasts_x.htm).

<sup>257</sup> According to reports in Iraqi and international media, numerous Christian institutions in Iraq were targeted in reprisal attacks during the “cartoon controversy”. Iraqi sources linked the bombings of seven churches in Kirkuk, Baghdad and Mosul on 29 January 2006 to the protest campaigns. These attacks led to an increase in flight to Jordan and Syria; see IRIN, *Iraq: Sectarian tensions on the rise*, 30 January 2006, <http://www.irinnews.org/Report.aspx?ReportId=26094>; Elaph News (in Arabic), *Bombing of Iraqi Churches Linked to Danish Cartoons*, 29 January 2006, <http://www.elaph.com/ElaphWeb/Politics/2006/1/124132.htm>.

<sup>258</sup> The “cartoons controversy” began after editorial cartoons depicting the Muslim Prophet Mohammed, were published in the Danish newspaper Jyllands-Posten on 30 September 2005. The newspaper announced that this publication was an attempt to contribute to the debate regarding criticism of Islam and self-censorship. The controversy deepened when further examples of the cartoons were reprinted in newspapers in more than fifty other countries. This led to numerous protests, including violent rioting particularly in the Muslim world. See, for example, The Washington Post, *The Mohammed Cartoon Controversy*, <http://www.washingtonpost.com/wp-dyn/content/linkset/2006/02/07/LI2006020701366.html> [last updated 7 January 2007]. The Pope Benedict XVI controversy arose from a lecture delivered on 12 September 2006 by Pope Benedict XVI at the University of Regensburg in Germany. He explored the historical and philosophical differences between Islam and Christianity and the relationship between violence and faith. His quote from Emperor Manuel II Paleologos of the Orthodox Christian Byzantine Empire, who said the Prophet Mohammed had brought the world only “evil and inhuman” things, stood at the centre of the controversy. See, for example, Reuters/The New York Times, *Pope apologizes after fury over Islam remarks*, 17 September 2006, <http://www.iht.com/articles/2006/09/17/news/apology.php>.

<sup>259</sup> Information received by UNHCR.

<sup>260</sup> IRIN, *Iraq: Christians live in fear of death squads*, see above footnote 228.

an international court.<sup>261</sup> Several armed Islamist groups, including the *Mujahedeen Shura Council* (an umbrella group led by Al-Qa'eda in Iraq),<sup>262</sup> Mohammed's Army,<sup>263</sup> *Jaish Al-Mujahedeen* (the Mujahedeen Army), the *Asaeb Al-Iraq Al-Jihadiya* (League of Jihadists in Iraq) as well as Ansar Al-Sunna threatened the Vatican in particular and Christians in general with reprisals in statements posted on Islamist internet websites.<sup>264</sup>

UNAMI HRO reported that as a result of such threats, many churches have cancelled services and attendance has dwindled. Christian churches in Baghdad and elsewhere have reportedly publicly displayed banners dissociating themselves from the Pope's comments. It was reported that, on 24 and 25 September 2006, the Chaldean Church of the Holy Spirit in Mosul was attacked with rockets and an explosive device was detonated outside the church's door.<sup>265</sup> Furthermore, on 4 and 5 October 2006, unidentified men opened fire on the same church, injuring one of the guards. It was reported that the following message was written on church doors: "*If the Pope does not apologize, we will bomb all churches, kill more Christians and steal their property and money.*" On 2 October 2006, a convent of Iraqi Dominican Sisters in Mosul was fired upon. In addition, on 16 October 2006, unknown gunmen fired at Al-Safena Church in Mosul, causing some damage to the church.<sup>266</sup>

In Mosul, Father Boulos Iskander Behnam, a priest from the Syriac Orthodox Church of the Virgin Mary, was kidnapped and beheaded by men seeking retribution for Pope Benedict's comments about Islam. His death intensified fear within the Christian community, who are calling for international assistance to help them leave the country.<sup>267</sup> In September 2006, the new Al-Qa'eda chief in Iraq and successor of Abu Musab Al-Zarqawi, Abu Hamza Al-Muhajer, called for the kidnapping of "*Christian dogs*" who could be exchanged for

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<sup>261</sup> Jenny Booth and agencies, *Al-Qaeda threatens jihad over Pope's remarks*, Times Online, 18 September 2006, [http://www.timesonline.co.uk/tol/news/world/middle\\_east/article642645.ece](http://www.timesonline.co.uk/tol/news/world/middle_east/article642645.ece).

<sup>262</sup> A statement published on the internet by the *Mujahedeen Shura Council* threatened reprisals against "*worshippers of the cross*" for the Pope's remarks. The statement appeared on a website frequently used by militant groups, but its authenticity could not be verified. Referring to a *hadith* (saying of the Prophet Mohammed), it further stated: "*We shall break the cross and spill the wine. [...] (you will have no choice but) Islam or death.*" It continued: "*(W)e tell the worshipper of the cross that you and the West will be defeated, as is the case in Iraq, Afghanistan, Chechnya. God enable us to slit their throats, and make their money and descendants the bounty of the Mujahideen.* Furthermore: "*The Pope in the Vatican turns in the orbit of Bush. His remarks form part of the mobilisation for a crusade announced by Bush, to raise the morale of the crusader armies*"; see: *ibid*.

<sup>263</sup> Abu Jaffar, a member of Mohammed's Army, was quoted as saying "(T)heir leader [the Pope] has verbally abused and offended our religion and the Prophet. Unfortunately, he did not analyse the consequences of his speech. Our country is an Islamic land and they [Christians] will have to rely on the Pope's charity from now on"; see IRIN, *Iraq: Christians live in fear of death squads*, see above footnote 228.

<sup>264</sup> Jenny Booth and agencies, see above footnote 261.

<sup>265</sup> UNAMI HRO, *October 2006 Human Rights Report*, p. 13, see above footnote 66. See also: Asia News reported that Mgr Raho, Mosul's Chaldean bishop, had placed posters on the walls of the Chaldean Church of the Holy Spirit, saying "*neither Iraqi Christians, nor the Pope, want to destroy the relationship with Muslims.*" Nevertheless, the church was again attacked on 26 September 2006; see Asia News, *Second attack in three days against a Chaldean church*, 26 September 2006, <http://www.asianews.it/view.php?l=en&art=7321>.

<sup>266</sup> UNAMI HRO, *October 2006 Human Rights Report*, p. 13, see above footnote 66.

<sup>267</sup> Al Jazeera, *Iraq priest "killed over pope speech"*, 13 October 2006, <http://english.aljazeera.net/news/archive/archive?ArchiveId=36747>.

Omar Abdel-Rahman, an Egyptian Muslim cleric imprisoned since 1995 for conspiring to blow up landmarks in New York.



The alleged main perpetrators of attacks against Christians are radical Shi'ite militias, Sunni insurgency groups as well as criminal gangs who use religion to justify their attacks.<sup>268</sup> Religion seems to be a major, but not the only, reason for these attacks against Christians. Rising extremist attitudes that are fuelling the trend towards a stricter interpretation of Islam can be observed in most parts of the country, including in the south, Baghdad, Mosul and Kirkuk. Many Christians engage in professions perceived as proscribed under Islam, such as hairdressing, public entertainment and the sale of liquor or music and have been threatened, attacked and killed due to their vocations, their shops and businesses looted, burned or forcibly closed down.<sup>269</sup> The strict embracing of Islamic values as well as the high rate of criminality has a particular bearing on non-Muslim women. They are forced to comply with strict Islamic dress codes<sup>270</sup> and fear of kidnapping and rape restricts their freedom of movement.<sup>271</sup> *Asia News* reported kidnapped Christian women having committed suicide after their release, due to the shock and shame they experienced.<sup>272</sup> The first Armenian Christian named Miss Iraq, Ms. Tamar Goregian, resigned and went into hiding on 9 April 2006 after being labelled the “queen of the infidels” and receiving numerous threats against her life and family. Ms. Silva Shahakian, also an Armenian Christian, later assumed the title, and has reportedly changed her residence due to fear of reprisal attacks.<sup>273</sup>

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<sup>268</sup> Elizabeth Kendal, *Mandaeans face genocide*, World Evangelical Alliance Religious Liberty News and Analysis, 30 June 2006, [http://www.hrwf.net/html/2006PDF/Iraq\\_2006.pdf](http://www.hrwf.net/html/2006PDF/Iraq_2006.pdf); BBC News, *Iraq chaos threatens ancient faith*, 20 September 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4260170.stm](http://news.bbc.co.uk/2/hi/middle_east/4260170.stm).

<sup>269</sup> According to the USDOS, more than 50 liquor stores operated by Christians in Baghdad were closed during the reporting period due to threats by Islamic extremists; see USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28. See also: NPR, *War Makes It Hard to Find a Drink in Baghdad*, 17 December 2006, <http://www.npr.org/templates/story/story.php?storyId=6637655>; Michael Luo, *Iraq's Christians Flee as Extremist Threat Worsens*, The New York Times, 17 October 2006, <http://www.nytimes.com/2006/10/17/world/middleeast/17christians.html?pagewanted=1&ei=5088&en=b17170ae4207bca0&ex=1318737600&partner=rssnyt&emc=rss>; Al Jazeera, *Fighting robs Iraq of Christian heritage*, 8 June 2006, <http://english.aljazeera.net/news/archive/archive?ArchiveId=22771>; Azzaman, *Militants blow up alcohol shops; threaten to kill owners*, 16 January 2006, <http://www.azzaman.com/english/index.asp?fname=news%5C2006-01-16%5C155.htm>; Pamela Constable, *In Iraq, Booze Becomes a Risky Business*, The Washington Post, 20 July 2004, <http://www.washingtonpost.com/ac2/wp-dyn/A93-2004Jul20>; Jamie Tarabay, *Militants trying to make Iraq drier place for alcohol seekers*, AP, 20 July 2004, <http://media.www.dailytexanonline.com/media/storage/paper410/news/2004/07/20/WorldNation/Militants.Trying.To.Make.Iraq.Drier.Place.For.Alcohol.Seekers-694516.shtml>. See also “Persons Accused of “Un-Islamic” Behaviour”.

<sup>270</sup> According to UNAMI HRO, on 6 October 2006, two Christian women in Basrah received anonymous letters demanding that they wear headscarves, and in Mosul, leaflets warned female Christian and Muslim students to wear “proper Muslim attire” at the universities; see UNAMI HRO, *October 2006 Human Rights Report*, p. 12, see above footnote 66. See also: IRIN, *Iraq: Christians live in fear of death squads*, see above footnote 228. According to the USDOS, Basrah's Education Director introduced a rule requiring all females in the schools to cover their hair. The same report states that female university students in Mosul, even non-Muslims, were required to wear the *hijab*; see: USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28.

<sup>271</sup> UNAMI HRO, *August 2006 Human Rights Report*, p. 10, see above footnote 26. See also “Women”.

<sup>272</sup> *Asia News*, *Abducted and raped, young Christian women and girls are driven to suicide in Iraq*, 11 October 2006, <http://www.asianews.it/view.php?l=en&art=7450>.

<sup>273</sup> AP, *Miss Iraq goes into hiding from militants*, 12 April 2006, <http://www.msnbc.msn.com/id/12289502>.

Other motives may come into play, at times cumulatively. There is widespread belief among insurgents that Christians assisted and supported the US invasion of Iraq and continue to support the presence of the MNF, as the MNF is composed of mainly Western Christian “infidel” nations. Therefore, Christians may also be subjected to attacks on the basis of their perceived political opinion.<sup>274</sup> In fact, a number of Christians worked for the MNF in Iraq in trusted positions given that they are usually well-educated.<sup>275</sup> Another motive is the perceived wealth of Christians, coupled with a lack of protection by tribes or militias, which makes them an easy target for kidnapping for ransom.<sup>276</sup> In April 2006, UNHCR received reports of the kidnapping for ransom and subsequent killing of five Christians in Mosul.

#### *iv) Christians in “Disputed Areas” and in the Three Northern Governorates*

A significant number of Christians live in areas currently classified as “disputed areas”, including in the Ninewa Plain and Kirkuk.<sup>277</sup> These areas have come under *de facto* control of Kurdish parties and militias since the fall of the former regime and Christians have resisted attempts by Kurds to assimilate them into Kurdish culture, language and political parties.<sup>278</sup> They have further complained of the use of force, discrimination and electoral fraud by the Kurdish parties and militias. For example, on 16 October 2006, KRG security officers reportedly broke into the offices of Ashur satellite channel, a Christian run media outlet, assaulted the staff and detained them for several hours.<sup>279</sup>

In the three Northern Governorates of Sulaymaniyah, Erbil and Dahuk, the rights of Christians are generally respected and a significant number of them have sought refuge in the region, in particular in the Governorate of Dahuk (from where many originate) and the Christian town of Ainkawa, near the city of Erbil. Some reports suggest that Christian villages are being discriminated against by the Kurdish authorities, which do not share reconstruction funds and oil revenues and have confiscated farms and villages.<sup>280</sup>

#### *v) Converts*

<sup>274</sup> See also “Actual or Perceived Sympathizers of the US-Led Invasion and/or the Multi-National Force in Iraq”.

<sup>275</sup> Dr. Nimrod Raphaeli, *The Plight of Iraqi Christians*, The Middle East Media Research Institute, 22 March 2005, <http://memri.org/bin/articles.cgi?Page=archives&Area=ia&ID=IA21305>; Nina Shea and James Y. Rayis, *Christian Crisis*, National Review Online, 6 January 2005, <http://www.nationalreview.com/comment/shearayis200501060730.asp>.

<sup>276</sup> The Christian Science Monitor, *Iraq’s Christians consider fleeing as attacks on them rise*, 13 July 2004, <http://csmonitor.com/2004/0713/p07s01-woiq.html>.

<sup>277</sup> USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28.

<sup>278</sup> Global Security, *Christians in Iraq*, <http://www.globalsecurity.org/military/world/iraq/religion-christian.htm> [last updated 22 June 2005].

<sup>279</sup> UNAMI HRO, *October 2006 Human Rights Report*, p. 13, see above footnote 66.

<sup>280</sup> Nina Shea, *Testimony before the US Congressional Committee On International Relations, Subcommittee On Africa, Global Human Rights, And International Operations*, Center For Religious Freedom, 21 December 2006, <http://www.christiansofiraq.com/ninasheatestifiesdec216.html>; see also statements made by Nimrud Baito, the KRG Minister for Tourism and Secretary General of the Assyrian Patriotic Party, who rejects such reports and notes that there is a “massive rebuilding effort going on” in Christian villages in Northern Iraq; see Zinda Magazine, *Minister Nimrud Baito discusses position of Christians in Kurdistan Region and Iraq*, 22 November 2006, [http://www.zindamagazine.com/ThisWeek/11.20.06/index\\_thu.php](http://www.zindamagazine.com/ThisWeek/11.20.06/index_thu.php).

In the current climate of religious intolerance, in particular vis-à-vis religious minorities, the conversion of a Muslim to Christianity would result in ostracism as leaving Islam is unacceptable in many communities and families. In certain cases, there is a risk that the convert might be killed by his/her own family members, who consider themselves disgraced by the person's conversion.

According to *Shari'a* Law, a Muslim who converts to Christianity is considered an apostate and the punishment can be execution. Although the Qur'an threatens apostates with eternal retribution, it does not clearly specify any punishment in this world. Rather, the punishment for apostasy is found in the *Hadith* (the written record of Prophet Mohammed's words and deeds). Although some contemporary Islamic scholars have repudiated the traditional interpretation that the punishment required for apostasy is death, it is still widely held. While there are no *Shari'a* courts in Iraq that could sentence a convert to death,<sup>281</sup> individual actors may take matters into their own hands and carry out attacks against converts.

Although not forbidden by law, the State of Iraq does not recognize conversions from Islam to Christianity or to other religions. Converts have no legal means to register their change in religious status. Iraq's *Personal Status Law* (Law No. 188 of 1959)<sup>282</sup> denies converts any inheritance rights.<sup>283</sup> Furthermore, Muslims who convert to Christianity may, in practice, be subject to other forms of severe discrimination, as their family/community may force their spouses into divorce or confiscate their properties. In addition they are reportedly often harassed by government officials and police.<sup>284</sup>

It is highly unlikely that a crime committed against a convert, be it by his/her family or by Islamist groups, would be properly investigated and prosecuted in Iraq, either in Central/Southern Iraq or the three Northern Governorates under administration of the KRG. In Central/Southern Iraq, the police are unlikely to provide protection, perhaps due to lack of personnel/equipment, fear of armed Islamist groups or sympathy with the perpetrators. In the KRG-administered areas, the general population does not tolerate a Muslim's conversion to Christianity and, accordingly, law enforcement organs are unwilling to interfere and provide protection to a convert at risk.<sup>285</sup>

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<sup>281</sup> It is not yet clear how the provisions relating to Islam in the Constitution will be applied in practice.

<sup>282</sup> See "Personal Status".

<sup>283</sup> If a person converts from Islam to Christianity, he will not be able to inherit from his wife or parents as they are Muslims while he is a Christian. A Non-Muslim cannot inherit from his family according to Islamic law.

<sup>284</sup> Information received by UNHCR Iraq.

<sup>285</sup> See, for example, a statement by Sulaymaniyah's Minister for Religious Affairs, Muhammed Ahmed Gaznawi, saying that people who turn to Christianity are "*renegades*" in the eyes of Islam and "*I consider that those who turn to Christianity pose a threat to society*"; see IWPR, *Kurdish Converts to Christianity Ostracised By Society and Family*, Iraqi Crisis Report No. 130, 28 June 2005, [http://iwpr.net/index.php?apc\\_state=hen&s=o&o=archive/irq/irq\\_130\\_5\\_eng.txt](http://iwpr.net/index.php?apc_state=hen&s=o&o=archive/irq/irq_130_5_eng.txt).

## b) Sabaean-Mandaeans<sup>286</sup>

### i) General

The Sabaean-Mandaean religion is monotheistic and reflects numerous religious influences, including ancient Gnostic, Jewish, Christian and Islamic beliefs and exists in Iran (Khuzestan) and Iraq. The exact number of its followers in Iraq is not known but estimates are between 10,000<sup>287</sup> and 75,000.<sup>288</sup> In addition, there are Sabaean-Mandaean communities in Europe, America, Australia and other countries.<sup>289</sup> The religion's precise date of origin is still disputed by religious academics. John the Baptist is a central figure in the Sabaean-Mandaean religion and considered a prophet.<sup>290</sup> Ritual cleanliness and holding baptism (*Masbuta*) are central to the religion. The custom, which antedated the baptisms of St. John and is repeatedly practiced,<sup>291</sup> stems from the belief that living water is the principle of life. Accordingly, Sabaean-Mandaeans traditionally live nearby rivers. The word "sabaean" comes from the Aramaic-Mandaic<sup>292</sup> word *saba*, or "baptized", "immersed in water". "Mandaean" comes from the Mandaic word *menda* and means "knowledge".<sup>293</sup>

Their chief holy book is the *Ginza Raba* ("The Great Treasure"), a compendium of cosmology, prayers, legends, and rituals.<sup>294</sup> Sabaean-Mandaeans' moral rules include the

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<sup>286</sup> Within the Middle East, but outside of their community, the Mandaeans are more commonly known as the *Subba* (singular *Subbi*). Muslims usually refer to them collectively as the Sabians (Arabic الصابئون *Al-Sābi'ūn*) in reference to the Sabians mentioned in the Qur'an.

<sup>287</sup> Figure provided by Mandaean leaders; see: USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28.

<sup>288</sup> Valentinas Mite, *Iraq: Old Sabaean-Mandaean Community Is Proud of Its Ancient Faith*, RFE/RL, 14 July 2004, <http://www.rferl.org/featuresarticle/2004/07/97177af0-16bc-46ae-99b9-7c3779e31e3c.html>. According to the Mandaean Human Rights Group, there are around 50,000 Sabaean-Mandaeans in Iraq; see Mandaean Human Rights Group, *The Mandaean Crisis in Iraq*, April 2006, [http://mandaeunion.org/HMRG/EN\\_HMRG\\_011.html](http://mandaeunion.org/HMRG/EN_HMRG_011.html).

<sup>289</sup> Mandaean Human Rights Group, *ibidem*.

<sup>290</sup> There exists a widespread but erroneous belief that the Mandaeans consider John the Baptist to be the founder of their religion, calling them the "Christians of St. John the Baptist". This misidentification stems from Portuguese missionaries who came into contact with the communities in the 7<sup>th</sup> century A.D. and does not represent Mandaic beliefs. In fact, St. John the Baptist was merely one of their greatest teachers and is considered a prophet; see Dr. Erica C.D. Hunter, *The Mandaeans*, Manchester University, 1995, <http://home.iprimus.com.au/yardna/html/mandaeian.htm>.

<sup>291</sup> For example, couples will be baptized after their engagement, again before the wedding ceremony and again after the marriage is consummated. Pall-bearers must be baptized before and after carrying a coffin. Anyone who comes into contact with a "sinner", or non-believer, must be baptized. In addition, every Sunday, all Mandaeans are encouraged to undergo baptism; see Ted Robberson, *Iraq's Baptist Mandaeans are survivors, but ranks are thinning*, The Dallas Morning News, 23 February 2004, <http://www.wvrn.org/article.php?idd=6595&sec=41&con=34>.

<sup>292</sup> Mandaic is a member of the East Aramaic sub-family of Northwest Semitic languages and is the liturgical language of the Mandaean religion; see Omniglot, *Mandaic alphabet*, <http://www.omniglot.com/writing/mandaic.htm>.

<sup>293</sup> See the Mandaean Official Site, <http://www.mandaeans.org>.

<sup>294</sup> The Columbia Encyclopedia, *Mandaeans*, Sixth Edition 2006, <http://www.encyclopedia.com/doc/1E1-Mandaean.html>.

prohibition to kill, lie, commit adultery or theft, consume alcohol or exercise magic.<sup>295</sup> They are also forbidden to mourn the dead and must fast 36 days a year.<sup>296</sup> Non-violence is central to the Sabaeen-Mandaean faith and the use of force or the carrying of weapons is not permitted.<sup>297</sup> Proselytizing and conversion are not practised and membership in the religion can only be attained by birth, however, both parents must also be Sabaeen-Mandaeans.<sup>298</sup> Accordingly, Sabaeen-Mandaeans are only allowed to marry other Sabaeen-Mandaeans in order to preserve their religion, another factor that has contributed to the decreasing number of followers.

The traditional centres of the Sabaeen-Mandaeans are in Southern Iraq, in the marsh districts and on the lower reaches of the Euphrates and Tigris rivers, including the towns of Amarah, Nassiriyah and Basrah and at the junction of the two rivers at Qurnah, Qal'at Saleh, Halfayah and Suq Ash-Shuyukh. Communities of varying size are found in the centre and north of Iraq, including in Baghdad, Al-Kut, Diwaniyah, Fallujah, Kirkuk and Mosul.<sup>299</sup> According to Sabaeen-Mandaean sources, the largest communities are located in Baghdad and Basrah.<sup>300</sup>

The Sabaeen-Mandaean community is organized as follows:

1. The General Council, which represents the Mandaean families (chairman: Hussein Radi);
2. The General Spiritual Council, which includes all clergymen and is concerned with religious affairs (chairman: Sheikh Sattar Jabar Helou);
3. The Council of General Affairs, which is concerned with non-religious affairs such as legal social, cultural affairs, public relations and research (chairman: Toma Zeki).<sup>301</sup>

The Qur'an guarantees protection to a group mentioned as "sabians", but provides no details as to who they were. While it is believed that the Qur'an refers to the Sabaeen-Mandaean as "People of the Book" (*Ahl Al-Kitab*),<sup>302</sup> which would provide them with

<sup>295</sup> Ethel Stefana Drower reported in 1962 that some Mandaean priests in spite of the prohibition of such practices derive part of their income from the writing of amulets and from sorcery to make a living; see *The Mandaeans of Iraq and Iran: Their Cults, Customs, Magic Legends, and Folklore*, 1962, extracts under Farvardyn Project, <http://www.farvardyn.com/mandaeian.php>.

<sup>296</sup> Mandaean Research Centre, Council of General Affairs, *Mandaean Sabians*, 1999, <http://www.mandaeans.org>.

<sup>297</sup> Mandaean Human Rights Group, see above footnote 288; speech by Tarmida Yuhana Nashmi, *Contemporary Issues for the Mandaean Faith*, July 2004, [http://www.mandaeianunion.org/History/EN\\_History\\_010.htm](http://www.mandaeianunion.org/History/EN_History_010.htm); IWPR, *Ancient Sect Targeted*, Iraqi Crisis Report No. 45, 22 January 2004, [http://www.iwpr.net/?p=icr&s=f&o=168543&apc\\_state=heniicr2004](http://www.iwpr.net/?p=icr&s=f&o=168543&apc_state=heniicr2004).

<sup>298</sup> According to Sheikh Sattar Helou, Sabaeen-Mandaeans have not proselytized since 70 years after the death of Jesus Christ, when 365 Sabaeen priests were killed in a single day in Babylon; see Mite, *Iraq: Old Sabaeen-Mandaean Community Is Proud of Its Ancient Faith*, see above footnote 288.

<sup>299</sup> Ethel Stefana Drower, *The Mandaeans of Iraq and Iran: Their Cults, Customs, Magic Legends, and Folklore*, 1962, extracts under Farvardyn Project, <http://www.farvardyn.com/mandaeian.php>.

<sup>300</sup> Mandaean Human Rights Group, see above footnote 288.

<sup>301</sup> The Mandaean Official Site, <http://www.mandaeans.org>; UNAMI HRO, communication October 2006.

<sup>302</sup> For example, the unofficial Website of Ayatollah Seyyid Ali Khamenei, Iran's Supreme Leader, states that the Sabaeans are among the *Ahl Al-Kitab*; see: Khamenei.de, *Uncleaness of Kafir, Cleanness of Ahl al-*



toleration and protection, including the right to worship and protection of their property, their status has at times been disputed by religious scholars.<sup>303</sup> Since the fall of the former regime a number of religious edicts (*fatwas*) and letters have been issued by clerics in Iraq, denying the Sabaeen-Mandaeans the status of “People of the Book” and calling for their forced conversion or killing of the “infidels” (*kuffar*). Prior to his assassination in August 2003, Ayatollah Mohammed Baqir Al-Hakim, at the time the head of SCIRI, judged that Mandaeans are not “People of the Book”.<sup>304</sup> The Mandaean Human Rights Group<sup>305</sup> cites Al-Qa’eda in Iraq as naming “*the Shi’ites infidels as bad as the Sub’ba*” in a letter published on the internet. The Group also refers to the late Grand Ayatollah Abul-Qassim Al-Khoei, who taught in Najaf and is said to have recognized the Sabaeen-Mandaeans as “People of the Book” in 1979, while Iranian Ayatollah Rohollah Khomeini, the political leader of the 1979 Islamic Revolution of Iran, did not. The Mandaean Human Rights Group also reported that in Friday sermons held in places such as Sadr City, Falluja and Basrah extremist clerics declared that it was “*religiously permitted to take money, property, and even women from the infidels (...)*.”<sup>306</sup>

The Sabaeen-Mandaeans sought the support of religious and political leaders in Iraq such as Grand Ayatollah Ali Al-Sistani, Abdel Aziz Al-Hakim of SCIRI, former Prime Minister Ibrahim Al-Ja’afari and Muqtada Al-Sadr asking them to protect the rights of minorities. While their demands were met with sympathy, little action has been taken. The head of the Sabaeen-Mandaeans in Iraq, Sheikh Sattar Al-Helou, asked Grand Ayatollah Ali Al-Sistani, Iraq’s highest Shi’ite authority, to issue a *fatwa* calling for the protection of the Sabaeen-

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*Kitab, And the Rule Concerning Other Types of Kafirs* (Questions 328 and 334), accessed on 9 November 2006, <http://www.khamenei.de/fatwas/practical02.htm>.

<sup>303</sup> At the time of Prophet Mohammed, there was only one Sabian group referred to as those who “immerse in water”, which lived in Southern Mesopotamia and followed a monotheistic religion that resembles Judaism and Christianity. Early Islamic sources generally refer to the Sabaeen-Mandaeans as the “sabians” of the Qur’an. In the 9<sup>th</sup> century AD, the people from the Harran, known as polytheists, star and idol worshippers, started to call themselves Sabians as a protection against Islamic persecution, creating confusion as to who are the “sabians” referred to in the Qur’an. Despite the fact that the Harranian community disappeared from history in the 13<sup>th</sup> century, the common belief that the Sabians were pagans, star and idol worshippers did not change. Muslims until today continue to question the Sabaeen-Mandaeans’ status as “People of the Book” by repeating the speculations found in medieval Islamic sources, despite the fact that the Sabaeen-Mandaean religion prohibits idolatry and planet worship. The fact that the Sabaeen-Mandaeans have mostly lived isolated from their Muslim neighbours as well as the secrecy surrounding their religious belief and cults, have likely further contributed speculation and misperceptions; see Asuta, *The Journal for the Study and Research into the Mandaean Culture, Religion and Language, Sabians, Sabaeans, or Sabeans*, 2000, <http://www.geocities.com/mandaeans/Sabians8.html>; Dr. Şinasi Gündüz, *Problems on the Muslim Understanding of the Mandaeans*, ARAM Thirteenth International Conference, Harvard University 13-15 June 1999, ARAM, (published by Society for Syro-Mesopotamian Studies) 11-12, 1999-2000, p. 269-279. <http://www.dinlertarihi.com/dosyalar/makaleler/sinasigunduz/problems%20on%20the%20muslim.htm>. See also: Mandaean Human Rights Group, see above footnote 288.

<sup>304</sup> John Bolender, *Worse Off Now Than Under Saddam, The Plight Of Iraq’s Mandeans*, Counterpunch, 8/9 January 2005, <http://www.counterpunch.org/bolender01082005.html>.

<sup>305</sup> The Mandaean Human Rights Group is a self-organized group dedicated to the protection of Mandaeans in Iraq and Iran. It works with volunteers in the US, Canada, Australia, UK, Europe and Iraq.

<sup>306</sup> Mandaean Human Rights Group, see above footnote 288. The National League of Mandaean Sabians in Iraq confirmed this information in correspondence with UNHCR Iraq in January 2007.

Mandaeans as belonging to the “People of the Book”. Reportedly, he refused to do so.<sup>307</sup> The Society for Threatened People<sup>308</sup> reported that these talks had even been counter-productive as heightened attention caused further repercussions for the Sabaeen-Mandaeans.<sup>309</sup>

Over the course of time, the Sabaeen-Mandaeans have at times suffered persecution by other religious groups and have been driven from their places of settlement. Various Sabaeen-Mandaean writings give examples of persecution by Muslims against the community in various times.<sup>310</sup> Portuguese Catholic missionaries were especially persistent in attempting to relocate the Mandaeans from their traditional areas of settlement to other parts of the country in order to facilitate religious indoctrination.<sup>311</sup> After Saddam Hussein assumed power in 1979, the Sabaeen-Mandaeans faced increasing hostility in Iraq. According to the Sabaeen-Mandaean community, Iraq was the home to some 20,000 to 30,000 families in the late 1970s.<sup>312</sup> Since then, the numbers have decreased significantly.<sup>313</sup> The former regime’s campaign against the inhabitants of the Marshlands in Southern Iraq and the drainage programme also affected the Sabaeen-Mandaeans, killing and displacing thousands and leading to the destruction of Sabaeen-Mandaean religious sites.<sup>314</sup> Other temples and properties were seized by the regime.<sup>315</sup>

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<sup>307</sup> Information received from the National League of Mandaean Sabians in Iraq, December 2006. Also it is noteworthy that Grand Ayatollah Ali Al-Sistani’s official website explicitly mentions the Jews, the Christians and the Zoroastrians as belonging to the “People of the Book” while the “sabians”, as mentioned in the Qur’an, are omitted; see Sistani.org, *Q & A, Ahl-e Kitab*, <http://www.sistani.org/local.php?modules=nav&nid=7&cid=409> [accessed January 2007].

<sup>308</sup> See, for more information on the Society for Threatened People, footnote 235.

<sup>309</sup> Society for Threatened People, *Mandäer im Iraq: Seit Jahrhunderten verfolgt – heute akut in ihrer Existenz bedroht* [in German language], Update October 2006, p. 5, [http://www.gfbv.de/reedit/openObjects/openObjects/show\\_file.php?type=inhaltsDok&property=download&id=648](http://www.gfbv.de/reedit/openObjects/openObjects/show_file.php?type=inhaltsDok&property=download&id=648).

<sup>310</sup> Dr. Şinasi Gündüz, *Problems on the Muslim Understanding of the Mandaeans*, ARAM Thirteenth International Conference, Harvard University 13-15 June 1999 (published by Society for Syro-Mesopotamian Studies) 11-12, 1999-2000, p. 269-279. [http://www.dinlertarihi.com/dosyalar/makaleler/sinasigunduz/problems\\_on\\_the\\_muslim.htm](http://www.dinlertarihi.com/dosyalar/makaleler/sinasigunduz/problems_on_the_muslim.htm).

<sup>311</sup> See, for example, Mandaean World, *Mandaean History – Portuguese*, <http://www.mandaeanworld.com/portuguese.html>.

<sup>312</sup> Society for Threatened People, *Mandaeans in Iraq, After centuries of persecution – Today their very survival is threatened*, March 2006, p. 4, [http://www.gfbv.de/reedit/openObjects/openObjects/show\\_file.php?type=inhaltsDok&property=download&id=694](http://www.gfbv.de/reedit/openObjects/openObjects/show_file.php?type=inhaltsDok&property=download&id=694).

<sup>313</sup> UNAMI HRO, *October 2006 Human Rights Report*, p. 13, see above footnote 66.

<sup>314</sup> Society for Threatened People, *The Mandaeans, A small religious community searches for refuge*, 17 February 2006, <http://www.gfbv.de/inhaltsDok.php?id=636>.

<sup>315</sup> U.S. News, Kevin Whitelaw, *Baghdad’s Baptizers*, 6 September 2003, <http://www.usnews.com/usnews/culture/articles/030609/9mandeans.htm>; AP, *Tiny Iraqi minority looks with hope and fear to the future*, 22 July 2003, <http://aljazeeraah.info/Opinion editorials/2003 Opinion Editorials/July/22 o/Tiny Iraqi minority looks with hope and fear to the future.htm>.

## ii) *Displacement of Sabaean-Mandaeans Since 2003*

Since the fall of the former regime in 2003, the Sabaean-Mandaean community continues to decline due to the generally dire security situation as well as targeted attacks on community members by armed groups. UNAMI HRO reported in October 2006 that the Sabaean-Mandaean community decreased from 13,500 persons in 2001 to roughly 4,000 persons in 2006, living in “*isolation and fear*.”<sup>316</sup> The Society for Threatened People estimated in October 2006 that there are only 1,162 Sabaean-Mandaean families (7,000 to 8,000 persons) left in the country, out of a total of 5,825 before the fall of the former regime in 2003.<sup>317</sup> The *International Religious Freedom Report 2006* puts the number at 10,000.<sup>318</sup> UNHCR continues to receive Sabaean-Mandaean asylum-seekers in Syria and Jordan.<sup>319</sup>

Largely without protection on the basis of tribe,<sup>320</sup> militia or political party,<sup>321</sup> and perceived as relatively wealthy, Sabaean-Mandaeans are particularly vulnerable to attacks on the basis of perceived threat to the Islamic nature of the state, imputed affiliation with international actors, break-down of law and order and general criminality.<sup>322</sup> Unlike other religious communities which are seeking refuge in areas where they constitute the majority, Sabaean-Mandaeans are dispersed in all parts of Iraq (except for the three Northern Governorates of Erbil, Dahuk and Sulaymaniyah) and therefore do not have a majority area in which to seek safety. While many Iraqis have fled to the Region of Kurdistan to seek safety, UNHCR is not aware of Sabaean-Mandaeans having relocated to this region. The Region of Kurdistan has not traditionally been inhabited by Sabaean-Mandaeans, and hence members of this community seeking to relocate to the region may not have a sponsor needed to legally enter and reside there and lack community links in order to gain access to employment, housing and other services. In July 2006, Mokhtar Lamani, the then top official of the Arab League in Iraq, reported that Baghdad’s entire Sabaean-Mandaean population had presented a petition to the KRG to relocate to the Kurdistan Region.<sup>323</sup> At the time of writing, UNHCR was not able to obtain information as to the response of the KRG to this request. UNHCR has received reports that some Sabaean-Mandaean families

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<sup>316</sup> UNAMI HRO, *October 2006 Human Rights Report*, p. 13, see above footnote 66.

<sup>317</sup> Society for Threatened People, *Mandäer im Iraq*, p. 6, see above footnote 309.

<sup>318</sup> See also: USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28.

<sup>319</sup> By 31 January 2007, 2,878 Sabaean-Mandaeans had been registered with UNHCR Jordan. Sabaean-Mandaeans constitute 14% of the total of 19,664 Iraqis registered by UNHCR Jordan since 17 March 2003. UNHCR Syria registered a total of 45,150 Iraqis between 21 December 2003 and 6 February 2007, including 3,882 Sabaean-Mandaeans (almost 6% of the total).

<sup>320</sup> In the past, it was common for Sabaean-Mandaeans to negotiate protection agreements with tribes. However, given that the perpetrators of persecutory acts are mostly powerful groups and militias, acting in the name of Islam, tribes no longer dare to get involved and Sabaean-Mandaeans can no longer count on this type of arrangement, increasing their vulnerability; information received by UNHCR Iraq.

<sup>321</sup> The Sabaean-Mandaeans have not been represented in the TNA and they currently do not hold a seat in the Council of Representatives or any Governorate or Municipal Council. The National League of Mandaean Sabians in Iraq informed UNHCR that two Sabaean-Mandaean politicians were killed since 2003. Ra’id Salih, who had run in the elections for Al-Suwaira’s Municipal Council, was killed, and Riyadh Hadi Hameed was killed as a member in the Basrah Municipal Council was also killed.

<sup>322</sup> IWPR, *Ancient Sect Targeted*, see above footnote 297.

<sup>323</sup> AP, *Iraq’s minority Sabaean-Mandaeans seek Kurdistan safe haven*, 5 July 2006, [http://www.krg.org/articles/article\\_detail.asp?showsecondimage=&RubricNr=73&ArticleNr=12099](http://www.krg.org/articles/article_detail.asp?showsecondimage=&RubricNr=73&ArticleNr=12099).



have found refuge with the Sabaean-Mandaean community in Nassriyah in the Governorate of Thi-Qar.

### *iii) Current Situation*

Since 2003, there have been a number of targeted attacks on Sabaean-Mandaean places of worship (*mandi*),<sup>324</sup> religious figures, including their family members and other individuals. Most attacks have been reported in Baghdad, Falluja, Al-Suwaira (Wassit Governorate), Basrah, Qalat Saleh (Missan Governorate) and Diyala.

There have been successive attacks on the *mandi* in Basrah. The first attack was carried out on 28 June 2006 and followed by further attacks on 2 and 22 September 2006. In a letter dated 10 July 2006, Vice-President Tariq Al-Hashimi condemned what he called a “criminal act” and expressed his sympathy with the Sabaean-Mandaean community.<sup>325</sup> UNHCR also received reports that *mandi* in Baqouba and Qalat Saleh were occupied by armed groups.<sup>326</sup> UNHCR has no evidence that these attacks were investigated by the police.

It has become evident that clerics of all levels are at risk of kidnapping, killing and assaults.<sup>327</sup> Attacks on individuals include harassment and intimidation, killings (often with extreme violence),<sup>328</sup> kidnappings,<sup>329</sup> armed robbery, confiscation of property, forced conversion to Islam as well as rape and forced marriages of Sabaean-Mandaean women with Muslim men, often with a sectarian motive.<sup>330</sup> UNAMI HRO reported that in October 2006, four Sabaean-Mandaeans were killed.<sup>331</sup> Sabaean-Mandaeans also complain of being

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<sup>324</sup> A *mandi* (pl. *mandia*) is a small open-ended building with a pool connected to a nearby river for baptism. A *mandi* bears a cross and therefore resembles a Christian church. However, the Sabaean-Mandaean cross is half-covered with a piece of cloth and has a different symbolic meaning than the Christian cross; see Mite, *Iraq: Old Sabaean-Mandaean Community Is Proud of Its Ancient Faith*, see above footnote 288; Tod Robberson, *Iraq's Baptist Mandeans are survivors, but ranks are thinning*, The Dallas Morning News, 23 February 2004, <http://www.wwrn.org/article.php?idd=6595&sec=41&con=34>.

<sup>325</sup> Copy of original letter obtained by UNHCR Iraq.

<sup>326</sup> Information received from Sabaean-Mandaean sources.

<sup>327</sup> See “Annex II: Attacks on Sabaean-Mandaean Representatives” for a (non-comprehensive) overview. Family members of religious leaders are also at risk of threats, killing, kidnapping, forced marriage / conversion and rape; see Society for Threatened People which documented numerous assaults on family members of *Ganzebra* Sattar Jabbar Helou, including his cousins, nephews, nieces and siblings; Society for Threatened People, *Mandäer im Iraq*, p. 19-20, see above footnote 309.

<sup>328</sup> The Society for Threatened People recorded 59 cases of killings by October 2006; see Society for Threatened People, *Mandäer im Iraq*, see above footnote 309; The Mandaean Human Rights Group listed 54 cases of killings between 2003 and November 2005; see Mandaean Human Rights Group, Appendix 1, see above footnote 288. Most of the reported killings listed took place in Baghdad, with others reported from Ramadi, Baqouba, Missan, Al-Suwaira, Basrah and Nassriyah.

<sup>329</sup> See the list of incidents involving kidnapping and physical attacks provided by the Mandaean Human Rights Group, Appendix 1, see above footnote 288.

<sup>330</sup> USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28; Kendal, see above footnote 268; Society for Threatened People, *Mandaeans in Iraq*, p. 5, see above footnote 312; see also p. 5-7 of the report for detailed incidents of attacks against Sabaean-Mandaeans (note: the German version of the report has been updated by October 2006 and includes updated incidents as compared to the English version of March 2006, see above footnote 309).

<sup>331</sup> UNAMI HRO, *October 2006 Human Rights Report*, p. 14, see above footnote 66.

discriminated against by their Muslim neighbours. For example, in schools, Muslim children refuse to sit together with Sabaeen-Mandaean children.<sup>332</sup>

Considered “infidels” by segments of the Muslim society, at times enforced by religious *fatwas*, there have been numerous reports of the forced conversions of Sabaeen-Mandaeans. For example, on 15 February 2005, armed men demanded Wafsi Majid Kashkul at his Baghdad jewellery store to convert to Islam. When Kashkul refused, the men shot him and left without stealing anything from the shop. In another documented incident, three Sabaeen brothers, Anweer, Shaukai and Amer Juhily, were reportedly kidnapped from their Basrah home on 14 March 2005. When they refused to convert to Islam, they were shot and killed. The Mandaean Human Rights Group reported the forced conversion of 35 families in Fallujah.<sup>333</sup>

UNHCR received reports of Sabaeen-Mandaeans being killed or otherwise assaulted for “practicing magic”.

Along with the deterioration of the situation for Iraqi women in general due to the strict embracing of Islamic values and traditions as well as the high rate of criminality, Sabaeen-Mandaean women are forced to comply with strict Islamic dress codes,<sup>334</sup> and fear of kidnapping and rape restrict their freedom of movement.<sup>335</sup> There are numerous reports of Sabaeen-Mandaean women becoming the victims of rape, often with a sectarian motive such as “cleansing” the infidel. For example, Hadeel Samir Aodaa was abducted and repeatedly raped on 2 July 2005, suffering traumatic injury. She had already been threatened several times before the incident took place.<sup>336</sup> The Society for Threatened People reported that there has been a significant increase in rape in the last few months.<sup>337</sup> Women kidnapped and forced to marry a Muslim man (requiring them to also convert to Islam) are usually stigmatized and considered as no longer belonging to the Sabaeen-Mandaean community.

In Baghdad and Basrah, Sabaeen-Mandaeans reportedly received threat letters to leave the area, in particular since sectarian violence escalated after the February 2006 Samarra bombing. The British Broadcasting Company (BBC) reported that one of the leaflets

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<sup>332</sup> *Ibid.*

<sup>333</sup> Society for Threatened People, *Mandaeans in Iraq*, p. 5, see above footnote 312; USDOS, Bureau of Democracy, Human Rights and Labor, *2005 Country Report on Human Rights Practices – Iraq*, 8 March 2006, <http://www.state.gov/g/drl/rls/hrrpt/2005/61689.htm>. Other incidents of forced conversion have been listed by the Mandaean Human Rights Group, Appendix 1, see above footnote 288.

<sup>334</sup> The Society for Threatened People reported that on 4 March 2005, Salwa Samir Aziz was killed in Baghdad after refusing to wear the Islamic headscarf; see Society for Threatened People, *Mandäer im Iraq*, p. 17, see above footnote 309.

<sup>335</sup> UNAMI HRO, *August 2006 Human Rights Report*, p. 10, see above footnote 26. See also: Society for Threatened People, *The Mandaeans*, see above footnote 314; BBC News, *Iraq chaos threatens ancient faith*, see above footnote 268.

<sup>336</sup> A medical certificate from the hospital in Baghdad and a police report were made available by the Australian Mandaean Association to the Society for Threatened People. See: Society for Threatened People, *Mandaeans in Iraq*, p. 4, see above footnote 312. Other incidents of rape and assault are described by: Mandaean Human Rights Group, Appendix 1, see above footnote 288.

<sup>337</sup> Society for Threatened People, *Mandäer im Iraq*, p. 6, see above footnote 309.

distributed to homes in Baghdad gave the following warning to both Sabaeen-Mandaeans and Christians:

*“Either you embrace Islam and enjoy safety and coexist amongst us, or leave our land and stop toying with our principles. Otherwise, the sword will be the judge between belief and blasphemy.”*<sup>338</sup>

UNHCR received copies of threat letters against individual Sabaeen-Mandaeans as well as the community as such, calling them to leave “*idolatry and polytheism*” and threatening them to have their “*heads cut*” otherwise. In another letter received by UNHCR, Sabaeen-Mandaeans were called upon to return to their homelands in “*Persia*”, accusing them of practicing “*prostitution, homosexuality, magic*” and permitting “*drinking of wine*”.<sup>339</sup> Other leaflets accuse Sabaeen-Mandaeans of being drunkards, gamblers, idolaters, prostitutes and practitioners of black magic.<sup>340</sup> The Society for Threatened People reported on 20 June 2006 that Islamist groups have issued a “last warning” to the Sabaeen-Mandaean community in Iraq, saying that if they do not convert to Islam, they must face death. It further calls Mandaean women “*prostitutes*”, accuses them of practising “*black magic*” and calls upon the “*dirty Persians*” to return to “*Persia*”.<sup>341</sup> Furthermore, UNHCR was informed by Sabaeen-Mandaean sources that leaflets were also distributed in mosques asking people to identify and report on emptied Sabaeen-Mandaean properties in their neighbourhoods, which were then confiscated by religious militias.<sup>342</sup>

Public baptisms are an important part of the Sabaeen-Mandaean religion and there are reports of worshippers being harassed and abused during these ceremonies.<sup>343</sup> Attacks on religious sites inhibit Mandaeans to come for worshipping, baptisms and rituals in their temples.<sup>344</sup>

The alleged perpetrators are radical Shi’ite militias, Sunni insurgency groups, and criminal gangs who use religion to justify their attacks.<sup>345</sup> Religion seems to be a major, but not the only, reason for attacks against Sabaeen-Mandaeans. Sabaeen-Mandaeans traditionally dominate the sectors of gold and silversmiths and jewellers and are perceived to be relatively wealthy. They have no protection by association with militia groups or tribes, and

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<sup>338</sup> BBC News, *Iraq chaos threatens ancient faith*, see above footnote 268. See also “Christians232F”.

<sup>339</sup> See also: Society for Threatened People, *Mandaeans in Iraq*, see above footnote 312. Two translated threat letters from insurgency groups are published in the Annex.

<sup>340</sup> USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28; Kendal, see above footnote 268; Bolender, see above footnote 304.

<sup>341</sup> Society for Threatened People, Press Release, *Terrorists send “last warning” to Mandaeans in Iraq*, 20 June 2006, <http://www.gfbv.de/pressemit.php?id=576&stayInsideTree=1>.

<sup>342</sup> This is consistent with reports by UNAMI HRO, which have found that “(T)hreats include instructions not to rent or sell the property left behind, which in turns increases hardship for the displaced family. UNAMI HRO also received reports that many of the abandoned houses are later occupied by militias.”; see UNAMI HRO, *August 2006 Human Rights Report*, p. 9, see above footnote 26.

<sup>343</sup> Bolender, see above footnote 304.

<sup>344</sup> USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28; ABC Radio National, *The Religion Report: Mandaeans persecuted in Iraq*, 7 June 2006, <http://www.abc.net.au/rn/religionreport/stories/2006/1657535.htm>.

<sup>345</sup> Kendal, see above footnote 268; BBC News, *Iraq chaos threatens ancient faith*, see above footnote 268.

are therefore at risk of kidnapping for ransom,<sup>346</sup> extortion, killing, and their shops are subject to looting and destruction. For example, on 9 October 2006, Raad Mutar Falihi, a jeweller, was killed in his house in Al-Suwaira.<sup>347</sup> Many of them have closed their shops or work under the protection of bodyguards.<sup>348</sup> Furthermore, Sabaeen-Mandaeans are generally well-educated<sup>349</sup> and may, therefore, be harassed and attacked by fundamentalist Islamic groups which, since 2003, have led a campaign against academics, professionals, journalists, artists, doctors and medical personnel.<sup>350</sup>

A number of Sabaeen-Mandaeans worked for the MNF in Iraq in trusted positions given that they are usually well educated and not Muslims, and were, therefore, perceived to be more trustworthy in serving the foreign forces.<sup>351</sup> These individuals are at risk of being targeted on the basis of supporting the presence of the MNF in Iraq.<sup>352</sup>

### c) Yazidis<sup>353</sup>

#### i) General

The Yazidi people can be classified as a distinct religious group. The Yazidi religion is monotheistic and syncretistic, encompassing elements from Zoroastrianism, Manichaeism, Islam, Christianity, Judaism and Gnostic beliefs and traditions.

It is disputed, even among the community itself as well as among Kurds, whether they are ethnically Kurds or form a distinct ethnic group.<sup>354</sup> Most Yazidis speak *Kurmanji*, a Kurdish dialect.<sup>355</sup>

<sup>346</sup> It has been reported that criminal groups make it a business to “sell” victims of abduction to armed groups (insurgents or militias), who then use the victim for their own interest, e.g. asking for ransom or political demands or killing.

<sup>347</sup> UNAMI HRO, *October 2006 Human Rights Report*, p. 14, see above footnote 66. The Society for Threatened People documented 21 killings of goldsmiths since 2003; see Society for Threatened People, *Mandäer im Iraq*, p. 16-17, see above footnote 309.

<sup>348</sup> IWPR, *Ancient Sect Targeted*, see above footnote 297.

<sup>349</sup> See, for example, Society for Threatened People, *Mandaeans in Iraq*, p. 12, see above footnote 312.

<sup>350</sup> See also “Certain Professions”.

<sup>351</sup> ABC Radio National, see above footnote 344.

<sup>352</sup> See also “Actual or Perceived Sympathizers of the US-Led Invasion and/or the Multi-National Force in Iraq”.

<sup>353</sup> Other spellings are *Azidi*, *Izdi*, *Ezidi*, *Yezidi* or *Zedi*. Sometimes they are also called *Dasin*, though this is strictly speaking a tribal name. There are various theories trying to explain the origin of the term “Yazidi”. One says that it comes from the Persian word “*īzed*”, meaning “angel”. Another links it to the 6<sup>th</sup> Umayyad caliph, Yazid bin Muawiyya, whose armies killed Imam Hussein, son of Ali, in the 7<sup>th</sup> century and who is therefore highly disliked by Shi’ite Muslims. See: Encyclopaedia of the Orient, *Yazidism*, <http://lexicorient.com/e.o/uyazidism.htm> [accessed January 2007]; IWPR, “Devil-worshippers” Fear Renewed Persecution, Iraqi Crisis Report No. 59, 15 April 2004, [http://iwpr.net/?p=icr&s=f&o=167983&apc\\_state=heniicr2004](http://iwpr.net/?p=icr&s=f&o=167983&apc_state=heniicr2004).

<sup>354</sup> Not all Kurds agree that the Yazidis are members of their ethnic group, considering them as “unclean”; see Middle East Online, *Iraq’s “devil-worshippers” seek constitutional rights*, 23 May 2005, <http://www.middle-east-online.com/english/?id=13567>. For mainly political reasons, the Kurdish parties, in particular the KDP, have been stressing that the Yazidis are ethnic Kurds; see Eva Savelsberg and Siamend Hajo, *Gutachten zur Situation der Jeziden im Irak* [in German language], Europäisches Zentrum für

Estimates of the number of Yazidis range from 100,000 to as many as 800,000 people. Yazidis can mainly be found in Iraq, Syria and Turkey.<sup>356</sup> Only about ten percent of the Yazidis live in the Kurdish-administered areas, mainly in the Governorate of Dahuk, whereas the majority lives in so-called “disputed areas” in the Governorate of Ninewa, in particular in the areas of *Jebel Sinjar* and Shekhan, which have been subjected to the former regimes’ *Arabization* campaigns.<sup>357</sup> Jebel Sinjar was depopulated in 1965, 1973-1975 and 1986-1987, and the Yazidi residents of some 400 villages were forced to live in “collective towns”.<sup>358</sup> Their villages were either destroyed or given to Arab settlers. The Shekhan area was *arabized* as of 1975.<sup>359</sup> The Kurdish authorities have made it clear that they consider these areas as “Kurdish” and wish to incorporate them into the Region of Kurdistan.<sup>360</sup> Small Yazidi communities can also be found in urban settings, e.g. in the cities of Dahuk, Mosul and Baghdad. Yazidis also used to live in other cities of central and southern Iraq, e.g. in Hilla, Basrah and Nassriyah.<sup>361</sup>

The Yazidi religion is closed to outsiders as Yazidis do not intermarry, not even Kurds, nor do they accept converts. Accordingly, important parts of the Yazidi religious rituals have never been seen by outsiders and are, therefore, unknown. The Yazidis have never been

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Kurdische Studien, October 2005, p. 9-10, [http://www.yeziden-colloquium.de/inhalt/gesellschaft/recht/Savelsberg\\_Hajo\\_Gutachten.pdf](http://www.yeziden-colloquium.de/inhalt/gesellschaft/recht/Savelsberg_Hajo_Gutachten.pdf).

<sup>355</sup> Yazidis in Jebel Sinjar often speak Arabic; see Savelsberg and Hajo, *ibidem*, p. 11-12; Christine Allison, *Yazidis*, The Circle of Ancient Iranian Studies, <http://www.cais-soas.com/CAIS/Religions/iranian/yazidis.htm>, last modified 26 January 2007.

<sup>356</sup> The Religious Freedom Report puts their number at 650,000; see: USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28. The Encyclopaedia Britannica estimates that there are less than 100,000 Yazidis in Iraq, Turkey, Syria, Armenia, the Caucasus and Iran; see: Encyclopaedia Britannica, *Yazidi*, <http://concise.britannica.com/ebc/article-9383110/Yazidi> [accessed January 2007]. The Encyclopaedia of the Orient provides a number of more than 700,000, including 500,000 in Iraq, 50,000 in Turkey and 30,000 in Syria; see: Encyclopaedia of the Orient, *Yazidism*, see above footnote 353. The Yazidi website Dengê Êzîdiyan claims that there are as many as 800,000 Yazidis, with around 550,000 in Northern Iraq; see Dengê Êzîdiyan [in German language], *Fragen zum Yezidentum, Die Religion der Yeziden*, [http://www.yezidi.org/fragen\\_yezidentum.0.html](http://www.yezidi.org/fragen_yezidentum.0.html) [accessed January 2007]; there exists also a significant Yazidi Diaspora, in particular in Germany. According to the Yeziden Colloquium, more than 40,000 Yazidi live in Germany; see Yeziden Colloquium [in German language], *Wir über uns*, [http://www.yeziden-colloquium.de/ueber\\_uns.htm](http://www.yeziden-colloquium.de/ueber_uns.htm) [accessed January 2007].

<sup>357</sup> See “De-Arabization”.

<sup>358</sup> Settlements built by the former regime during the Anfal campaign to which Kurds and others were forcibly relocated after their villages were destroyed.

<sup>359</sup> Irene Dulz, Siamend Hajo and Eva Savelsberg, *Verfolgt und umworben: Die Yeziden im »neuen Irak«* [in German language], published in: *Kurdische Studien* 4+5, 2004/2005, p. 1, [http://www.yeziden-colloquium.de/inhalt/wissenschaft/Dulz\\_Savelsberg\\_Hajo\\_Yeziden.pdf](http://www.yeziden-colloquium.de/inhalt/wissenschaft/Dulz_Savelsberg_Hajo_Yeziden.pdf).

<sup>360</sup> For example, the Unification Agreement of 21 January 2006, states the aim of “restoring Kirkuk, Khanaqin, Sinjar, Makhmour, and other Arabized areas to the embrace of the Kurdistan Region”; KRG, *Kurdistan Regional Government Unification Agreement*, 21 January 2006, [http://www.krg.org/articles/article\\_detail.asp?LangNr=12&RubricNr=107&ArticleNr=8891&LNNr=28&RNNr=70](http://www.krg.org/articles/article_detail.asp?LangNr=12&RubricNr=107&ArticleNr=8891&LNNr=28&RNNr=70). The draft Constitution for the Region of Kurdistan enshrines in Article 2(I): “Iraqi Kurdistan comprises the Governorate of Duhok within its present boundary, and the governorates of Kirkuk, Sulaimani, and Arbil with the 1968 borders and the districts (kaza) of Akre, Shaikhan, Sinjar, Tel Afar, Tilkef, Qaragosh and the sub districts (nahiya) of Zamar, Ba’shiqa, Aski Kalak in the Governorate of Nineveh and the districts of Khanaqin and Mandali in the Governorate of Diyali and the district of Badra and the subdistrict of Jassan in the Governorate of Wasit.”

<sup>361</sup> Savelsberg and Hajo, p. 6, see above footnote 354.



regarded as “People of the Book”, also because most Yazidi religious texts have been passed on exclusively by oral tradition.<sup>362</sup> Rather there are sources that consider them a break-away from Islam, which would then render them “apostates”, punishable by death according to Islamic jurisprudence.<sup>363</sup>

The Yazidis worship *Malak Taus* (the “Peacock Angel”), the chief of angels, who is often equated by Muslims and Christians as the “fallen angel” or devil. For the Yazidis, however, devil and hell do not exist. Instead, the Yazidis believe that the souls of the dead repeatedly return to earth until they are purified. The central role of *Malak Taus* earned the Yazidis the undeserved reputation as “devil-worshippers” and has been the basis for a long history of persecution.<sup>364</sup>

The Yazidi religion, while incorporating elements of other religions, has its own rituals, scriptures and taboos. Prayers in Yazidism are performed twice a day and are dedicated to *Malak Ta’us*. Saturday is the day of rest, and Wednesday is the holy day. In December, a three day fast is performed.<sup>365</sup> Their chief saint is Sheikh Adi Ibn Musafir, a 12<sup>th</sup> century Muslim mystic who died in the town of Lalish, 12 kilometers from Shekhan, where his tomb has become the Yazidis’ holiest shrine and annual pilgrimage is the most important ritual for the Yazidis. Unlike Muslims, Yazidis can eat pork and drink alcohol. Religious rules such as the prohibition to marry outside the community or outside one’s caste or to insult men of religion are generally followed, while others such as the prohibition to eat lettuce or wearing the colour blue are not strictly observed.<sup>366</sup>

Yazidi society follows a strict hierarchical caste system introduced by Sheikh Adi, who reformed the Yazidi religion. The Yazidis are born into any of the three castes: the *Murids* (the laity) and the *Sheikhs* and the *Pirs* (the clergy),<sup>367</sup> and, as mentioned earlier, marriage across classes is forbidden.<sup>368</sup> Every Yazidi is linked as a disciple to a definite *Sheikh* and *Pir* and is obliged to provide them with alms. The Yazidis’ temporal and spiritual head is a hereditary prince (*Mir*), whereas a *Baba Sheikh* heads the religious hierarchy. The highest Yazidi leader is Mir Tahsin Saied Beg, who is considered a representative of Sheikh Adi. He is chosen exclusively from the family of the Mir and is appointed for life. He represents the Yazidis in all secular matters and his decisions have full authority.<sup>369</sup> The current Baba Sheikh is Khurto Hajji Ismail.

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<sup>362</sup> USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28; Encyclopaedia Britannica, see above footnote 356; Encyclopaedia of the Orient, *Yazidism*, see above footnote 353; Dulz, Hajo and Savelsberg, p. 2, see above footnote 359.

<sup>363</sup> See, for example, Savelsberg and Hajo, p. 6, see above footnote 354.

<sup>364</sup> Encyclopaedia Britannica, see above footnote 356; The Independent, *Hell’s Angels*, 29 November 2003, <http://www.religionnewsblog.com/5213/hells-angels>.

<sup>365</sup> Encyclopaedia of the Orient, *Yazidism*, see above footnote 353.

<sup>366</sup> Allison, see above footnote 355.

<sup>367</sup> The Sheikh and Pir are again divided into sub-groups. For more information, see: Allison, see above footnote 355.

<sup>368</sup> Dengê Êzîdiyan, *Fragen zum Yezidentum, Was hat es mit der Klassengesellschaft im Yezidentum auf sich?* [in German language], <http://www.yezidi.org/144.0.html> [accessed January 2007].

<sup>369</sup> *Ibidem*, *Der Religionsrat der Yeziden*, <http://www.yezidi.org/144.0.html> [accessed January 2007].

Yazidis are furthermore organized in tribes, with a chief (*Agha*) at the head of each. Yazidis are usually monogamous, but chiefs may have more than one wife.

## *ii) Situation of Yazidis in Central Iraq*

The situation of Yazidis in the Ninewa Governorate and other areas under the administration of the Central Government has deteriorated since the fall of the former regime, due to high levels of insurgent activities and ethnic/religious tensions. Targeted attacks against Yazidis include threats, assassinations and public defamation campaigns. As they are considered “infidels” (or even apostates) and of Kurdish ethnicity,<sup>370</sup> Yazidis have been targeted by Sunni extremists present in Baghdad and towns like Sinjar, Mosul and Tel Afar.<sup>371</sup> Most attacks against Yazidis are not reported in the international and national media or are portrayed as incidents involving Kurds.<sup>372</sup> UNAMI reported that in late December 2006, a Yazidi was murdered in Mosul; according to the police simply on the basis of his religious affiliation.<sup>373</sup> Mir Tahsin Saied Beg survived a bombing in Al-Qosh on 17 December 2004. Reportedly, the Mir and other prominent figures avoid public appearances for security reasons.<sup>374</sup>

Insurgent groups have also targeted Yazidis for their (perceived) support for the US-led invasion and the presence of the MNF, considering them collaborators.<sup>375</sup> For example, Marwan Khalil Murad, who worked as a project director for international aid organizations, was reportedly shot and wounded after he had hosted 20 Americans in his home in Sinjar.<sup>376</sup> Others have been targeted for their political activities and support for the political process.<sup>377</sup> For example, the Mayor of Sinjar, a Yazidi, has been subjected to attacks in 2004 and 2005. In July 2005, a bodyguard of Dr. Mamou Othman, then Minister of State for Civil Society in Iraq and the only Yazidi cabinet member, was targeted and killed.<sup>378</sup> Other prominent persons of the community have also been threatened. For example, Yazidi doctor Abd Al-Aziz Suleiman Siwu, the head of the branch office for the Lalish cultural centre in Bashika and Bahzani received a threat letter in January 2004 signed by Ansar Al-Islam. It accused him of collaborating with the Americans, Zionists and the Patriotic Union

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<sup>370</sup> See also “Kurds, Arabs, Turkmen428F, Ethnic-Based Christian Groups (Assyrians, Chaldeans, Armenians)429F, Yazidis430F and Shabak431F in Ethnically Mixed Areas” and “Kurds and Other Segments of Iraqi Society”.

<sup>371</sup> See: AP, *Beleaguered Yazidi find peace high in Iraq’s northern mountains*, 14 October 2006, <http://www.todayonline.com/articles/148550.asp>. See also: Savelsberg and Hajo, p. 3 and 6, see above footnote 354.

<sup>372</sup> Savelsberg and Hajo, p. 2, see above footnote 354.

<sup>373</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 14, see above footnote 10. Other incidents cited by Savelsberg and Hajo, see above footnote 354.

<sup>374</sup> Savelsberg and Hajo, p. 4, see above footnote 354.

<sup>375</sup> See Laurence F. Kaplan, *Devil’s Advocates*, The New Republic, 6 November 2006, <http://www.tnr.com/doc.mhtml?i=20061106&s=diarist110606>. See also “Actual or Perceived Sympathizers of the US-Led Invasion and/or the Multi-National Force in Iraq”.

<sup>376</sup> AP, see above footnote 371.

<sup>377</sup> See also “Government Officials and Other Persons Associated With the Current Iraqi Government, Administration and Institutions”.

<sup>378</sup> Dulz, Hajo and Savelsberg, p. 4, see above footnote 359.

of Kurdistan (PUK), and ordered him to leave the city of Mosul as otherwise he would face death.<sup>379</sup>

Yazidis have also been targeted for “un-Islamic” behaviour and activities such as smoking in public during Ramadan or selling alcohol.<sup>380</sup> Yazidi women, who traditionally go without veils and circulate in public much as men do, are now hardly leaving the home or only when wearing a veil.<sup>381</sup> It has been reported that in Friday prayers and on leaflets and posters, the population, including members of other religious groups, is being ordered to comply with Islamic dress codes and abide by religious rules during Ramadan. In the past, many Yazidis ran restaurants called *gazinos* particularly in urban areas such as Baghdad, Basrah, Hilla, Nassriyah and Fallujah. As of 2003, they were forced to close them down due to threats by Muslim extremists.<sup>382</sup> In May 2004, posters in several areas of Mosul announced that it was religiously permitted, *halal*, to kill Yazidis, Jews, Christians and Americans.<sup>383</sup> Other Yazidis have been victims of criminal activity, although even in those cases their religion may be a factor given that their minority status makes them a soft target.

Yazidi religious feasts have not been held or only with restrictions since 2004 due to fear of attacks.<sup>384</sup> In 2004 and 2005, Mir Tahsin Saied Beg decided to postpone the *Cejna Cemayya*, the yearly Feast of Assembly carried out in the Lalish Valley, for safety reasons. The participation in certain religious rites which take place during the feast nonetheless remains obligatory to date and the celebrations were resumed in 2006.<sup>385</sup>

As a consequence of the above treatment, many Yazidis have been displaced since 2003, most of them to the Region of Kurdistan. Medya, a weekly paper issued in Erbil, reported in late November 2006 that:

*“(A)n informed Ezidi source advised that only 10 to 15 Ezidi families have remained in Mosul and the rest have moved to other Kurdistan cities after receiving terrorist threats to leave. The danger of the Ezidi Kurds is double for being Kurds ethnically and non-Muslims in terms of religion, the source elaborated adding that he was aware of the immigration of more than 200 families out of Mosul.”*<sup>386</sup>

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<sup>379</sup> Translation to German by Dulz, Hajo and Savelsberg, p. 5, see above footnote 359.

<sup>380</sup> Savelsberg and Hajo, p. 3, see above footnote 354.

<sup>381</sup> This applies in particular to those women living in cities where they would be in contact with members of the Muslim society. Women living in collective settlements, which were built by the former regime as part of the *Arabization* campaigns, face less pressure to comply with Islamic dress codes as they live among their own community.

<sup>382</sup> Dulz, Hajo and Savelsberg, p. 1, see above footnote 359.

<sup>383</sup> Savelsberg and Hajo, p. 5, see above footnote 354. See also “Persons Accused of “Un-Islamic” Behaviour”.

<sup>384</sup> Savelsberg and Hajo, p. 4, see above footnote 354.

<sup>385</sup> Information received from Irene Dulz, through e-correspondence in February 2007. Irene Dulz studied Islamic Science at the University of Hamburg and her thesis dealt with the situation of the Yazidis in Iraq. She worked for the refugee council in North Rhine-Westphalia / Germany and is currently employed at the Goethe Institute in Amman, Jordan. Her special field is Iraq and she is regularly traveling to the Kurdish parts of Iraq. German courts have requested her opinion when dealing with asylum cases of Iraqi Yazidis.

<sup>386</sup> Translation from Kurdish language by UNAMI.



AP reported in October 2006 that “(H)undreds of Yazidi families have fled Mosul in the past two years leaving little more than a half dozen now.”<sup>387</sup>

Additionally, Yazidi traditions such as forced marriage, “honour killings” or the prohibition to marry outside one’s caste and religion may result in serious human rights violations at the hands of the family or community.<sup>388</sup> According to the German organization *Yezidisches Forum*, Yazidi women who have been kidnapped or sexually assaulted by Muslims may face severe sanctions by the Yazidi community, including exclusion from the Yazidi religion and community and possibly violence. At times, rumours can be sufficient basis for such sanctions.<sup>389</sup> UNHCR also learned of a case in which a Yazidi couple from different castes was killed by the man’s family on 11 August 2006 in Shekhan District.

### *iii) Situation of Yazidis in the Region of Kurdistan*

As mentioned earlier, only a small portion of Iraq’s Yazidis live in the area under the administration of the KRG, mainly in the Governorate of Dahuk. The Kurdish authorities generally respect the rights of religious minorities. The Kurdistan Democratic Party (KDP) in particular has made an effort to reach out to the Yazidis with the aim of gaining their political support. Accordingly, the Kurds have supported Yazidi religious rights in their draft constitution, mentioning them explicitly in the Preamble and in Articles 7 and 124(II), although the prominent role given to Islam as a source of legislation remains a worrying factor for other religious groups.<sup>390</sup> The KDP also furthers Yazidi cultural rights, e.g. through the introduction of Yazidi religious classes in schools with a minimum of 20 Yazidi pupils and the provision of financial assistance to the Yazidi Lalish cultural centre in Dahuk and its numerous branch offices in Jebel Sinjar, Shekhan and Mosul. It also exerts its influence on Yazidis living outside the Kurdistan Region, which the KRG seeks to incorporate. For example, the KDP has become a major employer in Sinjar and Shekhan, areas that had seen little development over the years and where unemployment is high.<sup>391</sup> Some Yazidis expressed concern over forced assimilation into Kurdish culture and identity.<sup>392</sup> Some have accused the Kurdish parties of diverting US \$12 million

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<sup>387</sup> Paul Schemm, “Iraqi “devil worshipers” seek US support”, AP, 11 October 2006, <http://www.wwrn.org/article.php?idd=23022&sec=41&cont=4>.

<sup>388</sup> See also “Women”.

<sup>389</sup> Yezidisches Forum e.V., *Yezidische Frauen im Irak* (position paper on the situation of Yazidi women in Iraq), submitted to the Administrative Court of Oldenburg [in German language], 4 February 2002, <http://www.yezidi.org/index.php?id=101>.

<sup>390</sup> See, for example, The Globe, *Kurdistan constitution recognizes Islam as a source of legislation*, 28 August 2006, <http://www.ekurd.net/mismas/articles/misc2006/8/independentstate929.htm>; IRIN, *Iraq: Role of Islam in regional constitution sparks debate*, 18 June 2006, <http://www.irinnews.org/report.aspx?reportid=27025>.

<sup>391</sup> Savelsberg and Hajo, p. 7-11, see above footnote 354.

<sup>392</sup> AP, see above footnote 371; Ann Scott Tyson, *Vying for a Voice, Tribe in N. Iraq Feels Let Down*, The Washington Post, 27 December 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/12/26/AR2005122600717.html>.

reconstruction funds allocated for Yazidi areas in Jebel Sinjar to a Kurdish village and marginalizing them politically.<sup>393</sup>

Yazidis may be discriminated against by segments of the Muslim population based on the widespread perception that Yazidis are “unclean” or “non-believers”.<sup>394</sup> Additionally, and as outlined above, Yazidis may face severe treatment at the hands of the family or community. On 22 April 2007, a group of 23 Yazidi workers heading home from a Mosul textile factory were shot dead. Witnesses claimed that Christians and Muslims who were travelling on the same bus were not harmed.<sup>395</sup>

#### **d) Baha’i**

The Baha’i faith<sup>396</sup> was founded in the 19<sup>th</sup> century by Baha’u’llah, a Persian nobleman, who proclaimed himself the most recent prophetic messenger following Mohammed, Jesus, Buddha, Krishna, Abraham and others. Baha’is number around six million in more than 200 countries around the world, although the Baha’i do not make up a majority in any country. There are no figures as to their numbers in Iraq. The faith has a unique system of global administration, with freely elected governing councils in nearly 10,000 localities. The Universal House of Justice,<sup>397</sup> first elected in 1963, is the highest governing body, directing the spiritual and administrative affairs of the Baha’i faith and has its seat in Haifa, Israel.<sup>398</sup>

The Baha’i belief has often been considered heretical by Islam. For example, the Baha’is belief that there is only one religion and all the messengers of God have progressively revealed its nature, contradicts the Muslim belief that Prophet Mohammed was God’s last messenger.<sup>399</sup> A series of *fatwas* from Al-Azhar, Egypt’s highest religious authority with influence in the wider Islamic world, have condemned the Baha’i faith as a form of Islamic

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<sup>393</sup> Christian Peacemaker Teams, *Iraq: Dashed Yazidi dreams*, 30 September 2005, <http://www.cpt.org/archives/2005/sep05/0053.html>; *ibidem*, *Iraq’s Yazidis, A Religious and Ethnic Minority Group Faces Repression and Assimilation*, 25 September 2005, <http://www.aina.org/reports/yezidiscpt.pdf>.

<sup>394</sup> Dulz, Hajo and Savelsberg, p. 9, see above footnote 359. See also: Jesse Nunes, *Iraq’s sectarian strife engulfs minority Yazidis*, *Christian Science Monitor*, 24 April 2007, <http://www.csmonitor.com/2007/0424/p99s01-duts.html>; the article refers to a report from the Turkish Daily News that 215 Yazidis have been killed since the 2003 US invasion of Iraq, and most of the killings “were perpetuated on religious grounds as fundamental and Islamist groups see Yazidis as infidels who either have to convert or be killed”.

<sup>395</sup> Karin Brulliard, *An Iraqi Massacre Rooted in Interfaith Love*, *The Washington Post*, 23 April 2007, <http://www.washingtonpost.com/wp-dyn/content/article/2007/04/22/AR2007042200110.html>. It is reported that the massacre was triggered by a Muslim woman marrying a Yazidi man.

<sup>396</sup> For more on the Baha’i faith, see, for example, The Baha’is, *What is the Bahá’í Faith?* [http://bahai.org/facts/bahai\\_faith](http://bahai.org/facts/bahai_faith). See also: BBC, *Religions & Ethics – Baha’i*, <http://www.bbc.co.uk/religion/religions/bahai/>.

<sup>397</sup> For more information on the Universal House of Justice, see, for example, Baha’i Topics, *The Universal House of Justice*, <http://info.bahai.org/universal-house-of-justice.html>.

<sup>398</sup> This has led to Baha’is in Iran being accused of Zionist activities, an accusation that might likely be raised against Baha’is in Iraq as well; see Juan Cole, *The Baha’is of Iran*, *History Today*, 1990, Vol. 40 Issue 3, p. 24, [http://www.sullivan-county.com/id3/bahai\\_iran.htm](http://www.sullivan-county.com/id3/bahai_iran.htm).

<sup>399</sup> On the relationship between Islam and the Baha’i faith, see Cole, *ibid.*

apostasy and a threat to public order.<sup>400</sup> Bernard Lewis, one of the most widely read scholars of the Middle East, stated that the very existence of a post-Islamic monotheistic religion such as the Baha'i faith challenges the Islamic doctrine of the perfection and finality of Mohammed's revelation, the Qur'an.<sup>401</sup>

Law No. 105 of 1970 prohibits the Baha'i faith in Iraq, although this runs counter to constitutional guarantees relating to the freedom of religion.<sup>402</sup> Based on this law and other regulations, the Government of Iraq continues with discriminatory practices against the Baha'i. In 1975, the Directorate of Civil Affairs issued Decision No. 358 providing that civil status records, which contain all information relevant to the civil status of Iraqi persons such as birth, marriage, divorce, etc., can no longer indicate "Baha'i" as religion. Instead, one of the three Abrahamic religions, i.e. Islam, Christianity or Judaism, had to be indicated.<sup>403</sup> Those persons who could not prove that they belong to one of these recognized religions, e.g. through their parents' civil status records or a court order, or were not willing to do so, will have their civil records frozen, meaning that requests for birth, death or marriage certificates, civil status identification documents or passports will not be processed.<sup>404</sup> Recent requests from the Baha'i to change this policy have reportedly been met with sympathy, but the Ministry of Interior's Nationality and Travel Directorate Offices continue to implement this regulation.<sup>405</sup> This policy puts adherents of the Baha'i faith in the untenable position of either having to make a false statement about their religious beliefs or to be left without documentation necessary to access most rights of citizenship, including education, ownership of property, medical care or food rations.

#### e) **Kaka'i / Ahl i-Haq / Yarsan**<sup>406</sup>

The Kaka'i are a distinct religious group that mainly reside in the areas of Kirkuk (mainly Tareeq Baghdad, Garranata, Wahid Athar, Hay Al-Wasitty, Eskan and Shorja as well as in the District of Daqooq), Mosul (Kalaki Yasin Agha area) and Khanaqin (mainly Mirkhas and Kandizard areas) in the Governorate of Diyala,<sup>407</sup> but also in villages in the Kurdistan Region close to the Iranian border. Kaka'i can also be found in major cities such as Baghdad, Sulaymaniyah and Erbil. There is little information about this group as it favours

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<sup>400</sup> The Washington Times, *Court denies Bahai couple document IDs*, 17 December 2006, <http://www.washtimes.com/world/20061217-122113-6320r.htm>. The Supreme Administrative Court Ruling can be found at: [http://info.bahai.org/pdf/EGYPTSAC\\_16DEC06\\_ENGLISH.pdf](http://info.bahai.org/pdf/EGYPTSAC_16DEC06_ENGLISH.pdf).

<sup>401</sup> Bernard Lewis, *The Jews of Islam*, 1984, Princeton: Princeton University Press, p. 21.

<sup>402</sup> See "Non-Muslim Religious Groups".

<sup>403</sup> While this practice also affected other religious minority groups in the past, only the Baha'i continue to be affected by it.

<sup>404</sup> Amendment to Article 17 (3) of the amended Civil Status Law No. 65 (1972).

<sup>405</sup> Information received by UNHCR in January 2007.

<sup>406</sup> According to some sources, Yarsanism, Alevism and Yazidism are three branches of an ancient religion called Yardanism or "Cult of Angels", an indigenous Kurdish faith; see Dr. Mehrdad R. Izady, *The Kurds, A Concise Handbook*, Department of Near Eastern Languages and Civilization, Harvard University, 1992, <http://yarsan.web.surftown.se/English/Yarsanism.htm>; another, but derogatory name used for the Kaka'i is *Ali Illahi*, given the widespread belief that the Kaka'i deify Imam Ali bin Abi Talib, Prophet Mohammed's cousin and son-in law; see Encyclopaedia of the Orient, *Ahl-e Haqq*, <http://lexicorient.com/e.o/ahl-e-haqq.htm> [accessed January 2007].

<sup>407</sup> USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28.

secretive religious practices. The religion is monotheistic and syncretistic, having incorporated elements from several religions, including Islam.<sup>408</sup>

The Kaka'i believe in reincarnation, with each soul having to pass through 1,001 incarnations in order to achieve the "ultimate heavenly rewards".<sup>409</sup> According to the tradition, male members of the Ahl i-Haq never cut or trim their moustaches. This habit is prohibited by Islam, according to which the moustache must always be kept short.<sup>410</sup> Generally, the Kaka'i marry among their community. According to the Encyclopaedia of the Orient, there are an estimated 200,000 Kaka'i in Iraq.<sup>411</sup>

The group has its spiritual centre in the village of Hawar in the Governorate of Sulaymaniyah. Most are ethnic Kurds, but speak their own language called *Macho* (alternate names are Hawramani, Old Gurani).<sup>412</sup>

The Jund Al-Islam, and later its successor Ansar Al-Islam, which are radical Kurdish home-grown Islamist groups and said to have links with the Al-Qa'eda network, exercised strict control over a number of villages near the town of Halabja in the Governorate of Sulaymaniyah as of September 2001.<sup>413</sup> The group ruled the areas based on an extreme interpretation of Shari'a law and launched a "holy war" against what it considered "blasphemers and secularists". While their primary focus was the PUK, the Kaka'i, living in three villages in the area and considered "heretics" by the Jund Al-Islam, were also targeted. Human Rights Watch (HRW) described that the villages were raided on 4 September 2001. The residents were rounded up and ordered to adhere to the Jund Al-Islam's interpretation of Islam. According to HRW,

*"(T)hose who refused were apparently told they would be made to pay a "religious tax" imposed on all non-Muslims, as well as risk having their property seized."*<sup>414</sup>

Furthermore, several Kaka'i shrines were destroyed. Reportedly, the majority of 450 households fled the villages and have to date been unable to return due to the presence of landmines as well as the lack of services.<sup>415</sup> The Kaka'i have one representative in the

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<sup>408</sup> Sometimes, it is classified as being a branch of Shi'ite Islam. See: Encyclopaedia of the Orient, *Ahl-e Haqq*, see above footnote 406.

<sup>409</sup> *Ibid.*

<sup>410</sup> For more information about the religion, see, for example, *ibid.* See also: Izady, *The Kurds, A Concise Handbook*, see above footnote 406.

<sup>411</sup> Encyclopaedia of the Orient, *Ahl-e Haqq*, see above footnote 406.

<sup>412</sup> ICG, *Radical Islam in Iraqi Kurdistan: the Mouse that Roared?*, 7 February 2003, p. 5, [http://www.crisisgroup.org/library/documents/report\\_archive/A400885\\_07022003.pdf](http://www.crisisgroup.org/library/documents/report_archive/A400885_07022003.pdf); Ethnologue, Languages of the World, Gurani, [http://www.ethnologue.com/show\\_language.asp?code=hac](http://www.ethnologue.com/show_language.asp?code=hac).

<sup>413</sup> Global Security, *Ansar al Islam (Supporters of Islam)*, [http://www.globalsecurity.org/military/world/para/ansar\\_al\\_islam.htm](http://www.globalsecurity.org/military/world/para/ansar_al_islam.htm) [last updated 6 July 2005].

<sup>414</sup> HRW, *Ansar al-Islam in Iraqi Kurdistan*, 5 February 2003, <http://www.hrw.org/backgrounder/mena/ansarbk020503.htm>.

<sup>415</sup> ICG, *Radical Islam in Iraqi Kurdistan*, p. 5, see above footnote 412; HRW, *ibidem*; Michel Rubin, *The Islamist Threat in Iraqi Kurdistan*, Middle East Intelligence Bulletin, Vol. 3, No. 12, December 2001, [http://www.meib.org/articles/0112\\_ir1.htm](http://www.meib.org/articles/0112_ir1.htm). During the 2003 US-led invasion, Ansar Al-Islam's training camps in the Kurdish-controlled areas of Northern Iraq were attacked by Coalition and Kurdish forces in an attempt to eliminate the organization accused of providing a safe haven to Al-Qa'eda and Abu Musab Al-Zarqawi. These attacks disrupted the organization but it seems to have regrouped quickly, and continues to be

KRG. Mr. Falak Al-Deen Kakai, senior member of the KDP, is the current Minister of Culture.<sup>416</sup>

Since the fall of the former regime, the Kaka'i living in the areas under central government administration have come under pressure by religious extremists who consider them "infidels". UNHCR has received information of threats, kidnappings and assassinations of Kaka'i, mainly in Kirkuk. UNHCR was informed that Muslim religious leaders in Kirkuk asked people not to purchase anything from "infidel" Kaka'i shop owners. In addition, Kaka'i might be targeted on the basis of their Kurdish ethnicity.<sup>417</sup> UNHCR received information that in Mosul, the Kaka'i no longer dare to reveal their identity as Kaka'i.

It is believed that most Kaka'i have been displaced since the fall of the former regime.<sup>418</sup> For example, in the end of November 2006, Hewler Post, a bi-weekly paper issued in Erbil, reported that 100 Kaka'i Kurds fled from the Urouba quarter in downtown Kirkuk after having received threats from "terrorists".<sup>419</sup> UNHCR has received information that some 250-300 Kaka'i families from Baghdad were displaced to Khanaqin.

#### **f) Jews<sup>420</sup>**

Iraqi Jews constituted one of the world's oldest and historically significant Jewish communities. In the first half of the 20<sup>th</sup> century, they were relatively prosperous and well integrated into Iraqi society, held positions in the Iraqi parliament and bureaucracy, were prominent in trade and contributed to local arts and literature. However, Nazi anti-Jewish propaganda as of the 1930s and the creation of the State of Israel in 1948 resulted in public attacks against Jews and Jewish institutions and harsh laws discriminating against the Jewish population, which was estimated at 150,000 in 1948. Initially, they were prohibited from leaving the country, but in the early 1950s, the then Iraqi Government issued Law No. 1 (1950) (*Denationalization Act*), which allowed them to emigrate under the condition that they relinquish their Iraqi citizenship. In March 1951, nearly 120,000 Jews were evacuated in the airlift operation called "*Ezra and Nehemiah*" from Baghdad to Jerusalem. Law No. 5 (1951), known as *Law for the Control and Administration of Property of Jews Who Have Forfeited Nationality*, seized all the assets of Jews who had been denationalized by Law No. 1 (1950). Law No. 12 (1951), which was attached to Law No. 5 (1951), froze

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held responsible for attacks in Northern Iraq, mainly directed against senior PUK/KDP political and military officials. See UNHCR, *2005 Country of Origin Information Iraq*, p. 66-67, see above footnote 53.

<sup>416</sup> KRG, *Ministers of the new unified cabinet*, 7 May 2006, [http://www.krg.org/articles/article\\_detail.asp?LangNr=12&RubricNr=93&ArticleNr=10938&LangNr=12&LNNr=28&RNNr=97&TopicText=Cabinet&SiteID=50](http://www.krg.org/articles/article_detail.asp?LangNr=12&RubricNr=93&ArticleNr=10938&LangNr=12&LNNr=28&RNNr=97&TopicText=Cabinet&SiteID=50).

<sup>417</sup> See also "Kurds, Arabs, Turkmen<sup>428F</sup>, Ethnic-Based Christian Groups (Assyrians, Chaldeans, Armenians)<sup>429F</sup>, Yazidis<sup>430F</sup> and Shabak<sup>431F</sup> in Ethnically Mixed Areas" and "Kurds and Other Segments of Iraqi Society".

<sup>418</sup> IRIN, *Iraq: Minorities living tormented days under sectarian violence*, 4 January 2007, <http://www.irinnews.org/report.aspx?reportid=62981>.

<sup>419</sup> Hewler Post, November 2006 (in Kurdish, unofficial translation from UNAMI).

<sup>420</sup> Jews consider themselves as an ethno-religious group.



all transactions related to Jewish property in Iraq. An estimated US \$200 million in property was taken over by the Iraqi State.<sup>421</sup>

The 10,000 Jews remaining after Operation “*Ezra and Nehemiah*”<sup>422</sup> stayed through the era of President Abdul Karim Qassim when conditions improved. But under the ruling of the Ba’ath Party as of 1968, anti-Jewish sentiments ran high and culminated in the 1969 hanging of 14 Iraqis, most of them Jews, who were falsely accused of spying for Israel. This event led to the flight of most of the remaining Jews from Iraq.<sup>423</sup>

With the fall of the former regime, the living conditions of the few Jews left in Iraq worsened drastically and most have left the country, leaving but a few members.<sup>424</sup> Even more than other religious minorities, they are suspected of cooperating or at least sympathizing with the MNF<sup>425</sup> and fear deliberate assaults by both Islamic extremists and supporters of the former regime. Furthermore, Jews might be suspected of links to Israel, with which Iraq continues to be in a state of war. Anti-Zionist feelings are prevalent, a notion demonstrated after a highly unpopular visit undertaken by Mithal Alousi, a Sunni secular politician, to Israel in September 2004. As a consequence, he lost his senior position in the Iraqi National Congress.<sup>426</sup>

Baghdad’s only remaining synagogue, which bears no identifying marks, has been boarded up since it was reportedly denounced by unknown quarters as “the place of the Zionists” in 2003. In October 2006, Rabbi Emad Levy, Baghdad’s last remaining rabbi, announced that he, too, was leaving Iraq. He compared his life to “*living in a prison*”, as most Jews do not dare to leave the house for fear of kidnapping or execution.<sup>427</sup>

The new Iraqi *Nationality Law* (Law No. 26 of 2006) provides in its Article 18 (I) for the restoration of nationality for those who had been denationalized “*on political, religious, racist or sectarian grounds*”. However, for political reasons, Article 18 (II) excludes Jews from this right, stating that

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<sup>421</sup> On the history of Iraq’s Jews, see, for example, Mitchell Bard, *The Jews of Iraq*, 2006, <http://www.jewishvirtuallibrary.org/jsource/anti-semitism/iraqijews.html>; Philip Mendes, *The Forgotten Refugees: The Causes of the Post-1948 Jewish Exodus from Arab Countries*, 14 Jewish Studies Conference Melbourne, March 2002, [http://www.ajds.org.au/mendes\\_refugees.htm](http://www.ajds.org.au/mendes_refugees.htm).

<sup>422</sup> Others already left on their own between 1950-1951 before Operation “*Ezra and Nehemiah*”.

<sup>423</sup> Sarah Sennott, “*It Is Now or Never*”, Newsweek, 9 April 2004, <http://www.msnbc.msn.com/id/4703546/site/newsweek/>.

<sup>424</sup> The International Religious Freedom Report 2006 noted that according to the head of the Christian and Other Religions Endowment, the Jewish population had “*dwindled to less than fifteen persons in the Baghdad area*”; see: USDOS, *International Religious Freedom Report 2006 – Iraq*, see above footnote 28. In an informal meeting between UNAMI HRO and a representative of the Jewish community in Iraq, it was confirmed that only a few members remain in the country; see UNAMI HRO, *April 2006 Human Rights Report*, p. 9, see above footnote 74.

<sup>425</sup> See also “Actual or Perceived Sympathizers of the US-Led Invasion and/or the Multi-National Force in Iraq”.

<sup>426</sup> Haaretz, *Iraqi National Congress fires Chalabi aide for visiting Israel*, 14 September 2006, <http://www.haaretz.com/hasen/pages/ShArt.jhtml?itemNo=477229&contrassID=1&subContrassID=1&sbSubContrassID=0&listSrc=Y>.

<sup>427</sup> Amit R. Paley, *Next Year, Anywhere But in Grim Baghdad*, The Washington Post, 3 October 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/10/02/AR2006100201317.html>.

*“those Iraqis who had lost their nationality pursuant to Law No. (1) Of 1950 and Law No. (12) Of 1952 cannot have their Iraqi nationality restored as foreseen in Article 18 (I).”*

Iraqi legislation regarding the restitution of property confiscated by the former regime allows for claims regarding property taken by the Ba’ath regime as of 1968, thereby only applying to a small minority of the Jewish community in exile as nearly all Iraqi Jews left during the early 1950s.<sup>428</sup>

## **B. Ethnic Groups**

### **1. Kurds, Arabs, Turkmen<sup>429</sup>, Ethnic-Based Christian Groups (Assyrians, Chaldeans, Armenians)<sup>430</sup>, Yazidis<sup>431</sup> and Shabak<sup>432</sup> in Ethnically Mixed Areas**

#### **a) Introduction**

Ethnic tensions and violence are prevalent in traditionally mixed areas in the Governorates of Kirkuk, Ninewa, Salah Al-Din and Diyala, which have been subjected to the previous Governments’ Arabization policies.<sup>433</sup> Since 2003, ethnic tensions have flared, mainly in Kirkuk and Mosul, and in particular before and in the aftermath of significant political events such as the elections for the TNA and the Governorate Councils in January 2005, the referendum on the Constitution in October 2005 and the elections for the Council of Representatives in December 2005. Inter-ethnic tensions among the Kurdish, Arab and

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<sup>428</sup> The Commission for the Resolution of Real Property Disputes (CRRPD) is not authorized to redress all wrongdoings related to property by the former governments of Iraq. Rather, the jurisdiction of the CRRPD runs from 17 July 1968 to 9 April 2003; see Article 4 of *Statute of the Commission for the Resolution of Real Property Disputes*, Order No. 2 of 2006.

<sup>429</sup> The Turkmen originally came from Central Asia, in a migration that took place over several hundred years, beginning in the 7<sup>th</sup> century AD. The first Turkic people settled in Iraq in the early Islamic era, in the late 7<sup>th</sup> century, and their numbers increased throughout history. Today, they are considered the third largest ethnic group in Iraq and their number is estimated at 2.5 to 3 million by mainly Turkmen sources, which base their estimate on an extrapolation from figures from the 1957 Iraqi census. Most international sources indicate a population of around half a million. Part of the reason for the vast difference in estimates is the former government’s *Arabization* policy that forcibly expelled Turkmen from their traditional lands in Iraq and forced them to register officially as Arabs. The Turkmen of Iraq live mainly in the region stretching from the Northern town of Tel Afar in Ninewa Governorate to Badra and Al-Aziziyah in Wassit Governorate south-east of Baghdad. The largest numbers can be found in the Governorate of Kirkuk, with others in Ninewa, Salah Al-Din, Diyala, Wassit and Baghdad. Also the Northern city of Erbil has a significant Turkmen population. The Turkmen belong to either the Sunni or the Shi’a faith of Islam.

<sup>430</sup> The Assyrians, Chaldeans and Armenians consider themselves as distinct ethnic groups. Assyrians are united by the Syriac language, their Christian faith and a common cultural heritage of the ancient Assyrian civilization. The Syriac language is closely related to the Aramaic spoken in ancient Mesopotamia; Chaldeans and Assyrians share the Syriac language and much of a common history, but were divided by the Chaldeans’ reunification with the Roman Catholic Church in 1552. Today, Assyrians and Chaldeans often consider themselves as belonging to the same ethno-national group, using the name *ChaldoAssyrians*, though this is not undisputed. See, for example, Bet-Nahrain, *Petition: The Assyrian (Al-Ashuryeen) is our name*, 2003, [http://www.betnahrain.org/petition/assyrian\\_name.htm](http://www.betnahrain.org/petition/assyrian_name.htm). See also “Christians232F”.

<sup>431</sup> See also “Yazidis”<sup>352F</sup>.

<sup>432</sup> See also “Shabak”.

<sup>433</sup> See “De-Arabization”.

Turkmen communities in Kirkuk have sharply increased in 2006 and early 2007, in particular after the killing of Abu Musab Al-Zarqawi, former leader of Al-Qa'eda in Iraq, with a number of his supporters having moved to Kirkuk apparently to further stir tensions among Iraq's communities.<sup>434</sup> Sunni extremist groups such as Al-Qa'eda and Ansar Al-Sunna have been recruiting Sunni Arabs and even Sunni Turkmen, many of whom had been forced to leave Kirkuk by the Kurds.<sup>435</sup> There is fear of further escalation in view of the forthcoming referenda on the status of "disputed areas", which, most analysts agree, the Kurds are expected to win.<sup>436</sup>

## b) "Kurdification"

Turkmen, Arab, Christian and Shabak parties claim harassment and forced assimilation by Kurdish militias in Kirkuk and other mixed areas such as villages in the Ninewa Plain, with the aim of incorporating these areas into the Region of Kurdistan.<sup>437</sup> Ethnic minorities have repeatedly accused the Kurdish parties and their military forces of acts of violence and discrimination,<sup>438</sup> arbitrary arrests and detention on sectarian basis, political marginalization<sup>439</sup> (including through electoral manipulations),<sup>440</sup> monopolizing of

<sup>434</sup> According to UNAMI HRO, "(I)nter-ethnic tensions between Arab, Turkoman and Kurdish communities are escalating in Kirkuk"; see UNAMI HRO, *December 2006 Human Rights Report*, p. 13, see above footnote 5. See also: Louise Roug, *Northern Iraq seen as next front in war*, Los Angeles Times, 2 February 2007, <http://www.ft.com/cms/s/f3e52750-b1d4-11db-a79f-0000779e2340.html>; IRIN, *Iraq: Ethnic tensions mount in Kirkuk*, 16 November 2006, <http://www.irinnews.org/Report.aspx?ReportId=61946>; Senanayake, *Iraq: Ethnic Tensions Increasing In Oil-Rich City*, see above footnote 45; Michael Howard, *As violence grows, oil-rich Kirkuk could hold key to Iraq's future*, The Guardian, 27 October 2006, <http://www.guardian.co.uk/Iraq/Story/0,1932789,00.html>; RFE/RL, *Kirkuk Could be Engulfed by Sectarian Violence*, Experts Say, 17 August 2006, <http://www.rferl.org/releases/2006/08/431-180806.asp>; Ali Windawi and Julian E. Barnes, *Violence surges in contested city of Kirkuk*, Los Angeles Times, 20 July 2006, <http://www.peyamner.com/article.php?id=54461&lang=english>.

<sup>435</sup> According to the Washington Institute, the majority of the twenty suicide bombings perpetrated in Kirkuk from July to October 2006 were presumably the work of Al-Qa'eda; see: Cagaptay and Fink, see above footnote 44.

<sup>436</sup> See, for example, Roug, see above footnote 434, and *Iraq Study Group Report*, p. 19, see above footnote 35.

<sup>437</sup> UNAMI HRO reported that "Kirkuk is heavily controlled by security forces and Kurdish militias. Kurdish militias (Peshmerga) exercise to a large degree effective control of the city; most senior official positions are occupied by Kurds or their allies from other ethnicities"; see UNAMI HRO, *December 2006 Human Rights Report*, p. 24, see above footnote 10.

<sup>438</sup> UNAMI HRO expressed concern over the intimidation of minorities in Kirkuk through the use of Kurdish security forces and the power of detention to prevent minorities from playing a significant role in the city's affairs; see UNAMI HRO, *December 2006 Human Rights Report*, p. 23, see above footnote 10. The US State Department reported that "Kurdish authorities abused and discriminated against minorities in the North, including Turcomen, Arabs, Christians, and Shabak. Authorities denied services to some villages, arrested minorities without due process and took them to undisclosed locations for detention, and pressured minority schools to teach in the Kurdish language"; see USDOS, *2005 Country Reports on Human Rights Practices – Iraq*, see above footnote 333.

<sup>439</sup> UNAMI HRO expressed concern over the situation of minorities in Kirkuk and "their ability to effectively participate in its political, economic and social development"; see UNAMI HRO, *December 2006 Human Rights Report*, p. 23, see above footnote 10.

<sup>440</sup> AFP, *Kurds accused of rigging Kirkuk vote*, 8 February 2005, <http://english.aljazeera.net/news/archive/archive?ArchiveId=19677>; AFP, *Ethnic tensions deepen over vote in northern Iraqi city*, 6 February 2006, [http://www.institutkurde.org/en/info/index.php?subaction=showfull&id=1107790140&archive=&start\\_from=](http://www.institutkurde.org/en/info/index.php?subaction=showfull&id=1107790140&archive=&start_from=)



government offices,<sup>441</sup> and changing the demographics with the ultimate goal of incorporating Kirkuk and other mixed areas into the Region of Kurdistan.<sup>442</sup> The Centre for Strategic and International Studies (CSIS) noted that the Kurdish parties “present the threat of soft ethnic cleansing in the area of Kirkuk.”<sup>443</sup>

It has been reported that KDP offices have been opened in all villages in the Ninewa Plain, Kurdish armed forces (*Peshmerga*) patrol the streets of Kirkuk and street signs in Kirkuk have been changed from Arabic to Kurdish.<sup>444</sup> The issue of return of persons displaced by the former Government, as foreseen in Article 58 of the TAL, has particularly sparked tensions and disputes over the ownership of homes and lands and is expected to further increase in view of the popular referendum. The Kurdish parties have been accused of being responsible for the return of hundreds of thousands of Kurds to Kirkuk and other disputed areas, including of persons that had never been expelled by the former regime.<sup>445</sup>

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[&ucat=2&](#); Christian and Shabak communities claim that in the 15 December 2005 elections, approximately 500 non-resident Kurds entered the polling centre in Bartilla and over 200 had voted by the time MNF intervened and stopped the illegal voting; see AINA, *Kurds Block Assyrians, Shabaks From Police Force in Northern Iraq \*PIC\**, 24 June 2006, <http://www.betnahrain.org/bbs/index.pl/noframes/read/5520>.

<sup>441</sup> The Washington Institute reported that persons loyal to the Kurdish parties occupy key civil service positions in Kirkuk and are paid with funds from the budgets of the KRG. Furthermore, ethnic Kurds control Kirkuk’s intelligence and security forces. In 2005, the Kurdish chief of Kirkuk’s police said that 40 percent of Kirkuk’s police force was loyal to the two Kurdish political parties; see: Cagaptay and Fink, see above footnote 44. Furthermore, Christian and Shabak communities claimed in 2006 that the local police forces in the districts of Hamdaniya and Tilkaif in the Ninewa Plain were dominated by Kurds loyal to the KDP while they were underrepresented. Orders by the Ministry of Interior to recruit additional policemen, including from Ninewa’s minority groups were reportedly delayed by the Kurdish-dominated Governorate Council and the Police Chief. The order was finally carried out June 2006, however, Christian and Shabak recruits were assigned to Mosul City instead of their hometowns, which remained under the control of the Kurdish militias; see AINA, *Kurds Block Assyrians, Shabaks From Police Force in Northern Iraq \*PIC\**, 24 June 2006, <http://www.betnahrain.org/bbs/index.pl/noframes/read/5520>.

<sup>442</sup> See, for example, Iraqi Turkmen Human Rights Research Foundation (SOITM), *Violation of Human Rights of the Turkmen in Iraq*, Report to the Working Group on Minorities, 12<sup>th</sup> Session, 30 July 2006, [http://www.turkmen.nl/1A\\_soitm/OSt.49-G3006.doc](http://www.turkmen.nl/1A_soitm/OSt.49-G3006.doc); *ibidem*, *Iraqi Turkoman: “US-made” Kerkuk City Council decides once again in favor of the Kurds*, 11 January 2005, <http://www.unpo.org/article.php?id=1718>.

<sup>443</sup> Anthony H. Cordesman, *Iraq’s Evolving Insurgency and the Risk of Civil War*, CSIS, Arleigh A. Burke Chair in Strategy, Working Draft, revised 26 April 2006, p. xii, [http://www.csis.org/media/csis/pubs/060424\\_iraqinsurgpt.pdf](http://www.csis.org/media/csis/pubs/060424_iraqinsurgpt.pdf).

<sup>444</sup> Cagaptay and Fink, see above footnote 44. See also: UNAMI HRO, *August 2006 Human Rights Report*, p. 13, see above footnote 26; Al-Qaddo, see above footnote 209.

<sup>445</sup> Numbers of Kurdish returnees vary, some sources speak of some 120,000 Kurdish families, see ITF, *Iraqi Turkmen: Results Notification of the Consultation Meeting*, 5 September 2006, <http://www.unpo.org/article.php?id=5330>; SOITM, *Iraqi Turkoman*, see above footnote 442. Rashad Mandan Omer, the former Iraqi minister for Science and Technology, in his report to UNAMI stated that “more than 250000 Kurds” came to Kirkuk after the fall of the former regime; see: Rashad Mandan Omer, *The Turkmen Issue of Kerkuk*, report submitted to UNAMI in 2006, published on the website of the SOITM at [http://www.turkmen.nl/1A\\_soitm/ROM.doc](http://www.turkmen.nl/1A_soitm/ROM.doc). Ali Mehdi Sadek, a Turkoman member of the Kirkuk Governorate Council claims that the population increase in Kirkuk Governorate, from 850,000 in 2003 to 1,150,000 in 2006, could only partially be justified by the return of formerly expelled Kurds, saying that an additional 40,000 Kurdish families had come to Kirkuk; see: ICG, *Iraq and the Kurds: The Brewing Battle over Kirkuk*, Middle East Report No. 56, 18 July 2006, p. 12, [http://www.crisisgroup.org/library/documents/middle\\_east\\_north\\_africa/iraq\\_iran\\_gulf/56\\_iraq\\_and\\_the\\_kurds\\_the\\_brewing\\_battle\\_over\\_kirkuk.pdf](http://www.crisisgroup.org/library/documents/middle_east_north_africa/iraq_iran_gulf/56_iraq_and_the_kurds_the_brewing_battle_over_kirkuk.pdf).

Turkmen, Arabs, Christians and Shabak have repeatedly expressed their fear for ongoing Kurdification of the mixed areas and have called for the recognition of their rights.<sup>446</sup> Assyrian Christian parties have since 2004 lobbied for a new Governorate, “Assyria”, in the Ninewa Plains in line with Article 121 of the Constitution, which guarantees administrative, political, cultural and educational rights for ethnic minorities.<sup>447</sup> Pascale Warda, Director of the Iraqi Women’s Centre for Development in Baghdad and former Minister of Displacement and Migration, has become the public face for this campaign. She and others believe that a self-administered Governorate would be the only way to stop the violence and flow of Christian refugees out of Iraq. Other minorities such as Yazidis and Shabaks would also be welcome according to the supporters of this idea, who say that the Governorate would be “geographically based and not ethnically based”.<sup>448</sup> Whether or not “Assyria” should be part of an enlarged Kurdistan Region or remain under control of the central Government is disputed.<sup>449</sup>

### c) Current Situation

Members of ethnic minorities run the risk of arbitrary arrest and incommunicado detention by Kurdish militias. The existence of extra-judicial detentions were first exposed by the Washington Post in June 2005, which had gathered statements by American and Iraqi officials, government documents and families of victims. It reported a “concerted and widespread initiative” by the Kurdish parties “to exercise authority in Kirkuk in an increasingly provocative manner”.<sup>450</sup> The Washington Post article also cited a source which pointed to a practice by the Kurdish-dominated security forces and the Asayish, the Kurdish

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<sup>446</sup> For example, on 15 August 2005, a peaceful demonstration by Shabak villagers in Bartilla turned violent after KDP gunmen shot at the crowd, injuring several. Shabak demonstrators called for their community’s recognition in the new Constitution holding signs which read “(W)e are the Shabak, NOT Kurds and NOT Arabs”; see AINA, *Kurdish Gunmen Open Fire on Demonstrators in North Iraq*, 16 August 2005, <http://www.aina.org/news/20050816114539.htm>; AP, *Kurdish sub-group demand separate recognition in new Iraq*, 15 August 2005, <http://www.kurdmedia.com/articles.asp?id=7512>. See also: Al-Qaddo, see above footnote 209. Reportedly, 12 Shabak who participated in a radio programme called “*Dostorona Mustaqbbalana*” were arrested, brought to Erbil for interrogation and detained for 12 hours; see Dr. Hunain Al-Qaddo, *Conflicts between Kurds and the Shabak*, Christians of Iraq, 26 August 2005, <http://www.christiansofiraq.com/Shabak8265.html>.

<sup>447</sup> See, for example, Assyrian Universal Alliance, *Assyrian UN Delegation Calls Autonomous Region for Iraq’s Assyrians*, 1 November 2006, <http://www.christiansofiraq.com/autonomousregionNov,16.html>.

<sup>448</sup> Heather Maher, *Iraq: Christian Minority Seeks Haven From Violence*, RFE/RL, 19 October 2006, <http://www.rferl.org/featuresarticle/2006/10/40228640-c96c-4881-bb37-375bd1346efc.html>; Fred Aprim, *The Future of the Assyrians of Iraq: A Safe Haven vs. Self-Administrative Region*, Zinda Magazine, 25 March 2006, <http://www.christiansofiraq.com/administrationMar266.html>.

<sup>449</sup> The Guardian, “*In 20 years, there will be no more Christians in Iraq*”, 6 October 2006, <http://www.guardian.co.uk/Iraq/Story/0,,1888848,00.html>. For example, Kurdistan Nwe, a daily newspaper issued by the PUK in Sulaymaniyah reported on 17 January 2006: “(In front of the House of Parliament in Erbil, the Speaker of the Kurdistan Parliament received a peaceful demonstration of Shabak Kurds from the areas around Mosul who demanded restoring their areas to Kurdistan Region.” (unofficial translation from Arabic by UNHCR).

<sup>450</sup> Steve Fainaru and Anthony Shadid, *Kurdish Officials Sanction Abductions in Kirkuk*, The Washington Post, 15 June 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/06/14/AR2005061401828.html>.

security, of transferring hundreds of detainees<sup>451</sup> from Kirkuk and Mosul to the KRG-administered areas “without authority of local courts or the knowledge of Ministries of Interior or Defense in Baghdad”. According to this source, the abductions had “greatly exacerbated tensions along purely ethnic lines.”

While Kurdish authorities deny the unlawfulness of the transfers,<sup>452</sup> and US sources also say that the practice was stopped after their intervention, UNAMI HRO repeatedly expressed concern over the ongoing practice. In early 2007, it said

*“(T)hey [religious minorities] face increasing threats, intimidations and detentions, often in KRG facilities run by Kurdish intelligence and security forces. This has particular implications for the overall stability of the city, especially in the course of 2007.”*

Furthermore:

*“In many cases the arrest and detention of people is carried out by Kurdish militias. Detainees are often transferred directly to the Kurdistan Region without notifying the governorate or the police. Officials in Kirkuk are aware of such practices, yet no significant effort has been made to stop them.”*<sup>453</sup>

Arbitrary arrests and incommunicado detentions also take place in other areas under the control of the Kurdish parties and militias.<sup>454</sup> Non-Kurds, with the support of the Shi’ite Mehdi Army, which has gained support among Shi’ite Arabs and Shi’ite Turkmen, have responded with attacks against Kurds and their political representatives.<sup>455</sup>

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<sup>451</sup> The revelations in the Washington Post article were confirmed by reporting from Reuters, citing Arab community leaders in Kirkuk. Ahmed Al-Obeidi, head of a small Arab political party, said that the arrests had begun after the US occupation, but accelerated after the 30 January election in which the KDP and the PUK won control of the Kirkuk Provincial Council. Al-Obeidi estimated the total number of detainees at 250, of whom 40 had so far been released. See: Patrick Martin, *State Department cable details ethnic cleansing by US-backed forces in Iraq*, 16 June 2005, <http://www.wsws.org/articles/2005/jun2005/kirk-j16.shtml>. The Washington Post cited other estimates of the number of extrajudicial transfers as 600 or more. US military officials said they had logged 180 cases. US military officials in Kirkuk acknowledged that many prisoners had been detained there and removed to Sulaymaniyah and Erbil. They claimed that this was necessary because of overcrowding in Kirkuk’s jails, although they admitted there had been no judicial authorization for the transfers. Al-Ahram Weekly published the stories of some of the detainees that were released and who speak of arbitrary arrests, incommunicado detentions and use of torture and unlawful confiscation of property; see: Al-Ahram Weekly Online, *An Iraqi powderkeg*, Issue No. 750, 7-13 July 2005, <http://weekly.ahram.org.eg/2005/750/re5.htm>.

<sup>452</sup> See Kurdistan Observer, *Respect for Human Rights in Iraqi Kurdistan*, 23 June 2005, <http://home.cogeco.ca/~kobserver/23-6-05-krk-respond-to-washington-post.htm>; AP, *Kurdish President Disputes Report of Arab, Turkomen Abuse*, 20 June 2005, <http://home.cogeco.ca/~kobserver/20-6-05-barzani-dispute-washington-post-claims.htm>.

<sup>453</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 3-4 and 24, see above footnote 10.

<sup>454</sup> The USDOS reported that “Kurdish security forces committed abuses against non-Kurdish minorities in the North, including Christians, Shabak, Turkomen, and Arabs. Abuse ranged from threats and intimidation to detention in undisclosed locations without due process”; see: USDOS, *2005 Country Reports on Human Rights Practices – Iraq*, see above footnote 333. See also: Cordesman, see above footnote 443; Al-Qaddo, see above footnote 209.

<sup>455</sup> Cagaptay and Fink, see above footnote 44.

Ethnic violence has been responsible for the killing and displacement of thousands of Iraqis.<sup>456</sup> For many, the attacks were seen as a warning to stop the implementation of Article 140 of the Constitution,<sup>457</sup> as well as an attempt to further increase ethnic tensions in the city.<sup>458</sup>

While part of the violence in Kirkuk, Mosul, Tel Afar and other mixed areas is of generalized nature, there are also targeted attacks, including kidnappings and assassinations, against members and representatives of the various ethnic communities.<sup>459</sup> Given that the various ethnic groups in Kirkuk and other mixed areas are vying for political power, such attacks are often of a political nature. Sunni extremists staging a war against Shi'ites and other "non-believers" are also responsible for attacks against members of religious groups.<sup>460</sup>

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<sup>456</sup> Between December 2005 and July 2006, the number of reported violent incidents in Kirkuk increased by 76 percent, ending the city's previous status as a relatively safe area; see: Cagaptay and Fink, see above footnote 44. According to Lt. Col. Khalif Mashhadanny, a senior member of the Kirkuk local police, most of the 1,000 killings in the city of Kirkuk over the past four months were due to tension between Kurds and Turkmen; see: IRIN, *Iraq: Ethnic tensions mount in Kirkuk*, 16 November 2006, <http://www.irinnews.org/Report.aspx?ReportId=61946>.

<sup>457</sup> See "De-Arabization".

<sup>458</sup> Senanayake, *Iraq: Ethnic Tensions Increasing In Oil-Rich City*, see above footnote 45; The Guardian, *As violence grows, oil-rich Kirkuk could hold key to Iraq's future*, 27 October 2006, <http://www.guardian.co.uk/Iraq/Story/0,,1932789,00.html>.

<sup>459</sup> Mariam Karouny, *Kirkuk ethnic rage will test Bush hopes for Iraqis*, Reuters/Assyrian International News Agency, 30 June 2005, [http://web.krg.org/articles/article\\_print.asp?ArticleNr=3980](http://web.krg.org/articles/article_print.asp?ArticleNr=3980). See also: Reuters/Assyrian International News Agency, *Arab Leader Shot Dead in Iraq City of Kirkuk*, 28 May 2005, <http://www.aina.org/news/20050528115623.htm>.

<sup>460</sup> See also "Religious Groups". For example, on 3 February 2007, a string of bombings in Kirkuk killed ten people and wounded more than 50. Two of the bombs targeted the headquarters of the KDP and the PUK; see Sumedha Senanayake, *Iraq: Committee Decision Increases Tensions In Kirkuk*, RFE/RL, 8 February 2007, <http://www.rferl.org/featuresarticle/2007/02/3a63f415-eb59-4a80-b97e-64c245661555.html>; BBC News, *Baghdad market bomb "kills 130"*, 3 February 2007, [http://news.bbc.co.uk/2/hi/middle\\_east/6327057.stm](http://news.bbc.co.uk/2/hi/middle_east/6327057.stm); The Chairman of the ITF, Mr. Sadettin Ergec (Saad Al-Din Arkaj) survived several attacks on his life, most recently on 31 January 2007 near Kirkuk; Reuters Alertnet, *Factbox – Security developments in Iraq, Jan 31*, 31 January 2007, <http://www.reuters.com/article/latestCrisis/idUSL31378914>; Cihan News Agency, *Turkmen Leader Survives Second Assassination Attempt*, 16 July 2006, <http://www.zaman.com/?bl=hotnews&alt=&trh=20060716&hn=34822>. On 28 November 2006, a man wearing an explosive vest blew himself up next to the convoy of the Kurdish Governor of Kirkuk Governorate, Mr. Abdul-Rahman Mustafa, killing a passer-by and wounding 12 people. It was reportedly the third assassination attempt on his life; RFE/RL, *Iraqi Governor Escapes Assassination Attempt*, 28 November 2006, <http://www.rferl.org/featuresarticle/2006/11/A6C23C77-C52A-4F37-97E4-0E9A3421B5B8.html>; UNAMI HRO reported the blowing up of a Sunni mosque on 16 November 2006. It further received video evidence showing the abuse and killing of an Arab man, who was in the custody of local security officers, in the streets of Kirkuk. Also, on 19 November 2006, Kurdish singer Mr. Mesa'ud Goran was killed in Mosul presumably because he was believed to support the city's assimilation into the Region of Kurdistan; UNAMI HRO, *December 2006 Human Rights Report*, p. 13-14, see above footnote 10. On 17 October 2006, Mr. Fattah Rashid Harki, a senior PUK member, was shot dead in Mosul and in late October 2006, women rights activist Mrs. Faliha Ahmed was killed in Hawija, southwest of Kirkuk. Though the motive remains unclear, her death may be linked to her speaking out against the discrimination against Arabs in Kirkuk and the assimilation of Kirkuk into the Kurdistan Region; see UNAMI HRO, *October 2006 Human Rights Report*, p. 5-6 and 12, see above footnote 66. On 10 July 2006, five persons were killed and 12 wounded in a bombing against a PUK office in Kirkuk. Further attacks against PUK offices in Mosul and other cities took place on 11 August 2006, after a Shi'ite cleric was criticized in an official Kurdish newspaper for fuelling tensions among Iraq's Shi'ite



## 2. Roma (Kawliyah)<sup>461</sup>

### a) Introduction

The Roma, or Kawliyah, originate from India, but have been living in Iraq for hundreds of years. They are a distinct ethnic group with their own language, traditions and culture, although they have never been recognized as such in Iraq. Roma usually adopt the dominant religion of the host country while preserving aspects of their particular belief systems.<sup>462</sup> In Iraq, they usually adhere to Islam, either the Sunni or Shi'a branch. The Kawliyah used to live a nomadic life, were not registered and did not have any documentation. During the Iraq-Iran War (1980-1988), the regime of Saddam Hussein provided them with Iraqi nationality and Iraqi ID cards in order to recruit the males for the war. The former Government also provided them with housing in the newly created "First of June" village in the District of Abu Ghraib as well as in Al-Kamalia area in southeast Baghdad. Other villages could be found in the south, in particular in the Governorate of Qadissiyah. Under the Ba'ath regime, Kawliyah villages enjoyed police protection and the authorities turned a blind eye and even encouraged the Kawliyah to pursue occupations such as playing music, dancing, selling of alcohol and prostitution. Reportedly, the former regime built amusement parks and brothels along the Southern Iraqi border to attract people from the Gulf, but Iraqi military officers and Ba'ath party officials also became frequent customers. Nevertheless, Kawliyah were considered second-class citizens and remained deprived of a number of rights. For example, they were not allowed to own property and did not have access to higher positions in the Government or the military.<sup>463</sup>

There are no official statistics on the number of Roma in Iraq. It is estimated that some 10,000 individuals lived in the Baghdad area before the fall of the former regime.<sup>464</sup> Today, Kawliyah tribal leaders say that there are more than 60,000 in the whole country, with some

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Arabs and Kurds in Kirkuk; UNAMI HRO, *August 2006 Human Rights Report*, p. 6, see above footnote 26. ITF offices in Mosul were attacked by unidentified gunmen on 11 November 2005, resulting in the killing of two passers-by; see UNAMI HRO, *December 2006 Human Rights Report*, p. 2, see above footnote 10. Turkmen leader Mr. Qassab Uglu was killed in a drive-by shooting in Kirkuk on 14 September 2005; see Ahmed Janabi, *Everyone is a target in Iraq*, Al Jazeera, 18 December 2005, <http://english.aljazeera.net/news/archive/archive?ArchiveId=15127>. A senior Education Ministry official and member of the ITF was assassinated in August 2004 in Kirkuk; he had been strongly involved in a debate over which languages should be taught in schools in Kirkuk; see Middle East Online, *Iraqi Turkmen official killed in Kirkuk*, 31 August 2004, <http://www.kurdmedia.com/news.asp?id=5422>.

<sup>461</sup> Most sources used in the section refer to the Roma as "gypsies". However, this term is often considered derogatory and these guidelines therefore refer to this group as either Roma or *Kawliyah*, the latter is the name the community in Iraq itself uses.

<sup>462</sup> For further information on the history, religion and culture of the Roma, see, for example, <http://www.rroma.org/> and the Dom Research Center, Middle East and North Africa Gypsy Studies, <http://www.domresearchcenter.com/>.

<sup>463</sup> IRIN, *Iraq: Gypsies call for greater rights*, 3 March 2005, <http://www.irinnews.org/report.aspx?reportid=24925>; Najem Wali, *Iraq Stories*, 2005, <http://www.wordswithoutborders.org/article.php?lab=IraqStories>; IWPR, *Gypsies Seek Government Protection*, Iraqi Crisis Report No. 70, 24 June 2004, [http://iwpr.net/?p=icr&s=f&o=167679&apc\\_state=henniicr2004](http://iwpr.net/?p=icr&s=f&o=167679&apc_state=henniicr2004).

<sup>464</sup> IOM Mission in Iraq, *Newsletter January – February 2006*, p. 10, [http://www.iom-iraq.net/newsletters/IOM\\_Iraq\\_Newsletter\\_JanFeb06\\_English.pdf](http://www.iom-iraq.net/newsletters/IOM_Iraq_Newsletter_JanFeb06_English.pdf).

11,000 in the Governorate of Qadissiyah.<sup>465</sup> The Dom Research Center provides a figure of 50,000.<sup>466</sup>

## **b) Current Situation**

After the fall of the former regime, the Kawliyah lost the protection once afforded to them. Conservative local communities as well as members of the Mehdi Army, who had long resented their differing social norms, violently forced the Kawliyah from their settlements. For example, on 12 March 2004, dozens of armed Mehdi Army members attacked the village of Kawliyah in the Governorate of Qadissiyah with mortars, rocket-propelled grenades (RPGs) and even bulldozers. Fighting erupted between militia members and Kawliyah villagers and, according to a MNF legal advisor, more than 20 locals died.<sup>467</sup> Furthermore, 18 villagers were detained and tortured by Mehdi Army members, but later freed by the CPA.<sup>468</sup> Other reports say the village was looted and burned. There was no investigation by the police, who were possibly even involved in the attack.<sup>469</sup>

A village in the district of Abu Ghraib was attacked by local residents, who destroyed houses with bulldozers and killed those that refused to leave.<sup>470</sup> It is said that Saddam Hussein settled the Kawliyah in this area in 1979 as an act of revenge against the religiously conservative Zawabei tribe, which traditionally settles in the district of Abu

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<sup>465</sup> IRIN, *Iraq: Minorities living tormented days under sectarian violence*, 4 January 2007, <http://www.irinnews.org/report.aspx?reportid=62981>; *ibidem*, *Iraq: Gypsies call for greater rights*, see above footnote 463.

<sup>466</sup> Dom Research Center, *Population Chart of Iraq*, <http://www.domresearchcenter.com/population/popiraq.html> [accessed January 2007].

<sup>467</sup> Melinda Liu, *Getting Away With Murder?*, Newsweek, 27 May 2004, <http://www.msnbc.msn.com/id/5079129/site/newsweek/>.

<sup>468</sup> *Ibid.*

<sup>469</sup> Jeffrey White and Ryan Philips, *Sadrists revolt provides lessons for counterinsurgency in Iraq*, Jane's Intelligence Review, August 2004, <http://washingtoninstitute.org/html/pdf/white0804.pdf>; Anthony Shadid, *In a Gypsy Village's Fate, An Image of Iraq's Future*, The Washington Post, 3 April 2004, <http://www.washingtonpost.com/ac2/wp-dyn/A46446-2004Apr2>. Other incidents were reported as follows: another village in the Governorate of Qadissiyah, near Diwaniyah, was attacked with mortars on New Year's Day 2005, reportedly killing a woman and wounding three others. The primary school and clinic built by the former regime had been rendered useless and many houses were destroyed in the attack; see Deepa Babington, *Poverty and fear dominate life for Iraq's Gypsies*, Reuters, 6 January 2006, <http://www.reliefweb.int/rw/rwb.nsf/480fa8736b88bbc3c12564f6004c8ad5/dca16d353d5bbb7492570ec001cef3d?OpenDocument>. The village of Al-Fawar in the Governorate of Qadissiyah was reportedly ransacked by followers of radical Shi'a cleric Muqtada Al-Sadr. According to the police, no one has been held responsible for this assault; see IWPR, *Gypsies Seek Government Protection*, see above footnote 463. Najem Wali, journalist and writer from Al-Amarah, described how the Roma's belongings and houses in Al-Amarah were looted in acts of vengeance by the city's inhabitants; see: Najem Wali, *Iraq Stories*, 2005, <http://www.wordswithoutborders.org/article.php?lab=IraqStories>. In addition, *Kawliyah* from Hilla in Babel Governorate disbanded their settlements after Imams loyal to Al-Sadr condemned them; see: Gaiutra Bahadur, *In now-religious Iraq, no tolerance for Gypsies*, Philadelphia Inquirer, 6 June 2005, <http://www.uruknet.info/?s1=1&p=12354&s2=07Read>.

<sup>470</sup> IWPR, *Gypsies Seek Government Protection*, see above footnote 463.

Ghraib and was known for its strong connections with former president Abdel-Salam Arif.<sup>471</sup>

Baghdad's red-light districts, including Kamalia, an area inhabited by Kawliyah, have been "cleaned up" by religious militias aiming at eliminating "prostitution, Gypsy dancers and video parlors, as well as the selling of alcohol".<sup>472</sup> The Kawliyah residents, some 200 families, were expelled and the name of the district, Kamalia, which was known for its brothels since the 1970s, has been changed to Hay Al-Zahra, after the Prophet Mohammed's daughter.<sup>473</sup>

It was reported that Babel's Governorate Council decided to expel those "Gypsies" from the Governorate who do not have an identity card issued in the Governorate.<sup>474</sup>

Since 2003, most Kawliyah have been displaced. Some remain in Iraq,<sup>475</sup> often trying to hide their identity. An unknown number left the country altogether, many to Syria and the Gulf countries. In Iraq, they remain at the lower bottom of the social system, living in former military camps or tents, with limited or no access to health care, education, electricity and water and facing discrimination in employment. Many find no other option but to engage in activities such as prostitution.<sup>476</sup>

The Kawliyah community in Iraq has been subjected to persecution for a variety of reasons. It has always been isolated from majority populations around them and viewed with distrust, its members seen as outsiders and a threat. Their dark complexion and sharp facial features make it easy to distinguish them. They are collectively reputed as alcohol sellers and prostitutes, both considered "un-Islamic".<sup>477</sup> Furthermore, there have been cases in which Kawliyah offered shelter to women at risk of "honour killings", thereby further contributing to their negative image in Iraqi society.<sup>478</sup> Finally, they are considered to have received privileges and protection from the former regime and, through their work, to be associated with the Ba'athists.<sup>479</sup> Partly linked to the Kawliyah openly praising former

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<sup>471</sup> Imam El-Liethy, *Iraq's Gypsies Struggle for Life After Saddam's Fall*, 2003, <http://www.domresearchcenter.com/news/iraq/iraq1.html>.

<sup>472</sup> Constable, see above footnote 269. See also: Babington, see above footnote 469.

<sup>473</sup> Bahadur, see above footnote 469.

<sup>474</sup> Al-Sabaah, *Babel Council decides departing Gypsies families*, 12 December 2006, [http://www.iraqupdates.com/p\\_articles.php?refid=DH-S-13-12-2006&article=1258](http://www.iraqupdates.com/p_articles.php?refid=DH-S-13-12-2006&article=1258).

<sup>475</sup> By early 2006, IOM identified 428 Kawliyah families who had been displaced post-2003. Of those, 179 families originated from the Governorate of Qadissiyah (Al-Fawar village), 139 families from the Governorate of Baghdad (Huzairan, Kamalia, Tamoze and Al-Kansa areas/villages and from Baghdad city centre), 100 families from Ninewa Governorate (Sinjar District) and 10 families from Diyala Governorate (Kana'an District). Most sought refuge in other areas in the Governorates of Baghdad, Kirkuk and Qadissiyah; human rights violations and armed conflict and violence were provided as reasons for displacement. See: IOM Mission in Iraq, *Phase II Monitoring*, January 2006, [http://www.iom-iraq.net/library.html#IDP\\_pashe2\\_reports](http://www.iom-iraq.net/library.html#IDP_pashe2_reports). More updated figures reflecting the situation after the Samarra bombing in February 2006, which led to an escalation in sectarian violence, are not available.

<sup>476</sup> IRIN, *Iraq: Gypsies call for greater rights*, see above footnote 463.

<sup>477</sup> See also "Persons Accused of 'Un-Islamic' Behaviour".

<sup>478</sup> IWPR, *Gypsies Seek Government Protection*, see above footnote 463. See also "Women".

<sup>479</sup> According to the Brookings Institution / University of Bern Project on Internal Displacement

President Saddam Hussein, there have been rumours about Kawliyah being recruited by insurgency groups and their involvement in kidnappings.<sup>480</sup> Given the general population's contempt for the Kawliyah and the infiltration of Iraq's police by Shi'ite militias, they cannot expect any protection by the Iraqi authorities.<sup>481</sup>

### ***C. Actual or Perceived Supporters of the Former Regime and/or the Insurgency***

#### **1. Sunni Arabs**

Before the US-led invasion in Iraq, successive Iraqi governments were largely dominated by Sunni Arabs, who held key positions in the army, and the security and intelligence agencies. Despite the fact that under Saddam Hussein, the authorities also arrested, tortured and executed Sunni Arabs considered opponents of the regime, Shi'ites today accuse Sunnis at large of having supported the former regime.<sup>482</sup> Given the loss of privileges after the fall of the former regime, Sunni Arabs are suspected of supporting or sympathizing with the Sunni-led insurgency, which has targeted Shi'ites in deadly attacks, and are denounced as "terrorists", "*takfiris*", "*salafis*" and "*Wahabis*".<sup>483</sup>

As highlighted elsewhere in this report, Shi'ite death squads and certain elements of the ISF have carried out violent reprisals against the Sunni Arab community, including abduction, torture and extra-judicial killings.<sup>484</sup> Even though the Government of Prime Minister Al-Maliki has vowed to foster national reconciliation, including by granting an amnesty to

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*"(T)he Roma came under attack soon after the fall of the regime in both Sunni and Shi'a areas – in fact, violence against Roma settlements were among the first recorded post-invasion sectarian incidents, but only few Coalition officials paid attention because they are such a small community in Iraq. Many Iraqis consider that the Ba'thi regime favored the Roma, but people interviewed then said that plain prejudice is in fact a driving factor in the violence against them, notably the belief that the Roma community lives off prostitution and alcohol trading".*

See: Al-Khalidi and Tanner, p. 24, see above footnote 161.

<sup>480</sup> See also "Actual or Perceived Supporters of the Former Regime and/or the Insurgency".

<sup>481</sup> The Boston Globe reported that Iraqi soldiers and police in Kirkuk were accused of beating several "gypsy" women prostitutes and burning their tents in December 2005; see Thanassis Cambanis, *For returning unit in Iraq, a battle with doubts*, The Boston Globe, 8 January 2006, [http://www.boston.com/news/world/middleeast/articles/2006/01/08/for\\_returning\\_unit\\_in\\_iraq\\_a\\_battle\\_with\\_doubts/?page=1](http://www.boston.com/news/world/middleeast/articles/2006/01/08/for_returning_unit_in_iraq_a_battle_with_doubts/?page=1).

<sup>482</sup> See also "Members and Associates of the Ba'ath Party and the Former Regime".

<sup>483</sup> The terms *takfiri*, Salafi and Wahabi are used to denounce Sunni extremists. *Takfir* is the practice of denouncing an individual (or a group) as not being a true follower of Islam, but rather of being a "*kafir*", an infidel. The *takfiri* ideology urges Sunni Muslims to kill anyone they consider an infidel. This ideology is followed by the Al-Qa'eda in Iraq and Ansar Al-Sunna, among others, which have declared war on the Shi'a population they consider to be "*kuffar*". *Salafism* is a movement within Sunni Islam that seeks to revive a practice of Islam that more closely resembles the pure form of Islam prevailing during the time of Prophet Mohammed. *Wahabism* is a particular orientation within Salafism and is the dominant form of Islam in Saudi-Arabia and Qatar; see, for example, HRW, *Nowhere to Flee – The Perilous Situation of Palestinians in Iraq*, September 2006, p. 28, <http://hrw.org/reports/2006/iraq0706/index.htm>; USIP, *Who Are The Insurgents? Sunni Arab Rebels in Iraq*, Special Report, April 2005, p. 12, <http://www.usip.org/pubs/specialreports/sr134.pdf>.

<sup>484</sup> See "Sunni Arabs". See also "Iraqi Security Forces and Shi'ite militias" and "Shi'ites and Sunnis Civilians".



Sunnis willing to denounce violence and releasing those detainees found innocent,<sup>485</sup> the ISF continues to be accused of carrying out indiscriminate arrest campaigns against Sunni Arabs. There have been consistent reports about the systematic use of torture, and its prevalence has been “widely acknowledged as a major problem by Iraqi officials”.<sup>486</sup> In fact, the situation is worse for detainees held by the Iraqi authorities, in unofficial detention centres of the Ministry of Interior. The vast majority of these are Sunni Arabs, mostly accused of “terrorism”.<sup>487</sup>

## 2. Members and Associates of the Ba’ath Party and the Former Regime

Under the former Government’s rule, the State, the armed forces and the security and intelligence apparatus were dominated by the Ba’ath Party, which served as the President’s political instrument to control the country. No special qualifications were required to become a member of the Party, and the regime consistently and systematically expanded membership. Members perceived by the Government to have been particularly loyal received preferential treatment in key aspects of life.

Thousands of former Ba’ath Party members in governmental establishments, universities and schools (including the RCC, National Assembly, members of the former judicial and prosecutorial system organs, the military, paramilitary, and security and intelligence services) lost their jobs as a result of the *de-Ba’athification* process. This happened, even though many of those who joined the Party had done so out of necessity and not ideological conviction. Thousands of Iraqis, however, were deeply involved in the Ba’ath Party’s crimes as they rose to positions of authority. While any Iraqi could join the Ba’ath Party, it was largely dominated by Arab Sunnis, in particular its higher ranks. Although the total number is unknown, it is estimated that between one and 2.5 million Iraqis were members of the Ba’ath Party.<sup>488</sup>

On 16 May 2003, the CPA’s Order No. 1 outlawed the Ba’ath Party.<sup>489</sup> Members of the four senior Ba’ath Party ranks<sup>490</sup> and anyone in the top three levels of management in the

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<sup>485</sup> See, for example, Jurist, Holly Manges Jones, *Iraq reconciliation plan offers amnesty, bans rights violations and torture*, 25 June 2006, <http://jurist.law.pitt.edu/paperchase/2006/06/iraq-reconciliation-plan-offers.php>; Lionel Beehner, *The Debate Over Granting Amnesty to Iraqi Insurgents*, CFR, 22 June 2006, [http://www.cfr.org/publication/10965/debate\\_over\\_granting\\_amnesty\\_to\\_iraqi\\_insurgents.html](http://www.cfr.org/publication/10965/debate_over_granting_amnesty_to_iraqi_insurgents.html).

<sup>486</sup> UNAMI HRO, *August 2006 Human Rights Report*, p. 15-18, in particular para. 64, see above footnote 26.

<sup>487</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 18, see above footnote 10. See also: Ellen Knickmeyer, *U.S. Envoy Calls Torture Severe And Extensive at 2 Iraqi Prisons*, The Washington Post, 14 December 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/12/13/AR2005121300429.html>.

<sup>488</sup> Doug Struck, “My Hands Are Not Stained With Blood”, The Washington Post, 3 February 2005, <http://www.washingtonpost.com/wp-dyn/articles/A59279-2005Feb3.html>.

<sup>489</sup> CPA Order No. 1, see above footnote 82. Article 7 (I) of the Constitution of Iraq bans the “*Saddamist Ba’ath in Iraq*”; however, the Ba’ath Party *de facto* was never dissolved and was later reorganized with a new structure. After the execution of former President Saddam Hussein on 30 December 2006, the Ba’ath Party announced that it had appointed Izzat Al-Douri, its Deputy Secretary-General, to succeed Saddam Hussein as the Party’s Secretary-General. See: Al Jazeera, *Iraq’s Baath party names new leader*, 1 January 2007, <http://english.aljazeera.net/NR/exeres/4878159A-9C63-4F91-AB54-5915374D5149.htm>; see also: Anthony H. Cordesman, *The Iraqi Insurgency and the Risk of Civil War: Who Are the Players?*, CSIS, Working Draft, revised 1 March 2006, p. 48, [http://www.csis.org/media/csis/pubs/060301\\_iraginsurgplayers.pdf](http://www.csis.org/media/csis/pubs/060301_iraginsurgplayers.pdf).

public sector who was a full member of the Ba'ath Party (irrespective of the rank),<sup>491</sup> were dismissed from their jobs, whether or not they had been accused of wrongdoing. It is estimated that this affected some 30,000 persons, including thousands of teachers and other lower-level bureaucrats who had to join the party to survive under the former regime's rule. According to former CPA Administrator Paul Bremer, the order was meant to screen out no more than one percent of the Ba'ath Party members, targeting only its most senior members. He accused Iraqi officials of having gone too far with cleaning the Iraqi Government of Ba'ath Party members.<sup>492</sup> By Order No. 4, all property and assets of the Iraqi Ba'ath Party were seized by the CPA.<sup>493</sup> In November 2003, the CPA established the *Iraqi De-Ba'athification Council* to root out senior Ba'athists from Iraq's administration and to hear appeals from Ba'athists who were in the lowest ranks of the party's senior leadership.<sup>494</sup> The Party's foremost leaders were not permitted to appeal their dismissals. Some 15,000 people were eventually permitted to return to work after they won their appeals, according to Nibras Kazimi, a former adviser to the re-named *De-Ba'athification Commission*.<sup>495</sup>

By Order No. 2 of the CPA, Iraq's Army, paramilitary forces and security/intelligence services were dissolved. In addition, any person of the rank of Colonel or above was considered a "senior Party Member" and barred from returning to work.<sup>496</sup> While there was great consensus that Iraq's security and intelligence agencies and paramilitary forces had to be dismantled given their role in the suppression of the Iraqi people, the dissolution of the Iraqi Army was more controversial.<sup>497</sup> With the deterioration of the security situation and the need for experienced persons both in the security forces and the administration, the

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<sup>490</sup> *Udw Qutriyya* (Regional Command Member), *Udw Far* (Branch Member), *Udw Shu'bah* (Section Member) and *Udw Firqah* (Group Member) were considered "senior Party Members" ranks. See: CPA Order No. 1, Section 1 (2), see above footnote 82.

<sup>491</sup> Including *Udw* (Member) and *Udw Amil* (Active Member). See: CPA Order No. 1, Section 1 (3), see above footnote 82.

<sup>492</sup> Matt Kelley, *Bremer admits errors in rebuilding Iraq*, USA Today, 6 February 2007, [http://www.usatoday.com/news/washington/2007-02-05-iraq-contracts\\_x.htm](http://www.usatoday.com/news/washington/2007-02-05-iraq-contracts_x.htm).

<sup>493</sup> CPA Order No. 4, *Management of Property and Assets of the Iraqi Baath Party*, 25 May 2003, available in UNHCR's Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=469cd8282>. This Order was subsequently rescinded; see: CPA Order No. 100, *Transition of Laws, Regulations, Orders, and Directives Issued by the CPA*, Section 4, 28 June 2004, available in UNHCR's Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=46a609512>.

<sup>494</sup> See: CPA Order No. 5, *Establishment of the Iraqi De-Ba'athification Council*, 25 May 2003, available in UNHCR's Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=469cd94f2>. By CPA Memorandum No. 7, the CPA delegated the authority to carry out the De-Ba'athification of the Iraqi society to the Iraqi Governing Council (IGC) and rescinded Order No. 5; the Council was renamed *Supreme National Commission For De-Baathification*. See: CPA Memorandum No. 7, *Delegation of Authority Under the De-Ba'athification Order No. 1*, 4 November 2003, available in UNHCR's Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=469cd698b>. The Commission's existence and authority was reaffirmed in Article 135 of the Constitution.

<sup>495</sup> CFR, *Iraq: Debaathification*, 7 April 2005, <http://www.cfr.org/publication.html?id=7853>; Struck, see above footnote 488.

<sup>496</sup> CPA Order No. 2, *Dissolution of Entities*, see above footnote 82.

<sup>497</sup> ICG, *After Baker-Hamilton*, p. 19, see above footnote 111. See also: The Library of Congress, p. 3, see above footnote 72.

CPA began to allow some vetted ex-Ba'athists to return to their jobs. Interim Prime Minister Iyad Allawi continued this policy after the hand-over of sovereignty.<sup>498</sup>

However, the Shi'ite-dominated Iraqi Transitional Government under Prime Minister Ibrahim Al-Ja'afari and the Iraqi Government of Prime Minister Nouri Al-Maliki<sup>499</sup> announced major purges of former Ba'ath members.<sup>500</sup> For example, nine senior judges were removed from the Iraqi High Tribunal in 2005 on the grounds that they were former members of the Ba'ath Party, although they had been vetted before their appointment. Other judges were threatened with dismissal but were ultimately allowed to remain so as not to further disrupt the Tribunal's work.<sup>501</sup> This was on the basis of the *De-Ba'athification* Order.

Since then, pressure increased on the Government to reverse the *de-Ba'athification* policy, which was widely blamed for creating a vast pool of unemployed and disenfranchised Sunnis, many of whom later joined insurgent groups. In order to gain Sunni support in the October 2005 constitutional referendum, a compromise was reached under which the new *Council of Representatives* would consider amendments to the Constitution.<sup>502</sup> A major issue for review is the reversal of the *de-Ba'athification* policy.<sup>503</sup> According to many Sunnis, the Government's *de-Ba'athification* policy has become an instrument to not only identify members of the former regime, but to target Sunnis as such and prevent them from being employed in the public sector.<sup>504</sup>

On 7 November 2006, the Iraqi Government announced that it had prepared a draft law that would allow the majority of former Ba'ath Party members to return to their positions or to draw a pension for their past employment in an aim to reach out to the Sunni population and foster national reconciliation. According to Ali Faysal Al-Lami, Director of the de-Ba'athification Commission, this move would allow all but the 1,500 most senior former Ba'ath Party officials to either return to their jobs or get retirement benefits.<sup>505</sup>

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<sup>498</sup> Edward Wong, *Iraq Asks Return of Some Officers of Hussein Army*, The New York Times, 3 November 2005, <http://www.globalpolicy.org/security/issues/iraq/occupation/2005/1103officers.htm>; Al Jazeera and agencies, *Ex-Baathists to get back civil jobs*, 12 June 2004, <http://english.aljazeera.net/News/archive/archive?ArchiveId=4375>; Rory McCarthy, *U-turn on hiring of Ba'ath party members*, The Guardian, 23 April 2004, <http://www.guardian.co.uk/Iraq/Story/0,,1201330,00.html>; John King, *Policy easing to bring Baathists into new Iraq*, CNN, 22 April 2004, <http://www.cnn.com/2004/WORLD/meast/04/22/iraq.baathist/>.

<sup>499</sup> Prime Minister Nouri Al-Maliki was a former deputy head of Iraq's De-Ba'athification Commission.

<sup>500</sup> Ellen Knickmeyer, *Iraqi Alliance Seeks to Oust Top Officials of Hussein Era*, The Washington Post, 18 April 2005, <http://www.washingtonpost.com/wp-dyn/articles/A61487-2005Apr17.html>.

<sup>501</sup> RFE/RL, *Iraq: De-Ba'athification Commission Backs Away From Tribunal Purge*, 29 July 2005, <http://www.rferl.org/featuresarticle/2005/07/5c52d87e-b550-4eb7-94d2-a4ddb80e0853.html>.

<sup>502</sup> Article 142 of the Constitution.

<sup>503</sup> See, for example, IRIN, *Iraq: Constitution revision key to reconciliation, analysts say*, 6 July 2006, <http://www.irinnews.org/report.aspx?reportid=27109>.

<sup>504</sup> ICG, *The Next Iraq War? Sectarianism and Civil Conflict*, Middle East Report No. 52, 27 February 2006, p. 10, [http://www.crisisgroup.org/library/documents/middle\\_east\\_north\\_africa/iraq\\_iran\\_gulf/52\\_the\\_next\\_iraqi\\_war\\_sectarianism\\_and\\_civil\\_conflict.pdf](http://www.crisisgroup.org/library/documents/middle_east_north_africa/iraq_iran_gulf/52_the_next_iraqi_war_sectarianism_and_civil_conflict.pdf).

<sup>505</sup> BBC News, *Iraq Baathists ban "to be eased"*, 7 November 2006, [http://news.bbc.co.uk/2/hi/middle\\_east/6123182.stm](http://news.bbc.co.uk/2/hi/middle_east/6123182.stm); John Ward Anderson, *Proposal Would Rehire Members of Hussein's Party*, The Washington Post, 7 November 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/11/06/AR2006110601321.html>.

Persons affiliated or associated with the former Government in Iraq, through membership in the Ba'ath Party or as a result of their functions or profession, have been the subject of attacks since the early days of the regime change and continue to face serious risk of human rights violations. The degree to which these persons are at risk depends on several factors, such as the extent of association with the Ba'athist ideology and the human rights violations committed during that era, the rank or position previously held, and whether or not the person is known to have been involved in political activities. Senior level of affiliation or rank within the Ba'ath Party or the country's political or security system may be a determining factor regarding who is targeted. Low-ranking officials have, however, also been killed or otherwise attacked because their activities were well-known<sup>506</sup> at neighbourhood level, e.g. they were involved in policing activities, the search for army deserters or the recruitment for paramilitary armed groups such as *Jaish Al-Quds* (The Jerusalem Army), the *Fedayeen Saddam* (Saddam's "Men of Sacrifice") and the *Ashbal Saddam* (Saddam's Lion Cubs). In addition, a number of low-level bureaucrats such as teachers and professors have been killed.<sup>507</sup> Some bodies that were found were clearly identified (with notes on them) as Ba'ath Party members.<sup>508</sup>

Former members of the Ba'ath Party and the country's political and security institutions may face harassment, intimidation and physical violence, including assassination.<sup>509</sup> Reportedly, "hit-lists" have been established by Shi'ite militias from Ba'ath Party membership lists and documents looted from buildings of the former security and intelligence agencies after the fall of the former regime. Former officials are accused of having engaged in broad-based discrimination and widespread terror, suppressing freedom of conscience, and condoning summary and arbitrary executions, torture, rape and sexual abuse during detention and enforced or involuntary disappearances.

Despite a number of *fatwas* issued by Shi'ite clerics, including Grand Ayatollah Ali Al-Sistani, not to carry out acts of revenge against Ba'ath party members or security officers of the former Government, a wave of killings took place after the fall of the former regime.<sup>510</sup>

<sup>506</sup> See also: See UNHCR, *2005 Eligibility Guidelines*, para. 48, see above footnote 8.

<sup>507</sup> See also "Academics, Professors, Teachers and Students".

<sup>508</sup> Romesh Ratnesar, *Vengeance Has its Day*, Time Magazine, 22 November 2003, <http://www.time.com/time/magazine/article/0,9171,548790,00.html>; Anna Badkhen, *Gunmen stalk Hussein party members*, San Francisco Chronicle, 21 September 2003, <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2003/09/21/MN81296.DTL>.

<sup>509</sup> For a list of cases involving the (attempted) killing of former Ba'ath Party officials and other persons considered to be affiliated with the former regime of Saddam Hussein, see "Annex IV: Attacks on Government Officials and Other Persons Associated With the Current Iraqi Government, Administration and Institutions".

<sup>510</sup> AI, *Iraq – The need for security*, 4 July 2003, MDE 14/143/2003, p. 5-6, [http://web.amnesty.org/library/pdf/MDE141432003ENGLISH/\\$File/MDE1414303.pdf](http://web.amnesty.org/library/pdf/MDE141432003ENGLISH/$File/MDE1414303.pdf); Scott Wilson, *Iraqis Killing Former Baath Party Members*, The Washington Post, 20 May 2003, <http://www.washingtonpost.com/ac2/wp-dyn/A12583-2003May19>. See also: Dumeetha Luthra, *Basra revenge killings increase*, BBC News, 9 December 2003, [http://news.bbc.co.uk/2/hi/middle\\_east/3303051.stm](http://news.bbc.co.uk/2/hi/middle_east/3303051.stm); Ratnesar, see above footnote 508; Joel Brinkley, *Revenge killings thin ex-Baathists' ranks*, The New York Times, 1 November 2003, <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2003/11/01/MNGPP2072B1.DTL>; Anna Badkhen, *Gunmen stalk Hussein party members*, San Francisco Chronicle, 21 September 2003, <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2003/09/21/MN81296.DTL>.

It has been documented that attacks against former Ba'athists have increased since the elections in 2005, when Shi'ite parties came to power. Reportedly, Shi'ite militants distributed printed death threats listing former Ba'athists, both Sunnis and Shi'ites.<sup>511</sup> Special Police Commandoes under the control of the Ministry of Interior and affiliated Shi'ite militias have since been accused of systematic abduction, torture and extra-judicial killings of Sunni Arabs. While UNHCR reported in its 2005 *Eligibility Guidelines* that the “victim’s religious affiliation (whether Sunni or Shi’a) does not appear to play a role in why particular individuals are singled out”,<sup>512</sup> it is now clear that the Sunni population at large is identified with the former regime and the ongoing insurgency.<sup>513</sup>

Other groups perceived as having supported or received preferential treatment by the former regime have also been targeted by Shi'ite militias, e.g. the Roma (Kawliyah),<sup>514</sup> Palestinians or professors, teachers, artists, etc., whose careers were (seemingly) advanced by membership in the Ba'ath Party.<sup>515</sup> Other attacks also appear to be the result of personal revenge of former victims or their families against perpetrators of detention, torture or other violations of human rights.

The lack of accountability for crimes committed under the previous regime is considered a factor encouraging people to take the law into their own hands and take revenge. Except for the *Dujail* case<sup>516</sup> and the *Anfal* case<sup>517</sup> before the Iraqi High Tribunal, which was set up

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<sup>511</sup> Hannah Allam, *Revenge killings of members of Saddam’s former regime rise*, Knight Ridder Newspaper, 25 February 2005, [http://www.mcclatchydc.com/staff/hannah\\_allam/story/11164.html](http://www.mcclatchydc.com/staff/hannah_allam/story/11164.html).

<sup>512</sup> UNHCR, 2005 *Eligibility Guidelines*, para. 51, see above footnote 8.

<sup>513</sup> See “Sunni Arabs”.

<sup>514</sup> See “Roma (Kawliyah)460F”.

<sup>515</sup> See “Certain Professions”.

<sup>516</sup> The following eight defendants were tried in the Dujail case (ranging in levels of seniority): former President Saddam Hussein; his half-brother and former chief of the intelligence service, Barzan Al-Tikriti; former Deputy Prime Minister, and later Vice-President and head of the Ba'ath Popular Army, Taha Yassin Ramadan; President of the Revolutionary Court, Awwad Hamed Al-Bandar; Abdullah Kadhem Ruaid and Mizhar Abdullah Ruaid, senior Ba'ath Party officials in Dujail; Ali Daeem Ali and Mohammed Azawi Ali, both Ba'ath party officials in Dujail. The defendants were charged with crimes against humanity for their involvement in the killing of Shi'a Muslims in the town of Dujail in 1982, including the murder of a total of 157 people, the illegal arrest of 399 people, torturing women and children and the destruction of farmland. On 5 November 2006, the Iraqi High Tribunal found Saddam Hussein and Barzan Al-Tikriti guilty of wilful killing, torture, deportation/forcible transfer, imprisonment, and other inhumane acts. The two were sentenced to death and multiple terms of imprisonment. Awwad Hamed Al-Bandar was found guilty of wilful killing and sentenced to death. Saddam Hussein, Barzan Al-Tikriti and Awwad Hamed Al-Bandar were executed in December 2006 and January 2007, respectively. Taha Yassin Ramadan was found guilty of wilful killing, deportation, torture, imprisonment, and other inhumane acts. He was sentenced to life imprisonment and multiple jail terms, but on 12 February 2007, the Iraqi High Tribunal sentenced him to death after the appeal court had recommended the death penalty. As each death sentence of the Trial Chamber of the Iraqi High Tribunal is automatically reviewed by an appeals panel, the Appeal Chamber confirmed the death penalty and Taha Yassin Ramadan was executed on 20 March 2007. Abdullah Kadhem Ruaid and Ali Daeem Ali were both found guilty of wilful killing, torture and imprisonment. They were sentenced to 15 years imprisonment plus multiple other jail terms. Mizhar Abdullah Ruaid was convicted of the same charges and penalties. Charges against Mohammed Azawi Ali were dismissed for lack of evidence. See, for example, BBC News, *Saddam trial: Verdicts in detail*, 5 November 2006, [http://news.bbc.co.uk/2/hi/middle\\_east/6118302.stm](http://news.bbc.co.uk/2/hi/middle_east/6118302.stm); *ibidem*, *Top Saddam aide sentenced to hang*, 12 February 2007, [http://news.bbc.co.uk/2/hi/middle\\_east/6354205.stm](http://news.bbc.co.uk/2/hi/middle_east/6354205.stm); International Center for Transitional Justice, *Iraq Tribunal Issues Verdict in First Hussein Trial*, 5 November 2006, <http://www.ictj.org/en/news/press/release/1041.html>.



to try the most senior members of the former regime, little has been done to date to bring to justice those who were involved in human rights violations and to document past crimes.<sup>518</sup>

According to the *Freedom Monitoring Commission*, an Iraqi human rights group, the killing of former Ba'athists continues unabated, in particular in the Southern cities of Nassriyah, Diwaniyah, Amarah, Basrah, Samawa, Kut, Hilla, Kerbala, Najaf and Hindiya. The group said in November 2006 that “(t)he number of Baathists killed since the start of 2006 has reached 1,556 people and none of the cases has been investigated.”<sup>519</sup>

#### ***D. Actual or Perceived Sympathizers of the US-Led Invasion and/or the Multi-National Force in Iraq***

##### **1. Employees of the Former CPA, MNF or Iraqis Employed by Foreign Embassies or Foreign Companies**

Many Iraqis who previously worked or presently work for, or have any type of association with the MNF, foreign (mainly Western) embassies or foreign companies are generally perceived by the insurgency as condoning and supporting the “occupation” of Iraq and have been targeted since the fall of the former regime. Other factors such as an individual’s religion, ethnicity or gender may constitute additional criteria for targeting specific persons.

Iraqis are hired for all types of employment, including as contractors, engineers, translators, drivers, construction workers, bodyguards, cleaning personnel, cooks, etc. According to statistics from the US Department of Labor, 199 translators, among them Iraqis, working for Titan, a US military contractor employing thousands of translators across Iraq, have

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<sup>517</sup> Six co-defendants of Saddam Hussein are on trial for mass killings in the so-called *Anfal Campaign* of 1987-1988. According to the Prosecution, 182,000 Kurds, mainly civilians, died in the operation. Charges include genocide, crimes against humanity and war crimes. In January 2007, all charges against former President Saddam Hussein were dropped after he was executed on 30 December 2006 over the killing of Shi'as in Dujail. The other six defendants are Ali Hassan Al-Majid Al-Tikriti, the alleged architect of the *Anfal* campaign and cousin of former President Saddam Hussein. He was the Secretary-General of the Ba'ath Party's Northern Bureau from 1987 to 1989, with authority over all state agencies in the Kurdish region during this period; Tahir Tawfiq Al-Aani, former Governor of Ninewa, Ba'ath Party official and assistant to Ali Hassan Al-Majid; Sabr Abdul-Aziz Al-Douri, former General Director of Iraq's Military Intelligence Service; Farhan Mutlak Al-Jaburi, former Director of the Military Intelligence Service of the Northern Region; Sultan Hashem Ahmed Al-Ta'i, former Commander of Corps I of the Iraqi Army, in charge of the Northern Sector during the *Anfal* campaign. He later became Minister of Defence; Hussein Rashid Al-Tikriti, former Deputy for Operational Affairs to the Chief of Staff of the Iraqi Army during the *Anfal* campaign. See: BBC News, *Timeline: Anfal trial*, [http://news.bbc.co.uk/2/hi/middle\\_east/5272224.stm](http://news.bbc.co.uk/2/hi/middle_east/5272224.stm) [last updated 8 January 2007]; International Center for Transitional Justice, *Iraq: Tribunal Must Improve Efforts in Anfal Trial*, 17 August 2006, <http://www.ictj.org/en/news/press/release/995.html>.

<sup>518</sup> Corinne Troxler and Michael Kirschner, *Irak: Gefährdung von ehemaligen Mitgliedern der Baath-Partei*, Swiss Refugee Council [in German language], 27 January 2006, p. 7-8, [http://www.osar.ch/2006/02/13/irak060127\\_irq\\_baathsecurity](http://www.osar.ch/2006/02/13/irak060127_irq_baathsecurity).

<sup>519</sup> Azzaman, Abdulhussein Ghazal, *1,500 Baathists killed in south*, November 2006, [http://www.iraqupdates.com/p\\_articles.php?refid=DH-S-09-11-2006&article=11687](http://www.iraqupdates.com/p_articles.php?refid=DH-S-09-11-2006&article=11687).

been killed in Iraq and another 491 injured as of August 2006. While some died in combat, others have solely been targeted for “collaborating” with the MNF.<sup>520</sup>

Acts committed against (former) employees or perceived supporters of the MNF embassies or foreign companies may vary from verbal harassment and threats to individuals and their families, to kidnapping, physical attacks and murder. Neither the Iraqi authorities nor the MNF or foreign states are capable of granting proper security to their respective local nationals and employees,<sup>521</sup> in particular not once the working relationship has ended.

## **2. Employees of the UN, ICRC or Humanitarian Organizations Including NGOs and Human Rights Defenders**

The UN and most foreign and international NGOs depend largely on local Iraqi staff to implement their activities in the country. Most international staff was pulled out of Iraq following a series of attacks on humanitarian personnel, including the bombing of the UN Mission in Baghdad on 19 August 2003, an attack on ICRC on 27 October 2003, and several kidnappings and killings of humanitarian workers. According to the NGO Coordination Committee in Iraq (NCCI), at least 82 aid workers have been killed since 2003.<sup>522</sup> In addition, at least 86 aid workers have been kidnapped, 24 arrested by official forces and 245 injured. While these figures include both Iraqis and foreigners, the brunt of violence is borne by Iraqis.<sup>523</sup>

While Iraqi aid workers are at risk of the same generalized violence as other Iraqi civilians, their work exposes them to greater risks, for example, when they work in “hot-spot” areas or move around the country. In addition, Iraqis who previously or presently work for (or have any type of association with) the UN, ICRC or humanitarian organizations, are perceived by the insurgency as condoning and supporting the “occupation” of Iraq or furthering “Western” ideas such as democracy or human rights. For example, a printed

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<sup>520</sup> Pratap Chatterjee, *A Translator's Tale*, CorpWatch, 9 August 2006, <http://www.corpwatch.org/article.php?id=13992>. See also Larry Margasak, *Former Iraqi Translator Tells of Threats*, AP, 15 January 2007, <http://www.salon.com/wire/ap/archive.html?wire=D8MM0T300.html>; Sabrina Tavernise and Robert F. Worth, *Few Iraqis Are Gaining U.S. Sanctuary*, The New York Times, 2 January 2007, <http://www.nytimes.com/2007/01/02/world/middleeast/02refugees.html?ex=1325394000&en=ecd41eeff27f7aed&ei=5088&partner=rssnyt&emc=rss>; Patrick Fort, *Meet Iraqi translator who survived many attacks*, Middle East Online, 19 December 2006, [http://www.iraqupdates.com/p\\_articles.php?refid=WH-S-25-12-2006&article=12759](http://www.iraqupdates.com/p_articles.php?refid=WH-S-25-12-2006&article=12759).

<sup>521</sup> See, for example, Reuters, *Feature – In Iraq, contractor deaths near 650, legal fog thickens*, 10 October 2006, <http://today.reuters.com/News/CrisesArticle.aspx?storyId=N10275842>; BBC News, *Iraq violence: Facts and figures*, [http://news.bbc.co.uk/2/hi/middle\\_east/5052138.stm](http://news.bbc.co.uk/2/hi/middle_east/5052138.stm) [last updated 29 November 2006]. See also: Reuters, *In outsourced U.S. wars, contractor deaths top 1,000*, 3 July 2007, <http://www.reuters.com/article/politicsNews/idUSN0318650320070703>; BBC News, *Denmark ends secret Iraq airlift*, 20 July 2007, <http://news.bbc.co.uk/2/hi/europe/6908792.stm>. See also above footnote 10, and: UNHCR, *2005 Eligibility Guidelines*, p. 13, see above footnote 8.

<sup>522</sup> As of 15 February 2007; the actual figure may be even higher as not all incidents are reported; see NCCI, <http://www.ncciraq.org/>. See also: IRIN, *Aid workers remain under threat, say NGO officials*, 23 March 2006, <http://www.irinnews.org/report.aspx?reportid=26223>.

<sup>523</sup> Information received from NCCI in January 2007.

threat circulated in Kirkuk accused “several foreign-based aid organizations of working for the benefit of a foreign country and against the interests of Iraq.”<sup>524</sup>

Several Iraqi human rights defenders have been targeted since 2003. For example, human rights activist Hussein Al-Ibrahemi survived an assassination attempt on 25 July 2006 when unknown gunmen shot him in Kerbala. In May 2006, Al-Ibrahemi had received threatening letters accusing him of being a “spy” for the US and for facilitating operations for the “occupation forces”.<sup>525</sup> Dr. Ahmed Al-Mosawi, the head of the *Iraqi Human Rights Society*, was kidnapped on 6 March 2006 from the headquarters of his organization. In April 2006, Zuhair Yaseen, a member of the *Prisoners of War Organization*, was assassinated in front of his home in Baqouba and another member was injured. Also in April 2006, Mehdi Mchaitheer Al-Azawi, Director of the *Association of Disabled Females*, was killed by gunmen in front of his home.<sup>526</sup>

The former regime had strictly limited the activities of NGOs in Iraq and, according to NCCI, portrayed humanitarian workers as “foreign spies”. In addition, the UN is often seen negatively, mainly for its role in imposing sanctions on the country since 1990 and for its close relationship with MNF forces. These perceptions continue to prevail in certain segments of Iraqi society and may add to the risks of humanitarian workers.

Other factors such as an individual’s religion, ethnicity or gender may, in the eyes of perpetrators, constitute additional criteria for targeting specific persons. The ongoing sectarianism makes it almost impossible for aid workers to convey their neutrality and impartiality and may put them at risk of being targeted for providing aid to the “wrong” sect or ethnic group.<sup>527</sup>

In addition, Iraqis working for international organizations may be perceived as receiving a high salary and are therefore at particular risk for kidnapping for ransom.

The Iraqi Red Crescent Society (IRCS), which has a staff of 1,000 and 200,000 volunteers and is the only Iraqi aid group working across the country’s 18 Governorates, has been the target of frequent attacks. On 17 December 2006, armed men wearing uniforms similar to those of the Ministry of Interior’s Police Commandoes staged a mass kidnapping at the IRCS’ office in central Baghdad, seizing 30 male staff and visitors. Some were later released, although several still remain unaccounted for. The IRCS temporarily suspended its activities in Baghdad. Possible motives could be sectarianism or to demonstrate the government’s inability to provide security for its citizens, thereby undermining the Government’s legitimacy.<sup>528</sup>

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<sup>524</sup> UNAMI HRO, *August 2006 Human Rights Report*, p. 10, see above footnote 26.

<sup>525</sup> *Ibid.*

<sup>526</sup> UNAMI HRO, *April 2006 Human Rights Report*, p. 3, see above footnote 74.

<sup>527</sup> IRIN, *Aid workers threatened by sectarian violence*, 16 August 2006, <http://www.irinnews.org/report.aspx?reportid=60378>; UNAMI HRO, *August 2006 Human Rights Report*, p. 10, see above footnote 26.

<sup>528</sup> ICRC, *Joint statement: Iraqi Red Crescent abduction*, 21 December 2006, <http://www.icrc.org/Web/Eng/siteeng0.nsf/html/iraq-news-211206!OpenDocument>. See also: IRIN, *Iraq: Suspension of Red Crescent work could affect the lives of thousands*, 19 December 2006, <http://www.irinnews.org/report.aspx?reportid=62857>; *ibidem*, *Iraq: Aid Agencies Call for Respect from Armed Groups*, 18 December 2006,



Acts committed against employees or perceived supporters of these organizations may vary from verbal harassment and threats to individuals and their families, to kidnapping, physical attacks and even murder. Neither the local authorities nor the organizations themselves are capable of granting proper security to their respective local nationals and employees.

### 3. Kurds and Other Segments of Iraqi Society

Kurds are Iraq's second largest ethnic group with an estimated 15 to 20% of the country's population.<sup>529</sup> In particular in mixed areas such as Baghdad, Mosul, Kirkuk and Diyala, they have come under fierce attack from Sunni insurgent groups, both because of their (imputed) political opinion as well as their ethnicity.<sup>530</sup> The Kurdish ruling parties and population at large have been staunch supporters of the US-led invasion and toppling of the Government of Saddam Hussein, which had been responsible for extensive and systematic human rights violations against the Kurdish people. The Kurdish armed forces (*Peshmerga*) were a key ally to the coalition forces that overthrew the former Government in 2003. The MNF presence in and around the three Northern Governorates of Sulaymaniyah, Erbil and Dahuk has been well-tolerated and even welcomed by the Kurdish authorities, as it has brought more respect and recognition to the Kurdish administration on a national and international level.

Since the regime change, the Kurds have been fully involved in the political process. They have worked towards highly controversial goals such as federalism, which Sunni Arabs generally see as a potential trigger for Iraq's break-up.<sup>531</sup> The Kurdish parties' ambitions to incorporate Kirkuk and other "disputed areas" into the Region of Kurdistan are met with resistance by Arab and Turkmen groups. Representatives of the KDP and PUK as well as other Kurds prominently calling for the inclusion of Kirkuk and other "disputed areas" have therefore been targeted. Kurds have also been targeted by Arab Sunni insurgent groups so as to stir ethnic violence between Arabs, Turkmen and Kurds.<sup>532</sup>

In addition, the Kurds have maintained relations with Israel since the 1960s and received support in their activities against the former Ba'athist regime until 1975. However, Iraq and Israel are still officially at war. Since the toppling of the former regime, allegations that Israeli agents have been operating in Iraq's Kurdish areas have been circulating.<sup>533</sup> A BBC

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<http://www.irinnews.org/Report.aspx?ReportId=62737>. See also: Sudarsan Raghavan and Nancy Trejos, *Kidnappers Strike Red Crescent's Iraq Office*, The Washington Post, 18 December 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/12/17/AR2006121700194.html>.

<sup>529</sup> CIA, see above footnote 147.

<sup>530</sup> See also "Kurds, Arabs, Turkmen"<sup>428F</sup>, Ethnic-Based Christian Groups (Assyrians, Chaldeans, Armenians)<sup>429F</sup>, Yazidis<sup>430F</sup> and Shabak<sup>431F</sup> in Ethnically Mixed Areas".

<sup>531</sup> See also "Government Officials and Other Persons Associated With the Current Iraqi Government, Administration and Institutions".

<sup>532</sup> See also "Kurds, Arabs, Turkmen"<sup>428F</sup>, Ethnic-Based Christian Groups (Assyrians, Chaldeans, Armenians)<sup>429F</sup>, Yazidis<sup>430F</sup> and Shabak<sup>431F</sup> in Ethnically Mixed Areas".

<sup>533</sup> See, for example, Conal Urquhart and Michael Howard, *Former covert Israeli forces "training Kurds in Iraq"*, The Guardian, 2 December 2005, <http://www.guardian.co.uk/israel/Story/0,2763,1655993,00.html>; Seymour M. Hersh, *Plan B, As June 30th approaches, Israel looks to the Kurds*, The New Yorker, 21 June

News report of September 2006 provided evidence that Kurdish *Peshmerga* received military training from Israelis, which re-enforced the view that the Kurds are “traitors” and collaborate with the “enemies”.<sup>534</sup> For example, Al-Qa’eda in Iraq views the Kurds as a “Trojan Horse” for economic infiltration into Iraq by Jews.<sup>535</sup>

For these reasons, a number of targeted attacks on Kurdish political and military representatives, KDP and the PUK offices and Kurdish civilians have taken place since 2003 and are reportedly on the rise.<sup>536</sup> For example, on 15 January 2007, a suicide car bomber killed at least five people and wounded 28 more in an attack on a KDP office in Mosul.<sup>537</sup>

Kurds in minority areas such as Baghdad, Fallujah and Ramadi have been displaced by force.<sup>538</sup> Many Kurds from Mosul City, the western side of which once had a majority of Kurds (and Christians), have been displaced, mostly to the three Northern Governorates.<sup>539</sup>

Other groups in Iraq are widely considered to have supported the US-led invasion and international military presence in Iraq. Among them, in particular and as demonstrated above, are the Shi’ites, Yazidis, Christians, Roma and Jews.<sup>540</sup>

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2004, [http://www.newyorker.com/fact/content/articles/040628fa\\_fact](http://www.newyorker.com/fact/content/articles/040628fa_fact); Al Jazeera, *Iran warns Iraq of Israeli agents in Kurdish north*, 10 March 2004, [http://www.aljazeera.com/me.asp?service\\_ID=5070](http://www.aljazeera.com/me.asp?service_ID=5070).

<sup>534</sup> BBC News, *Kurdish soldiers trained by Israelis*, 20 September 2006, <http://news.bbc.co.uk/2/hi/programmes/newsnight/5363116.stm>.

<sup>535</sup> MIPT Terrorism Knowledge Base, *Al-Qaeda Organization in the Land of the Two Rivers*, <http://www.tkb.org/Group.jsp?groupID=4416> [last updated 16 January 2007]. See also “Jews<sup>419F</sup>”.

<sup>536</sup> See, for example, Yahya Barzanji and Lee Keath, *Northern Iraq grows increasingly violent*, AP, 9 October 2006, [http://www.iraquupdates.com/p\\_articles.php/article/10944](http://www.iraquupdates.com/p_articles.php/article/10944); Dr. Rebwar Fatah, *When cultural difference turns to bloodshed*, KurdishMedia.com, <http://www.kurdmedia.com/articles.asp?id=12732>.

<sup>537</sup> Reuters Alertnet, *Factbox – Security developments in Iraq, Jan 15*, 15 January 2007, <http://www.alertnet.org/thenews/newsdesk/L15252128.htm>. Major incidents include the suicide bombing at a police recruitment centre in Erbil on 4 May 2005, in which around 60 people were killed and up to 150 wounded; see BBC News, *Suicide bomber hits Iraqi Kurds*, 4 May 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4511799.stm](http://news.bbc.co.uk/2/hi/middle_east/4511799.stm); three days earlier, 25 people were killed when a suicide bomber attacked the funeral of a KDP official, who had been killed a few days earlier in Telafar. Also in Erbil, at least 101 people were killed in twin suicide bombings striking the KDP and the PUK offices on 1 February 2004. The KDP lost at least three senior government members in the attack, including the Minister for the Council of Ministerial Affairs, Shawkat Shaykh Yazdin, Agriculture Minister Sa’d Abdullah and Sami Abd Al-Rahman, the KRG’s Deputy Prime Minister in Erbil; three senior PUK members also died in the attack; see: Valentinas Mitte, *Iraq: Suicide Attacks In Irbil Could Lead To Stronger Kurdish Unity*, RFE/RL, 2 February 2004, <http://www.rferl.org/featuresarticle/2004/02/2ccc05d3-0dc3-4e12-aa0e-0c9484b6a8d2.html>.

<sup>538</sup> IRIN, *Iraq: Kurds continue to flee cities of Sunni triangle*, 5 October 2004, <http://www.irinnews.org/Report.aspx?ReportId=24128>; Michael Howard, *Kurds flee Fallujah in fear*, The Washington Times, 5 July 2004, <http://washingtontimes.com/world/20040506-110737-5615r.htm>.

<sup>539</sup> Al-Khalidi and Tanner, p. 17, see above footnote 161. See also: Shamal Akrayi, *Kurds and Christians flee Mosul’s insecurity*, The Kurdish Globe, 17 October 2006, <http://www.kurdishaspect.com/doc1017100.html>; Bay Area, *Iraqi Kurdistan: Families Flee Rising Violence*, 11 October 2006, <http://www.unpo.org/article.php?id=5599>. See “Internal Flight or Relocation Alternative”.

<sup>540</sup> See also the relevant chapters under “Religious Groups” and “Ethnic Groups”.

## ***E. Government Officials and Other Persons Associated With the Current Iraqi Government, Administration and Institutions***

A range of persons involved in the political process or (perceived as) supporting the democratization of the country have been targeted in an effort to disrupt both. This includes politicians, members/employees of the Iraqi Government at both the central and the local level and of state-owned companies, and known members of political parties. Many factions deem Iraqi officials “traitors” and “collaborators” who serve a Government formed by an occupying power. Others have been targeted on the basis of their sectarian identity.<sup>541</sup> Insurgent groups have repeatedly threatened Sunnis who take part in the political process.<sup>542</sup> In September 2006, the outlawed Ba’ath Party distributed a “hit list” of prominent Iraqi political, military and judicial leaders, which it intended to target for assassination. The list included mainly prominent Shi’ite politicians such as SCIRI leader Abdul Aziz Al-Hakim and Muqtada Al-Sadr, but also former Prime Minister Iyad Allawi, Kurdish President Jalal Talabani, and Sunni Vice-President and Secretary General of the IIP, Tariq Al-Hashimi. The order also called for the assassination of the listed individuals’ “first, second and third degree relatives.”<sup>543</sup>

While high-ranking politicians are generally well-guarded, their families are more vulnerable. For example, three siblings of Tariq Al-Hashimi were killed in separate incidents in April and October 2006.<sup>544</sup>

## ***F. Actual or Perceived Opponents of the Ruling Parties in the Region of Kurdistan as well as in Areas Under the de facto Control of the KRG***

### **1. Arabs**

Arabs in the areas of Mosul and Kirkuk under *de facto* control of the KRG and the Region of Kurdistan have become victims of threats, harassment and arbitrary detention, often in facilities of the Kurdish security and intelligence services in the region, because of their perceived association with the insurgency and/or the former regime.<sup>545</sup> Arab IDPs in the

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<sup>541</sup> See also “Shi’ites and Sunnis Civilians”.

<sup>542</sup> See, for example, John Ward Anderson, *Iraqi Tribes Strike Back at Insurgents*, The Washington Post, 7 March 2006, [http://www.washingtonpost.com/wp-dyn/content/article/2006/03/06/AR2006030601596\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2006/03/06/AR2006030601596_pf.html).

<sup>543</sup> Lydia Khalil, *Baath Party Distributes Hit List for Targeted Assassinations*, Terrorism Focus, Volume III, Issue 42, The Jamestown Foundation, 31 October 2006, p. 2, [http://jamestown.org/terrorism/news/uploads/tf\\_003\\_042.pdf](http://jamestown.org/terrorism/news/uploads/tf_003_042.pdf).

<sup>544</sup> Sinan Salaheddin, *Gunmen Assassinate Brother of Iraq VP*, The Washington Post, 9 October 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/10/09/AR2006100900289.html>; BBC News, *Top Iraq official’s sister killed*, 27 April 2006, [http://news.bbc.co.uk/2/hi/middle\\_east/4949376.stm](http://news.bbc.co.uk/2/hi/middle_east/4949376.stm).

<sup>545</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 3-4, see above footnote 10. See also “Actual or Perceived Supporters of the Former Regime and/or the Insurgency”.

three Northern Governorates reportedly suffer discrimination and are given little assistance by the Kurdish authorities due to security fears.<sup>546</sup>

## 2. (Perceived) Members of Islamist Armed Groups

Radical Islamic elements, in particular offshoots from *Ansar Al-Islam*,<sup>547</sup> originally a home-grown Kurdish Islamist Movement, which during the 2003 US-led invasion was attacked by Coalition and Kurdish forces for reportedly providing a safe haven to Al-Qa'eda and Abu Musab Al-Zarqawi,<sup>548</sup> have regrouped and are held responsible for attacks in the Kurdistan Region, mainly directed against senior PUK/KDP political and military officials.<sup>549</sup> Actual or suspected members or supporters of these groups may be at risk of ill-treatment and human rights violations at the hands of the Kurdish security forces. Individuals suspected of "terrorist" links are often held incommunicado, as well as in solitary confinement, typically during the initial weeks following arrest, by the Kurdish parties' security and intelligence services. Many are arrested under violent circumstances. They are held without charge or trial for indefinite periods of time, in some cases several years. Kurdish officials have said that they have no legal basis to prosecute them, but consider them a security risk.<sup>550</sup> UNAMI HRO reported that there have been attempts by senior KRG officials to request that those held in unofficial detention centres be taken before a court.<sup>551</sup> According to HRW, about 2,500 people are being held by the security services of the KDP and the PUK. The organization estimates that two-thirds of them are accused of participating in the insurgency.<sup>552</sup> The use of torture and ill-treatment cannot be excluded.<sup>553</sup> On 21 September 2006, 11 alleged terrorists were hanged in Erbil after they had been convicted in March 2006 of leading a cell linked to the Islamist group Ansar Al-Sunna.<sup>554</sup>

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<sup>546</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 17-18 and 20, see above footnote 10. See also "Internal Flight or Relocation Alternative".

<sup>547</sup> For information on Ansar Al-Islam and Ansar Al-Sunna, see UNHCR, *2005 Country of Origin Information Iraq*, p. 66-67, see above footnote 53.

<sup>548</sup> BBC News, *US targets Islamist group in Iraq*, 22 March 2003, [http://news.bbc.co.uk/1/hi/world/middle\\_east/2875269.stm](http://news.bbc.co.uk/1/hi/world/middle_east/2875269.stm).

<sup>549</sup> Azzaman, *Kurds crack down on "Islamists"*, 29 December 2006, [http://www.iraqupdates.com/p\\_articles.php?refid=WH-S-01-01-2007&article=12998](http://www.iraqupdates.com/p_articles.php?refid=WH-S-01-01-2007&article=12998); Kohlmann, see above footnote 84. See also "Kurds and Other Segments of Iraqi Society".

<sup>550</sup> The New York Times, *No terrorism law in Kurdistan Region-Iraq*, 28 December 2006, [http://www.iraqupdates.com/p\\_articles.php/article/12987](http://www.iraqupdates.com/p_articles.php/article/12987). See also: UNAMI HRO, *December 2006 Human Rights Report*, p. 20, see above footnote 10; UNAMI HRO, *October 2006 Human Rights Report*, p. 19, see above footnote 66. See also: RFE/RL, *Iraq: Corruption Restricts Development In Iraqi Kurdistan*, 29 April 2005, <http://www.rferl.org/featuresarticle/2005/4/DA9D366C-C2C2-486F-A4D7-2EEBC0BB507E.html>; Dr. Rebwar Fatah and Sheri Laizer, *Fact Finding Mission to Iraqi Kurdistan, September – October 2004*, 2004, p. 10-13, 50; IPS, *Liberated Kurds Find Little Freedom*, 5 June 2004, <http://www.antiwar.com/glantz/?articleid=2747>; IRIN, *Iraq: Focus on libel laws in north*, 3 March 2004, <http://www.irinnews.org/report.aspx?reportid=23631>.

<sup>551</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 20, see above footnote 10.

<sup>552</sup> The New York Times, *No terrorism law in Kurdistan Region-Iraq*, see above footnote 550.

<sup>553</sup> See, for example, AI, *Iraq: Incommunicado detention/fear of torture, Rebwar Arif*, Urgent Action, 9 May 2005, <http://web.amnesty.org/library/Index/ENGMD140102005?open&of=ENG-IRQ>; Dr. Rebwar Fatah and Sheri Laizer, *Fact Finding Mission to Iraqi Kurdistan, September – October 2004*, 2004, p. 32-36.

<sup>554</sup> AI, *Iraq: Amnesty International alarmed at rise in executions*, 25 September 2006, <http://web.amnesty.org/library/Index/ENGMD140332006?open&of=ENG-IRQ>; KurdishMedia.com, *Iraq's*

### 3. Persons Opposing the Ruling Parties

Individuals expressing their opposition to the ruling parties, e.g. through participating in demonstrations or publishing critical newspaper articles, risk arbitrary arrest and detention. The KDP and PUK have repeatedly been accused of nepotism, corruption and lack of internal democracy.<sup>555</sup>

For example, throughout August 2006, street protests calling for improved public services took place in Chamchamal, Sulaymaniyah, Kalar and Darbandikhan, several of which turned violent. Reportedly, some 400 people were arrested and 60 people injured. According to media rights groups, among those arrested were a number of journalists, blamed by the security forces for helping orchestrate the protests.<sup>556</sup> On 16 March 2006, demonstrators torched a monument for the victims of a 1988 gas attack in Halabja. Two thousand locals staged street protests to prevent officials from entering Halabja to take part in ceremonies marking the anniversary of the attack. Locals said they mounted the demonstration to protest the lack of services and compensation for the victims of Halabja. Dozens of people were arrested or wounded and a 17-year-old boy was shot when security forces quelled the protests. Reportedly, at least seven journalists were beaten during the demonstration and others had their equipment confiscated.<sup>557</sup>

The Kurdistan Islamic Union's decision to run independently from the Kurdish Alliance list in the National Assembly elections of 15 December 2005 led to public riots and harassment of party members in the three Northern Governorates, including the Governorate of Sulaymaniyah.<sup>558</sup>

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*Kurdistan authorities execute 11 notorious terrorists*, 21 September 2006, <http://www.kurdmedia.com/articles.asp?id=13285>; AFP, *10 "terrorists" executed in Iraq*, 21 September 2006, <http://www.rinf.com/columnists/news/10-terrorists-executed-in-iraq>.

<sup>555</sup> See, for example, KurdishMedia.com, *PUK inner-crises deepen: Reformist vs. corruption!*, 8 January 2007, [http://www.iraqupdates.com/p\\_articles.php/article/13225](http://www.iraqupdates.com/p_articles.php/article/13225); KurdishMedia.com, *A group of PUK cadres drive forward reform*, 28 December 2006, <http://www.kurdmedia.com/articles.asp?id=13812>; Christian Parenti, *The Question of Kurdistan*, The Nation, 26 October 2005, <http://www.thenation.com/doc/20051114/parenti>. Kyle Madigan, *Iraq: Corruption Restricts Development In Iraqi Kurdistan*, RFE/RL, 29 April 2005, <http://www.rferl.org/featuresarticle/2005/4/DA9D366C-C2C2-486F-A4D7-2EEBC0BB507E.html>.

<sup>556</sup> Coalition to Stop Deportations to Iraq, *Kurdistan unsafe but Home Office still intent on sending people back there*, 25 August 2006, <http://www.wadinet.de/news/iraq/newsarticle.php?id=2453>; Reporters sans Frontières (RSF), *Two journalists go on trial while wave of arrests continues in north*, 17 August 2006, [http://www.rsf.org/article.php3?id\\_article=18582](http://www.rsf.org/article.php3?id_article=18582). See also: RFE/RL, *Kurds Call for Government Accountability*, 11 August 2006, <http://www.rferl.org/reports/iraq-report/2006/08/29-110806.asp>.

<sup>557</sup> IWPR, *Kurdish Press Freedom Abuses*, Iraqi Crisis Report No. 192, 1 September 2006, [http://iwpr.net/?p=icr&s=f&o=323571&apc\\_state=heniicr2006](http://iwpr.net/?p=icr&s=f&o=323571&apc_state=heniicr2006); The Christian Science Monitor, *Kurds' quest for justice overshadowed by economic discontent*, 7 April 2006, <http://www.csmonitor.com/2006/0407/p25s01-woiq.html>; RFE/RL, *Iraq: Kurdish Media Complain Of Harassment*, 31 March 2006, <http://www.rferl.org/featuresarticle/2006/03/5dcece20-7c49-4f2e-a636-55a53c62e674.html>; IWPR, *Halabja Protesters May Face Death Penalty*, Iraqi Crisis Report No. 169, 23 March 2006, [http://iwpr.net/?p=icr&s=f&o=260482&apc\\_state=heniicr2006](http://iwpr.net/?p=icr&s=f&o=260482&apc_state=heniicr2006). See also "Journalists and Media Workers".

<sup>558</sup> RFE/RL, *Iraq: Kurdish Factions Struggle To Achieve Unity*, 14 December 2005, <http://www.rferl.org/featuresarticle/2005/12/94bb303e-382c-41b4-8f64-1d866488186d.html>; BBC News, *Tarnished democracy in Kurdistan*, 13 December 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4522296.stm](http://news.bbc.co.uk/2/hi/middle_east/4522296.stm);



## G. Certain Professions

According to UNAMI HRO, there is

*“a worrying increase in targeted attacks and assassinations of professionals such as teachers, religious figures, barbers, police officers, artists, lawyers, ex-military officers, and politicians across Iraq including the northern cities of Mosul and Kirkuk. These attacks are typically perpetrated by extremists practising conformist ideology and by militant/terror groups intent on spreading fear and intimidation.”*<sup>559</sup>

Another reason for professionals being targeted may be their perceived support for the Iraqi Government, the US invasion or “Western” ideas in general. Others have been caught up in the sectarian violence engulfing the country, belonging to the “wrong” sect. Previous membership in the Ba’ath Party may be another possible motive. Accordingly, some of these professional groups have already been noted in other chapters.

### 1. Academics, Professors, Teachers and Students

Iraq’s academics, professors, teachers and students have been facing a campaign of intimidation, kidnappings and killings. In February 2007, the Iraqi Ministry of Higher Education and Scientific Research announced that 185 professors had been killed since 2003, and 52 others had been kidnapped. While some were killed by their abductors, others were released after paying large sums of ransom. The Ministry warned that the ongoing violence against the educational system might bring it to a collapse.<sup>560</sup> A European anti-war group, *Brusselstribunal.org*, maintains a list of 288 Iraqi academics killed as of 24 December 2006. According to the group, more than 70 other names are on a list of academics who have been threatened or kidnapped.<sup>561</sup> It has launched an appeal to the UN Special Rapporteur on Summary Executions to investigate what it calls the “systematic liquidation of the country’s academics.”<sup>562</sup>

UNAMI HRO stated that Baghdad accounted for 44% of all assassinations of Iraqi academics. Anbar, Mosul and Basrah each accounted for 10% and Diyala for 5% of the total number of assassinated academics.<sup>563</sup> Many academics fled to the Kurdistan Region or left the country altogether.<sup>564</sup> In August 2006, the Ministry of Higher Education said over

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RFE/RL, *Iraq: Kurdistan Islamic Union Responds To Attacks*, 9 December 2005, <http://www.rferl.org/featuresarticle/2005/12/9dfdf2b2-3d52-4b9b-a56a-38d835cbbb33.html>.

<sup>559</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 14, see above footnote 10.

<sup>560</sup> Hayfaa Radhi, *185 professors killed since U.S. invasion*, Azzaman, 1 February 2007, <http://www.azzaman.com/english/index.asp?fname=news%5C2007-02-01%5Ckurd.htm>.

<sup>561</sup> BrusselsTribunal.org, *List of killed, threatened or kidnapped Iraqi Academics*, updated as of 24 December 2006, <http://www.brusselstribunal.org/academicsList.htm>.

<sup>562</sup> *Ibidem*, *Urgent Appeal to Save Iraq’s Academics*, <http://www.brusselstribunal.org/Academicspetition.htm>. For a (non-comprehensive) list of attacks on professors, teachers and students, please see “Annex V: Attacks on Professors, Teachers and Students”.

<sup>563</sup> UNAMI HRO, *October 2006 Human Rights Report*, p. 17, see above footnote 66.

<sup>564</sup> Mohammed Salih, *Students, Professors Flee to the Kurdish North*, IPS, 27 January 2007, <http://www.antiwar.com/ips/salih.php?articleid=10412>. See also “Internal Flight or Relocation Alternative”.

3,250 professors had fled Iraq since the escalation of sectarian violence following the bombing of a major Shi'ite shrine in Samarra.<sup>565</sup>

On 18 January 2007, Koïchiro Matsuura, the Director-General of UNESCO, called for the protection of academics and intellectuals from violence.<sup>566</sup>

Academics are targeted for mixed reasons. According to UNAMI HRO,

*“Academics have apparently been singled out for their relatively respected public status, vulnerability and views on controversial issues in a climate of deepening Islamic extremism.”*<sup>567</sup>

Armed groups also appear to be driving a campaign of emptying the country of its intellectual elite with the goal of destroying prospects for establishing a functioning democratic society and bring the country and its institutions to a collapse.<sup>568</sup> Some intellectuals may become victims of sectarian violence<sup>569</sup> or religiously-motivated attacks when considered too liberal, “Westernized” or critical.<sup>570</sup> Others have been singled out for their previous membership in the Ba’ath Party.<sup>571</sup> In addition, their perceived wealth may also be a motive.<sup>572</sup> It has also been reported that due to the general lawlessness, students angered over poor grades have killed some professors.<sup>573</sup>

In addition, schools and other educational institutes have become regular targets of attacks. For example, at least 70 people, including students and teachers, were killed and more than 170 others injured when a suicide car bomb exploded at the entrance of Al-Mustansiriya University in east Baghdad in January 2007.<sup>574</sup>

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<sup>565</sup> Aparisim Ghosh, *Baghdad Bulletin: Death Stalks the Campus*, Time Magazine, 2 November 2006, <http://www.time.com/time/world/article/0,8599,1553793,00.html>.

<sup>566</sup> UNESCO, *UNESCO Director-General condemns killing of Iraqi students and deplores the violence against academics and intellectuals*, Press Release N°2007-04, 18 January 2007, [http://portal.unesco.org/en/ev.php-URL\\_ID=36484&URL\\_DO=DO\\_PRINTPAGE&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=36484&URL_DO=DO_PRINTPAGE&URL_SECTION=201.html).

<sup>567</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 16, see above footnote 10.

<sup>568</sup> See also “Government Officials and Other Persons Associated With the Current Iraqi Government, Administration and Institutions”.

<sup>569</sup> UNAMI HRO reported that “HRO has received numerous reports that sectarian divisions have engulfed universities”. Reportedly, thousands of students have requested to be transferred to other universities since the escalation in sectarian violence after the Samarra bombing; see UNAMI HRO, *April 2006 Human Rights Report*, p. 9-10, see above footnote 74.

<sup>570</sup> See also “Persons Accused of “Un-Islamic” Behaviour”.

<sup>571</sup> See also “Members and Associates of the Ba’ath Party and the Former Regime”.

<sup>572</sup> Sumedha Senanayake, *Iraq: Brain Drain Poses Threat To Future*, RFE/RL, 16 November 2006, <http://www.rferl.org/featuresarticle/2006/11/D0C40243-4975-49F8-9FE4-536F108B95A9.html>.

<sup>573</sup> Sinan Salaheddin, *Sunni activist professor killed in Iraq*, AP, 30 October 2006, <http://www.thestate.com/mld/mercurynews/news/world/15883645.htm>; IRIN, *Iraq: Threatened teachers fleeing the country*, 24 August 2006, <http://www.irinnews.org/report.asp?ReportID=55261>.

<sup>574</sup> BBC News, *Bombers rock Baghdad university*, 17 January 2007, [http://news.bbc.co.uk/2/hi/middle\\_east/6266707.stm](http://news.bbc.co.uk/2/hi/middle_east/6266707.stm). On addition, on 11 December 2006, a car bomb exploded in a car park of Al-Ma’amoon College in Al-Iskan District in Baghdad, killing one person and injuring four. On the same day, one student was killed and another six injured in a roadside bomb explosion in front of the Al-Mustansiriya University; UNAMI HRO, *December 2006 Human Rights Report*, p. 16, see above footnote 10. One of the most spectacular incidents was the mass kidnapping of an estimated 150 employees from the Ministry of Higher Education and Scientific Research by perpetrators in police uniform in central Baghdad on 14 November 2006. The mass kidnapping led to the temporary shutdown of most universities; The Guardian,

As a consequence of frequent attacks directed against educational facilities and teaching professionals, many schools and universities hold irregular classes or have suspended classes altogether.<sup>575</sup> Many schools in volatile areas remain closed.<sup>576</sup>

## 2. Journalists and Media Workers

### a) Situation in Central and Southern Iraq

Increasing numbers of journalists and media workers have been killed, threatened or otherwise intimidated with impunity because of their work. Several news outlets have been attacked. Iraq has become the deadliest conflict in the world for journalists. UNESCO's Director-General, Koïchiro Matsuura, issued a press release on 22 January 2007 condemning the killing of reporters and media staff, saying

*"I am horrified by the number of Iraqi journalists who are paying with their lives for their professional commitment to the fundamental human right of freedom of expression."*<sup>577</sup>

While Reporters Sans Frontiers (RSF), the Committee to Protect Journalists (CPJ) and the International Federation of Journalists (IFJ) have different statistics<sup>578</sup> on the numbers of journalists and media support staff killed in Iraq since 2003, the most conservative figure puts the number at 93 as of mid-February 2007.<sup>579</sup> In addition, CPJ reported that 37 media support workers such as drivers, interpreters, fixers and guards were killed. Thus far, 2006 has been the most lethal year. The majority of the victims were Iraqis. While some have been killed in crossfire or other acts of war, the majority lost their lives in deliberate attacks.<sup>580</sup> According to Aidan White, General Secretary of IFJ, "(m)ore than ten per cent of Iraq's active journalists' community has been killed."<sup>581</sup>

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Up to 150 kidnapped from Baghdad institute, 14 November 2006, <http://www.guardian.co.uk/Iraq/Story/0,,1947359,00.html>; BBC News, Scores seized from Baghdad office, 14 November 2006, [http://news.bbc.co.uk/2/hi/middle\\_east/6146152.stm](http://news.bbc.co.uk/2/hi/middle_east/6146152.stm); IRIN, Iraq: Minister closes universities following mass kidnapping, 14 November 2006, <http://www.irinnews.org/report.aspx?reportid=61940>.

<sup>575</sup> For example, on 20 November 2006, the University of Diyala warned that it would halt classes if the Government did not provide better protection for its employees; see UNAMI HRO, *December 2006 Human Rights Report*, p. 16, see above footnote 10.

<sup>576</sup> *Ibid.*

<sup>577</sup> UNESCO, *Director-General condemns wave of killings and abuses against Iraqi journalists*, Press Release N°2007-06, 22 January 2007, [http://portal.unesco.org/en/ev.php-URL\\_ID=36512&URL\\_DO=DO\\_PRINTPAGE&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=36512&URL_DO=DO_PRINTPAGE&URL_SECTION=201.html).

<sup>578</sup> The CPJ requires more evidence to verify reported killings, and therefore its statistics are generally lower.

<sup>579</sup> According to RSF, 148 media employees were killed between March 2003 and 15 February 2007; see RSF, *More violence against journalists amid continuing impunity*, 15 February 2007, [http://www.rsf.org/article.php3?id\\_article=21016](http://www.rsf.org/article.php3?id_article=21016); the IFJ puts the number of journalists and media staff killed at 171 by 31 December 2006; see IFJ, *Journalism Put To The Sword in 2006*, <http://www.ifj.org/pdfs/JournalistsKilled2007finalweb.pdf>.

<sup>580</sup> CPJ, *Iraq: Journalists in Danger, a statistical profile of journalists killed on duty since March 2003*, [http://www.cpj.org/Briefings/Iraq/Iraq\\_danger.html](http://www.cpj.org/Briefings/Iraq/Iraq_danger.html) [accessed February 2007]; *ibidem*, *Iraq: Journalists in Danger, media workers killed since 2003*, [http://www.cpj.org/Briefings/Iraq/iraq\\_media\\_killed.html](http://www.cpj.org/Briefings/Iraq/iraq_media_killed.html); see also RSF, *Iraq – Annual Report 2007*, 1 February 2007, [http://www.rsf.org/country-43.php3?id\\_mot=616&Valider=OK](http://www.rsf.org/country-43.php3?id_mot=616&Valider=OK).

<sup>581</sup> IFJ, *Iraqi Journalists Call on United Nations to Act over Media "Nightmare"*, 19 December 2006, <http://www.ifj.org/default.asp?index=4490&Language=EN>.



There are a number of possible motives behind attacks on journalists and media workers. The ongoing sectarianism has increasingly politicized the media sector in Iraq and most media outlets are affiliated with a sectarian or political bloc. Journalists fall victim to revenge killings, in particular when they become involved in controversial political issues or describe corruption or human rights violations committed by certain persons or groups. Sectarian violence also took its toll on journalists, with gunmen targeting journalists whom they accuse of siding with either Sunnis or Shi'ites.<sup>582</sup> For example, on 18 September 2006, Ahmed Riyadh Al-Karbouli, a correspondent for Baghdad TV, which is owned by the Iraqi Islamic Party, was shot by gunmen in Ramadi. Al-Karbouli worked at Baghdad TV for two years covering security and the situation of the residents of Ramadi. According to CPJ sources, "*his reports offended some insurgents in Ramadi who felt he was criticizing them.*" One month before the killing, gunmen had stormed into his house and threatened him in front of his family.<sup>583</sup>

The most deadly attack on members of the Iraqi media took place on 12 October 2006, when gunmen wearing police uniforms stormed the offices of Al-Shabbiya, a new satellite television station in Baghdad. Eleven employees, including its founder and director, Abdul Rahim Nasralla Al-Shameri, were killed. The identity and motive of the killers were not known, but Shi'ite militias or police units are suspected to have carried out the attack for sectarian reasons.<sup>584</sup> The channel had only transmitted some test broadcasts of patriotic music and videos as it was to officially start two days later. Reportedly, it was aimed at a mainly Sunni audience.<sup>585</sup> In another example, journalist Fadia Mohamed Ali and her driver were killed on her way to work. According to UNAMI HRO, there are strong indications that she was targeted by elements of the Iraqi Police as she had repeatedly written about police corruption and misconduct during raids.<sup>586</sup>

Journalists have also been targeted for "collaborating" with the MNF or the "West", in particular when they work for foreign (especially English-speaking) media outlets.<sup>587</sup> For example, it was reported that journalists in Mosul received threatening letters accusing

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<sup>582</sup> RSF, *Iraq – Annual Report 2007*, see above footnote 580; see also IRIN, *Iraq: Fighting swords with pens*, 27 November 2006, <http://www.irinnews.org/report.aspx?reportid=61967>; Kirk Semple and Qais Mizher, *Gunmen Kill 11 Employees of a Satellite Television Station in Baghdad*, The New York Times, 13 October 2006, <http://www.nytimes.com/2006/10/13/world/middleeast/13iraq.html>; BBC News, *Gunmen kill eight in Iraq TV raid*, 12 October 2006, [http://news.bbc.co.uk/2/hi/middle\\_east/6043158.stm](http://news.bbc.co.uk/2/hi/middle_east/6043158.stm); Firas Al-Atraqchi, *Iraqi journalists stare death in the face*, Al Jazeera, 9 October 2006, <http://english.aljazeera.net/NR/exeres/9175100C-8FD3-4D90-9068-EF2361935EF3.htm>. See also "Shi'ites and Sunnis Civilians".

<sup>583</sup> CPJ, *IRAQ: TV correspondent murdered in Ramadi*, 18 September 2006, <http://www.cpj.org/news/2006/mideast/iraq18sept06na.html>.

<sup>584</sup> Semple and Mizher, see above footnote 582; BBC News, *Gunmen kill eight in Iraq TV raid*, 12 October 2006, [http://news.bbc.co.uk/2/hi/middle\\_east/6043158.stm](http://news.bbc.co.uk/2/hi/middle_east/6043158.stm).

<sup>585</sup> *Ibid.*

<sup>586</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 14, see above footnote 10.

<sup>587</sup> RSF, *Iraq – Annual Report 2007*, see above footnote 580; IRIN, *Iraq: Fighting swords with pens*, see above footnote 582. See also "Actual or Perceived Sympathizers of the US-Led Invasion and/or the Multi-National Force in Iraq".

them of deliberately under-reporting MNF/ISF casualties.<sup>588</sup> Employees of *Iraqi Media Net*, a state-run newspaper, TV and radio network set up following the 2003 US-led invasion of Iraq, have been a frequent target of attacks.<sup>589</sup> Al-Iraqiya, the network's TV station, has had more employees killed than any other media outlet since 2003.<sup>590</sup> For example, Amjad Hameed, the head of the network's television channel, Al-Iraqiya, was killed on 12 March 2006. The *Mujahideen Consultative Council*, in a statement on its website, claimed responsibility for the killing of Hameed and his driver. The statement read:

*"Your brothers in the military wing of the Mujahideen Council murdered Amjad Hameed Hassan, the director of Al-Iraqiya ... We consider this TV station to be the mouthpiece of the government ... always ready to broadcast lies about jihad and the mujahideen to please the crusaders."*<sup>591</sup>

RSF said on 15 February 2007:

*"There are reports of threats, physical attacks, kidnappings and murders day after day. Gunmen continue to target journalists on the street in broad daylight with complete impunity. This endemic violence is jeopardising the quality and diversity of news and information in Iraq."*<sup>592</sup>

Acts committed against journalists and other media professionals vary from verbal harassment and threats to individuals and their families, to kidnapping, physical attacks and murder. According to UNAMI HRO, "*journalists and media workers are among the most frequently targeted group*". In November and December 2006 alone, 12 journalists were killed.<sup>593</sup> While many killings took place in Baghdad, Mosul has increasingly become a very dangerous place for journalists. During 2006, 12 journalists were murdered there.<sup>594</sup> Reuters reported in January 2007 that many journalists, including its own staff, had left Mosul.<sup>595</sup> To better ensure their safety, many journalists move houses frequently or live

<sup>588</sup> Reuters Alertnet, *Feature – Beyond Baghdad, Mosul plagued by violence too*, 23 January 2007, [http://www.boston.com/news/world/middleeast/articles/2007/01/23/beyond\\_baghdad\\_mosul\\_plagued\\_by\\_violence\\_too/](http://www.boston.com/news/world/middleeast/articles/2007/01/23/beyond_baghdad_mosul_plagued_by_violence_too/).

<sup>589</sup> Sinan Salaheddin, *Gunmen kill Iraqi journalist working for state-run newspaper*, AP Worldstream, 23 November 2006, [http://www.iraquupdates.com/p\\_articles.php?refid=DH-S-23-11-2006&article=12031](http://www.iraquupdates.com/p_articles.php?refid=DH-S-23-11-2006&article=12031). See also "Government Officials and Other Persons Associated With the Current Iraqi Government, Administration and Institutions".

<sup>590</sup> RSF, *11th Al-Iraqiya employee gunned down in Baghdad*, 31 May 2006, [http://www.rsf.org/article.php3?id\\_article=17867](http://www.rsf.org/article.php3?id_article=17867).

<sup>591</sup> *Ibidem*, *Two arrests made in the murder of Al-Iraqiya's director*, 13 March 2006, [http://www.rsf.org/article.php3?id\\_article=16718](http://www.rsf.org/article.php3?id_article=16718). Other examples include the killing of Naqsheen Hamad, a sports presenter at Al-Iraqiya, on 29 October 2006 in Baghdad. Another Al-Iraqiya sports anchorman, Ali Jaafar, was shot dead in May 2006; see Reuters Alertnet, *Iraqi state TV sports presenter and driver killed*, 29 October 2006, <http://www.alertnet.org/thenews/newsdesk/PAR941347.htm>. On 7 May 2006, a car-bomb exploded in the garage of the building housing the offices of the state-run newspaper Al-Sabah, killing a printing worker and injuring about 20 journalists; RSF, *Car-bomb attacks on Al-Sabah newspaper and hotel used by foreign journalists*, 29 August 2006, [http://www.rsf.org/article.php3?id\\_article=18684](http://www.rsf.org/article.php3?id_article=18684).

<sup>592</sup> RSF, *More violence against journalists amid continuing impunity*, 15 February 2007, [http://www.rsf.org/article.php3?id\\_article=21016](http://www.rsf.org/article.php3?id_article=21016).

<sup>593</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 14, see above footnote 10.

<sup>594</sup> *Ibidem*, p. 25.

<sup>595</sup> Reuters Alertnet, 23 January 2007, see above footnote 588.

inside the media compound, refrain from telling their families about their work and insist that they are not credited by name in news reports.<sup>596</sup>

Fear of attacks undermines freedom of speech in Iraq as journalists carefully weigh what they write and often apply self-censorship.<sup>597</sup> In addition, journalists and publications also face legal prosecution by the authorities for “defaming” government officials. According to information from the New York Times, around a dozen Iraqi journalists have been charged with offending government officials.<sup>598</sup>

A number of media outlets have been closed for “inciting violence”, including Al-Arabiya, a Dubai-based satellite news channel, which was banned for one month in early September.<sup>599</sup> Aljazeera was initially closed for one month in August 2004, but was finally banned from Iraq in September 2004.<sup>600</sup> The Baghdad studios of privately-owned satellite TV Al-Charkiyya, which was accused of “*inciting sectarian violence*” for showing footage of Iraqis mourning the death of former President Saddam Hussein, were closed on 1 January 2007.<sup>601</sup> Based on the 2004 *Law of Safeguarding National Security*,<sup>602</sup> the Iraqi authorities ordered the closure, on 5 November 2006, of Sunni TV stations Al-Zawra and Salah-Eddin for showing footage of demonstrators brandishing pictures of the former president and protesting his death sentence. Both stations were accused of inciting sectarian violence and have not been allowed to resume broadcasting. UNAMI HRO reported that a former reporter for Al-Zawra TV station, who lived in Baghdad’s Al-Zaafaraniya District, received a threatening letter on 25 November 2006. Reportedly, on 1 December 2006, gunmen came looking for her, but she had already moved out to another area.<sup>603</sup> The Iraqi

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<sup>596</sup> *Ibid.* See also: Paul von Zielbauer, *Iraqi Journalists Add Laws to List of Dangers*, The New York Times, 29 November 2006, <http://www.iht.com/articles/2006/09/29/africa/web.0926journno.php>; IRIN, *Iraq: Fighting swords with pens*, see above footnote 582; Al-Atraqchi, see above footnote 582.

<sup>597</sup> See, for example, Reuters, *Third Reuters Iraq Journalist Freed by US troops*, 17 February 2007, <http://www.abs-cbnnews.com/storypage.aspx?StoryId=27915>; UNAMI HRO, *October 2006 Human Rights Report*, p. 11, see above footnote 66; IFJ, *IFJ Calls for Release of Journalist Held in Iraq for More Than Six Months*, 6 November 2006, <http://www.ifj.org/default.asp?index=4353&Language=EN>; Von Zielbauer, *ibid.*

<sup>598</sup> Von Zielbauer, *Iraqi Journalists Add Laws to List of Dangers*, see above footnote 596. See also UNAMI HRO, *October 2006 Human Rights Report*, p. 11, see above footnote 66. DPA reported in November 2006 that Mosul’s local council issued an order to close down a publication called “Civil Society” because it published a cartoon depicting Iraqi Prime Minister Al-Maliki sitting on the lap of US Secretary of State Condoleezza Rice and being breastfed by her. However, Mosul’s court refused to carry out the order, stating that this would stifle freedom of expression; see: IRIN, *MIDDLE EAST: Weekly update of human rights violations in the region (10 Nov – 16 Nov 2006)*, *Iraq: Three more Iraqi journalists gunned down*, <http://www.irinnews.org/report.aspx?reportid=61945>. The Governor of Basrah warned journalists from giving a “false message to the media regarding the security situation in Basra”, threatening that they would be sued in court if they did so; see UNAMI HRO, *October 2006 Human Rights Report*, p. 10-11, see above footnote 66; UNAMI HRO, *August 2006 Human Rights Report*, p. 8, see above footnote 26.

<sup>599</sup> BBC News, *Al-Arabiya ordered out of Baghdad*, 8 September 2006, [http://news.bbc.co.uk/2/hi/middle\\_east/5325290.stm](http://news.bbc.co.uk/2/hi/middle_east/5325290.stm).

<sup>600</sup> *Ibidem*, *Iraq extends ban on al-Jazeera TV*, 4 September 2004, [http://news.bbc.co.uk/2/hi/middle\\_east/3628398.stm](http://news.bbc.co.uk/2/hi/middle_east/3628398.stm).

<sup>601</sup> RSF, *TV studio shut down for “incitement to violence” after showing footage of Saddam mourners*, 2 January 2007, [http://www.rsf.org/article.php3?id\\_article=20296](http://www.rsf.org/article.php3?id_article=20296).

<sup>602</sup> See “National Security”.

<sup>603</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 11, see above footnote 10.

authorities also briefly banned the media from parliament and the international press centre in the Green Zone of Baghdad in November 2006.<sup>604</sup>

Other journalists suffered harassment by the ISF/MNF for alleged links with the insurgency,<sup>605</sup> including unlawful searches, confiscation of computers and other personal belongings, arbitrary arrest and prolonged detention without being charged.<sup>606</sup> There have also been reports of journalists being beaten and mistreated by Iraqi Police.<sup>607</sup>

## **b) Situation in the Region of Kurdistan**

In the Region of Kurdistan, journalists and media organizations have repeatedly claimed that press freedom is restricted and that criticism of the ruling parties can lead to physical harassment, seizure of cameras and notebooks, arrest and legal prosecution on charges of defamation. In late December 2006, journalist Luqman Ghafur was arrested in Sulaymaniyah after police officers filed a complaint against him for calling them “gangs” in an article.<sup>608</sup> In Erbil, police arrested journalists Shaho Khalid and Dilaman Salah for reporting a strike at a students’ house in Setaqan Quarter. They reported that the police had assaulted them.<sup>609</sup>

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<sup>604</sup> RSF, *Media allowed to cover parliamentary sessions again, but placed under surveillance*, APTN cameraman shot dead in Mosul, 12 December 2006, [http://www.rsf.org/article.php3?id\\_article=20133](http://www.rsf.org/article.php3?id_article=20133).

<sup>605</sup> See also “Actual or Perceived Supporters of the Former Regime and/or the Insurgency”.

<sup>606</sup> See, for example, Reuters, *Third Reuters Iraq Journalist Freed by US troops*, see above footnote 597; UNAMI HRO, *October 2006 Human Rights Report*, p. 11, see above footnote 66; IFJ, *IFJ Calls for Release of Journalist Held in Iraq for More Than Six Months*, 6 November 2006, <http://www.ifj.org/default.asp?index=4353&Language=EN>; Von Zielbauer, *Iraqi Journalists Add Laws to List of Dangers*, see above footnote 596.

<sup>607</sup> UNAMI HRO, *August 2006 Human Rights Report*, p. 8, see above footnote 26.

<sup>608</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 11, see above footnote 10.

<sup>609</sup> *Ibid.* In addition, Hawez Hawezi, a journalist working for “Hawlati”, an independent media outlet, was arrested on 17 March 2006 on charges that his writings had criticized the KDP and the PUK after he described corruption and cronyism within both administrations and calling on officials to step down. He was released on bail two days later, but according to Reuters was rearrested in late April after publicly complaining of his treatment while in detention; Kathleen Ridolfo, *Iraq: New Kurdish Administration Comes Under Scrutiny*, RFE/RL, 12 May 2006, <http://www.rferl.org/featuresarticle/2006/5/4B58E7A7-5456-4D67-A1F1-B5DF2E2AD5B4.html>. On 13 April 2006, Mastura Mahmood, a journalist for the women’s weekly paper *Rewan*, was charged with defamation for an article that quoted an anti-government demonstrator in Halabja who compared the behaviour of the security forces with the former Ba’athists; CPJ, *IRAQ: Journalist facing trial on defamation charges*, 5 May 2006, [http://www.cpj.org/cases06/mideast\\_cases\\_06/iraq05may06ca.html](http://www.cpj.org/cases06/mideast_cases_06/iraq05may06ca.html); Asos Hardi, the former editor-in-chief of Hawlati and the weekly’s current editor in chief, Twana Osman, were sentenced in May 2006 to six-month suspended jail terms after the newspaper reported that then-PUK Prime Minister Omar Fatah had ordered the dismissal of two telephone company employees after they cut his phone service for failing to pay his bill. See: Von Zielbauer, *Iraqi Journalists Add Laws to List of Dangers*, see above footnote 596; Ridolfo, *ibid.* In one of the most prominent cases, Kamal Sayid Qadir, was sentenced to 30 years after writing critical articles against Kurdistan Regional President, Masoud Barzani. Under pressure from international and local journalism organizations, his sentence was later reduced to 18 months and then further commuted; Ridolfo, *ibid.*; Nora Bustany, *In Releasing Writer, Kurds Ponder Press Freedom*, The Washington Post, 7 April 2006, [http://www.washingtonpost.com/wp-dyn/content/article/2006/04/06/AR2006040602067.html?nav=rss\\_opinion/columns](http://www.washingtonpost.com/wp-dyn/content/article/2006/04/06/AR2006040602067.html?nav=rss_opinion/columns).

### 3. Artists

Iraqi artists, actors and singers have been targeted by Sunni and Shi'ite extremists, who accuse them of engaging in "un-Islamic" activities.<sup>610</sup> According to their views, music, theatre and television encourage immoral behaviour.<sup>611</sup> The Iraqi Artists Association told IRIN in November 2006 that almost all singers have fled the country and that at least 75 of them had been killed since the fall of the former regime in 2003.<sup>612</sup> UNAMI, in its last human rights report, mentioned the kidnapping and killing of Mutashar Al-Sudani, a well known actor, on 18 December 2006. Furthermore, Abdulwahab Aldayni, a famous performer and author, was attacked by an armed group on 29 November 2006, causing permanent facial injuries. According to UNAMI HRO, several actors are considering moving abroad out of fear for their lives.<sup>613</sup>

Many others artists reportedly stopped performing their professions after receiving threats or for fear of being targeted. For example, Yussef Ghadin, actor and singer, quit his job after two of his colleagues were killed by a local militia who considered his work a "*devil's job*".<sup>614</sup> Painters avoid depicting living objects or objects that might be considered erotic.<sup>615</sup> Accordingly, some artists have turned to religious music and paintings.<sup>616</sup>

Other artists have been targeted for openly criticizing the political situation in Iraq.<sup>617</sup> Also too close affiliation with "Western" art, e.g. the performance of English songs, might put a person at risk as he/she could be considered of being supportive of the West, and in particular the US.<sup>618</sup> Artists known to have been serving the former Government of Saddam Hussein may also come under attack.<sup>619</sup>

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<sup>610</sup> See also "Persons Accused of "Un-Islamic" Behaviour".

<sup>611</sup> Edward Wong, *Iraqis make music from mayhem*, Scotland on Sunday, 1 October 2006, <http://scotlandonsunday.scotsman.com/index.cfm?id=1452272006>; IRIN, *Iraq: Artists become targets in rising atmosphere of intolerance*, 24 April 2006, <http://www.irinnews.org/report.aspx?reportid=26311>.

<sup>612</sup> IRIN, *Iraq: Singing "the devil's music" will get you killed*, 23 November 2006, <http://www.irinnews.org/report.aspx?reportid=61962>.

<sup>613</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 15, see above footnote 10.

<sup>614</sup> IRIN, *Iraq: Artists become targets in rising atmosphere of intolerance*, 24 April 2006, <http://www.irinnews.org/report.aspx?reportid=26311>.

<sup>615</sup> Mona Mahmoud, *Postwar artists, art world will illustrate new time and place*, USA Today, 21 July 2005, [http://www.usatoday.com/news/world/iraq/2005-07-21-artists-iraq\\_x.htm](http://www.usatoday.com/news/world/iraq/2005-07-21-artists-iraq_x.htm).

<sup>616</sup> *Ibid.* See also: IRIN, *Iraq: Singing "the devil's music" will get you killed*, see above footnote 612..

<sup>617</sup> The Guardian, *Art under fire*, 22 November 2004, <http://arts.guardian.co.uk/features/story/0,11710,1356522,00.html>. For example, Waleed Hassan, one of Iraq's best known satirists and broadcasters, was gunned down in Baghdad on 20 November 2006. Hassan was known for his "*Caricature*" sketch show, in which he poked fun at the political, security and social conditions in the country; Reuters, *Iraqi TV satirist killed in Baghdad*, 20 November 2006, <http://www.alertnet.org/thenews/newsdesk/L20597665.htm>.

<sup>618</sup> IRIN, *Iraq: Singing "the devil's music" will get you killed*, see above footnote 612. See also "Actual or Perceived Sympathizers of the US-Led Invasion and/or the Multi-National Force in Iraq".

<sup>619</sup> See also "Members and Associates of the Ba'ath Party and the Former Regime".



#### 4. Doctors and Medical Personnel

Doctors and other health workers in Iraq continue to be threatened, killed or kidnapped.<sup>620</sup> Large numbers of them have fled to the three Northern Governorates or have left the country, often due to threats against their lives. Estimates of doctors and other medical personnel that have been killed or who have fled the country are generally not available. The International Committee of the Red Cross said in January 2007 that more than half of the 34,000 registered doctors in Iraq had left the country and hundreds had been killed.<sup>621</sup> The Iraqi Medical Association (IMA) estimates that roughly half of Iraq's 34,000 physicians, who had been registered prior to 2003, have fled the country since and puts the figure of those killed at about 2,000.<sup>622</sup> IMA in Mosul reported that at least 11 doctors had been killed in Mosul alone and another 66 had left the city since 2003.<sup>623</sup> UNAMI HRO, referring to figures received from the Ministry of Health, reported that between April 2003 and 31 May 2006, 102 doctors were killed; 164 nurses were killed and 77 wounded; and, 142 non-medical staff (drivers, guards, administration personnel) were killed and 117 wounded. In May 2006 alone, eight doctors were killed and 42 wounded; eight nurses were killed and seven wounded and six non-medical staff were killed and four wounded. It further said that some reports suggest that approximately 250 doctors have been kidnapped in the past two years.<sup>624</sup> The Institute for War and Peace Reporting (IWPR) said that in Baghdad those doctors still practicing medicine have moved their clinics into residential areas or inside medical compounds for safety.<sup>625</sup> Others use prolonged unpaid leave as a way to avoid security risks.<sup>626</sup>

As with other professionals, a number of motives drive such attacks. With the Ministry of Health and hospitals under control of religious militias, health personnel may be targeted for belonging to either sect.<sup>627</sup> They might be threatened by the police, militias or insurgent

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<sup>620</sup> For a (non-comprehensive) list of attacks on doctors and other medical personnel, see "Annex VI: Attacks on Doctors and Other Medical Personnel".

<sup>621</sup> IRIN, *Iraq: Baghdad hospitals in crisis as they lack security and drugs, say specialists*, 28 January 2007, <http://www.irinnews.org/report.aspx?reportid=65825>.

<sup>622</sup> *Ibidem*, *Iraq: Country's healthcare system rapidly deteriorating*, 7 November 2006, <http://www.irinnews.org/report.aspx?reportid=61923>.

<sup>623</sup> UNAMI HRO, *June 2006 Human Rights Report*, p. 6, see above footnote 27.

<sup>624</sup> *Ibid.* The Iraqi Doctors Association believes that at least 65 physicians were killed in 2005 alone; see Scott Johnson, *Doctors in the Cross Hairs*, Newsweek, 9 January 2006, <http://www.msnbc.msn.com/id/10655555/site/newsweek>. Unofficial data suggests that at least 200 health professionals have left Basrah since January 2006; see: David Wilson, *Where Have All the Doctors Gone? The Collapse of Iraq's Health Care Services*, Counterpunch, 14-15 October 2006, <http://www.counterpunch.org/wilson10162006.html>. According to the Ministry of Health's Strategy Department, more than 160 nurses have been murdered and more than 400 wounded since 2003; see: IRIN, *Iraq: Neglected nurses fight their own war*, 19 November 2006, <http://www.irinnews.org/report.aspx?reportid=61948>.

<sup>625</sup> IWPR, *Violence Drives Doctors From Iraq*, Iraqi Crisis Report, ICR No. 170, 29 March 2006, [http://iwpr.net/?p=icr&s=f&o=260625&apc\\_state=henh](http://iwpr.net/?p=icr&s=f&o=260625&apc_state=henh).

<sup>626</sup> IRIN, *Iraq: Baghdad hospitals in crisis as they lack security and drugs, say specialists*, 28 January 2007, <http://www.irinnews.org/report.aspx?reportid=65825>.

<sup>627</sup> Louise Roug, *Decrepit healthcare adds to toll in Iraq*, Los Angeles Times, 11 November 2006, <http://www.latimes.com/news/nationworld/world/la-fg-health11nov11.0.3477207.story?coll=la-home-headlines>; Lara Logan, *Death Squads In Iraqi Hospitals*, CBS, 4 October 2006, <http://www.cbsnews.com/stories/2006/10/04/eveningnews/main2064668.shtml>. Amit R. Paley, *Iraqi Hospitals Are War's New "Killing*

groups for not giving priority to the treatment of their injured members.<sup>628</sup> Others have been threatened and killed for engaging in “un-Islamic” activities, e.g. a male doctor treating female patients.<sup>629</sup> In addition, they might be identified as representing Iraq’s intelligentsia, which is needed to establish a democratic and functioning state. Targeting Iraq’s health system also serves the purpose of terrorizing the population at large so that it would lose confidence in the abilities of the current Iraqi Government, especially to protect its citizens.<sup>630</sup> In addition, criminal motives might be a reason as doctors are regarded as wealthy.<sup>631</sup>

Attacks against medical personnel are further exacerbating the current health crisis in the country. Hospitals have had to close and newly built clinics have not been opened due to the lack of health personnel. IRIN reported that the emergency unit in Basrah’s Teaching Hospital was closed for five months after a number of doctors were killed by unidentified attackers. Many doctors and nurses refuse to go to work, fearing for their lives.<sup>632</sup>

## 5. Judges and Lawyers

According to UNAMI HRO, the independence of the Iraqi judiciary is compromised by “consistent attacks on and killings of judges and lawyers” and attacks on courthouses. Such violence aggravates the already serious shortage of legal professionals in the country and negatively impacts on the rule of law. In addition, the families and relatives of legal professionals have been targeted.<sup>633</sup>

Judges and lawyers engaged in the *Dujail* and *Anfal* trials against senior officials of the former regime have been repeatedly targeted.<sup>634</sup> To date, four lawyers involved in the defence of former regime officials have been killed. Most are working from outside Iraq.<sup>635</sup> Most judges and other legal staff working at the Iraqi High Tribunal have not been identified in public because of concerns for their safety.<sup>636</sup>

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*Fields*”, The Washington Post, 30 August 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/29/AR2006082901680.html>.

<sup>628</sup> Aaron Glantz, *Doctors Under Fire in Iraq*, AntiWar.com, 20 September 2006, <http://www.antiwar.com/glantz/?articleid=9719>; UNAMI HRO, *October 2006 Human Rights Report*, p. 7, see above footnote 66.

<sup>629</sup> See also “Persons Accused of “Un-Islamic” Behaviour”.

<sup>630</sup> Doug Struck, *Professionals Fleeing Iraq As Violence, Threats Persist*, The Washington Post, 23 January 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/01/22/AR2006012201112.html>. See also “Government Officials and Other Persons Associated With the Current Iraqi Government, Administration and Institutions”.

<sup>631</sup> IRIN, *Iraq: Facing threats, local doctors flee Mosul*, 1 May 2006, <http://www.irinnews.org/report.aspx?reportid=26331>.

<sup>632</sup> *Ibidem*, *Iraq: Insecurity, under-funding threaten children’s health in Basra*, 9 July 2006, <http://www.irinnews.org/report.aspx?reportid=27117>.

<sup>633</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 3, 15 and 18, see above footnote 10.

<sup>634</sup> UNAMI HRO, *June 2006 Human Rights Report*, p. 5, see above footnote 27.

<sup>635</sup> Kamal Taha, *Saddam lawyers determined to defend him despite threats*, Middle East Online, 2 November 2006, [http://www.iraqupdates.com/p\\_articles.php?refid=DH-S-02-11-2006&article=11507](http://www.iraqupdates.com/p_articles.php?refid=DH-S-02-11-2006&article=11507). See also “Members and Associates of the Ba’ath Party and the Former Regime”.

<sup>636</sup> AP, *Judge, lawyer on Iraq war crimes tribunal killed*, 2 March 2005, <http://www.msnbc.msn.com/id/7064658/>.

Legal personnel working on “cases involving organized crime, corruption, terrorism and militia-sponsored armed activities” are particularly at risk.<sup>637</sup> Reportedly, members of the Iraqi judiciary are trying to avoid “sensitive” cases, including through resignation or transfer to other posts. While most cases are reported from Baghdad, violence has also affected court functions in the Governorates of Diyala, Babel, Kerbala and Wassit.<sup>638</sup>

Other legal personnel have been persecuted for their (perceived) support of the Iraqi Government and its institutions.<sup>639</sup> For example, senior judge Qais Hashim Shameri and his driver were killed by gunmen in January 2005. Jaish Ansar Al-Sunna claimed responsibility in a Web posting, calling the judge “one of the heads of infidelity and apostasy of the new Iraqi government.”<sup>640</sup>

Out of fear of being targeted by religious extremists, lawyers reportedly do not want to get engaged in cases involving sensitive family matters such as “honour killings”, inheritance issues or child custody.<sup>641</sup> The Iraqi Lawyers Association (ILA) said in August 2006, that “38 lawyers have been murdered and hundreds attacked for defending cases which their enemies say are “against Islam”.” For example, Ali Al-Nassiri, a Baghdad lawyer specialized in divorce cases, was killed by a bomb that exploded in front of his house in June 2006. Reportedly, he was known for fighting for the rights of mothers to obtain custody of their children, which brought him in conflict with the fathers, who are traditionally given custody in cases of divorce.<sup>642</sup>

Currently, sufficient protection mechanisms for legal personnel are nonexistent and a high number of judges, lawyers and other legal professionals have been threatened, kidnapped and killed.<sup>643</sup> It was reported in August 2006 that at least 120 lawyers had left Iraq since January 2006.<sup>644</sup>

## 6. Athletes and Sport Officials

Athletes and sports officials have increasingly become targets of threats, kidnappings and assassinations.<sup>645</sup> The reasons behind the attacks appear mixed. Some have been targeted as part of an ongoing campaign against well-known figures so as to instil fear among the

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<sup>637</sup> UNAMI HRO, *June 2006 Human Rights Report*, p. 5, see above footnote 27.

<sup>638</sup> US Department of Defense, p. 8, see above footnote 73; UNAMI HRO, *April 2006 Human Rights Report*, p. 10, see above footnote 74.

<sup>639</sup> See also “Government Officials and Other Persons Associated With the Current Iraqi Government, Administration and Institutions”.

<sup>640</sup> AP, *Video shows American hostage; judge killed in clashes*, 26 January 2005, [http://www.usatoday.com/news/world/iraq/2005-01-25-voter-safety\\_x.htm](http://www.usatoday.com/news/world/iraq/2005-01-25-voter-safety_x.htm).

<sup>641</sup> UNAMI HRO, *August 2006 Human Rights Report*, p. 7, see above footnote 26.

<sup>642</sup> IRIN, *Iraq: Lawyers killed for defending cases “against Islam”*, 16 August 2006, <http://www.irinnews.org/report.aspx?reportid=60380>. See also “Women”.

<sup>643</sup> See for a (non-comprehensive) list of attacks on judicial personnel: “Annex VII: Attacks on Judicial Personnel”.

<sup>644</sup> UNAMI HRO, *August 2006 Human Rights Report*, p. 7, see above footnote 26.

<sup>645</sup> See for a (non-comprehensive) list of attacks on athletes and sports officials: “Annex VIII: Attacks on Athletes and Sports Officials”.



population at large and bring the country and its institutions to collapse.<sup>646</sup> Others have fallen victim to retaliatory violence between Shi'ites and Sunnis.<sup>647</sup> According to the spokesman of the Iraqi Sports Union, Sami Al-Nahren, a Sunni athlete who wins an athletic match “automatically becomes a target for Shi’ite militias or gangs”, and *vice versa*.<sup>648</sup> In addition, the perception that sports is a “Western” idea and disrespects Islamic values has led to a number of attacks.<sup>649</sup> Other athletes and sports officials have been targeted for kidnapping for ransom, possibly because they are perceived as wealthy. According to the British newspaper *The Times*, anyone who is tied to sports in Iraq is perceived to be connected to “*money and Western sympathies*”. The newspaper further reported that for security reasons, the Iraqi Olympic Committee operates in part from offices in Jordan and football players are desperately trying to get contracts with clubs abroad. The International Olympic Committee expressed concern over the situation of Iraqi athletes and provides funding for a number of Iraqi athletes to train abroad, though for security reasons the Committee would not provide their names.<sup>650</sup> IRIN reported in June 2006, that, according to the Iraqi Sports Union (ISU) in Baghdad, nearly 70 athletes had been killed since the fall of the former regime in 2003.<sup>651</sup>

## H. Others

### 1. Women

#### a) Situation in Central and Southern Iraq

Since the fall of the previous regime, the security, human rights and economic situation of women has dramatically declined and continues to deteriorate.<sup>652</sup> Widespread fear of abduction for sectarian or criminal reasons, rape, forced prostitution, (sex) trafficking<sup>653</sup> and murder limit their freedom of movement, their access to education, employment and health, and their ability to participate in public life more generally. Observers say that the

<sup>646</sup> See also “Government Officials and Other Persons Associated With the Current Iraqi Government, Administration and Institutions”.

<sup>647</sup> See also “Shi’ites and Sunnis Civilians”.

<sup>648</sup> IRIN, *Iraq: Athletes targeted for sectarian, religious reasons*, 8 June 2006, <http://www.irinnews.org/report.aspx?reportid=26984>.

<sup>649</sup> See also “Persons Accused of “Un-Islamic” Behaviour”.

<sup>650</sup> Owen Slot, *Iraqi sport in state of terror after gunmen draw blood*, *The Times*, 10 October 2006, [http://www.timesonline.co.uk/tol/sport/more\\_sport/article667015.ece](http://www.timesonline.co.uk/tol/sport/more_sport/article667015.ece).

<sup>651</sup> IRIN, *Iraq: Athletes targeted for sectarian, religious reasons*, see above footnote 648.

<sup>652</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 3, see above footnote 10. For further information on the security, human rights and economic situation of women in Iraq, see UNHCR, *2005 Country of Origin Information Iraq*, p. 31, see above footnote 53.

<sup>653</sup> According to the Iraqi NGO Women’s Freedom, and based on anecdotal evidence, nearly 3,500 Iraqi women have gone missing since 2003. It is believed that many were traded for sex work; see: IRIN, *Sex traffickers target women in war-torn Iraq*, 26 October 2006, <http://www.irinnews.org/report.aspx?reportid=61903>; Brian Bennett, *Stolen Away: Girls of Iraq Gone Missing*, *Time Magazine*, 25 April 2006, <http://www.time.com/time/magazine/article/0,9171,1186558,00.html>. The USDOS reported “(T)he ongoing insurgency and terrorism severely handicapped the government’s abilities to combat trafficking. The Iraqi Interim and Transitional Governments did not take action to prosecute or prevent trafficking or to protect victims”; see: USDOS, Office to Monitor and Combat Trafficking in Persons, *Trafficking in Persons Report*, 5 June 2006, p. 270, <http://www.state.gov/documents/organization/66086.pdf>.

kidnapping and killing of women is on the rise.<sup>654</sup> For example, the bodies of four abducted women were found in a garbage dump on 18 September 2006 in Mosul. Apparently, the victims had been raped, killed and their faces mutilated.<sup>655</sup>

Party militias, insurgents, Islamic extremists as well as family members may be perpetrators of violent acts against women. Within the context of a male-dominated Iraqi society, women continue to represent a “softer” target than do men. Instances of attacks against women are thus high. Due to ongoing insecurity, many are unable to leave their homes without a male family member to accompany them and even then often with their own or their families’ reluctance. Women have reportedly also been targeted as a means to punish or pressure other members of the family, both by armed groups/militias as well as the ISF. For example, the wife of a police officer in Mosul was shot dead after the attackers failed to find her husband on 28 September 2006.<sup>656</sup> In another case, a police officer reportedly tried to force a woman into a sexual relationship in exchange for the release of her husband and son.<sup>657</sup>

UNAMI HRO also reported an increase in “honour killings”<sup>658</sup> due to the general state of lawlessness and impunity in Iraq.<sup>659</sup> “Honour killing” is a term used to describe a murder committed by a family member to protect the family’s honour. Many women and girls are at risk of death if they are accused of behaviour believed to have brought shame on the family, such as loss of virginity (even by rape), infidelity, a demand for divorce or a refusal of marriage. Women can be killed based solely on suspicions or rumours without the opportunity to defend themselves.

In a society where a family’s reputation is measured by the chastity of its female members, stories of abduction and rape create a great sense of fear in the minds of Iraqi women. Not only is there a threat of being sexually assaulted, women also fear the aftermath of such assaults. In fact, women who survive sexual assaults are likely to be subjected to additional acts of violence from their own family members, particularly from their male relatives who perceive them as having brought shame on the family. Accordingly, women who are victims of sexual violence are reluctant to contact the police because they fear being killed by relatives who may act to restore the “family honour.” At times, the mere possibility that a woman has been sexually assaulted after she was abducted or detained may be sufficient to bring shame to the family. With rumours of the (sexual) abuse of abducted women running high, female detainees may be subject to violence at the hands of their families

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<sup>654</sup> Dahr Jamail and Ali al-Fadhily, *Iraq: Abduction of Women on the Rise*, IPS, 11 December 2006, <http://ipsnews.net/news.asp?idnews=35801>; UNAMI HRO, *December 2006 Human Rights Report*, p. 12, see above footnote 10; IRIN, *Iraq: Local NGO warns of rising cases of sexual abuse*, 14 June 2006, <http://www.irinnews.org/report.aspx?reportid=27013>.

<sup>655</sup> UNAMI HRO, *October 2006 Human Rights Report*, p. 12, see above footnote 66.

<sup>656</sup> *Ibid.*

<sup>657</sup> Dahr Jamail and Ali al-Fadhily, *Iraq: Abduction of Women on the Rise*, IPS, 11 December 2006, <http://ipsnews.net/news.asp?idnews=35801>. See also: UNAMI HRO, *April 2006 Human Rights Report*, p. 9, see above footnote 74.

<sup>658</sup> For more information on “honour killings”, see: UNHCR, *2005 Country of Origin Information Iraq*, p. 33 and 36-38, see above footnote 53.

<sup>659</sup> UNAMI HRO, *October 2006 Human Rights Report*, p. 3, see above footnote 66; *ibidem*, *August 2006 Human Rights Report*, p. 10, see above footnote 26.

after their release.<sup>660</sup> UNAMI HRO reported that female corpses are usually not claimed from the morgue for fear of damaging the family “honour”. During November and December 2006, more than 140 female bodies remained unclaimed and were buried in Najaf by the morgue.<sup>661</sup>

The Iraqi *Penal Code*<sup>662</sup> contains provisions that allow lenient punishments for “honour killings” on the grounds of provocation or if the accused had “honourable motives”. The punishment is between 6 to 12 months imprisonment.<sup>663</sup> Article 409 further provides that if a person surprises his wife or a female relative committing adultery and kills/injures one or both immediately, the punishment will not exceed three years.<sup>664</sup> The law does not provide any guidance as to what “honourable motives” are and therefore leaves the door open for wide interpretation and abuse. Women who fear “honour killings” will not be protected within their communities by their tribes in view of the increasing weakness of tribal structures and mediation systems as a result of the overall situation of violence in Central and Southern Iraq.

With the rise in religious extremism, both Muslim women and women of other religious groups have increasingly been pressured to conform to strict Islamic dress and morality codes. For example, they are forced to cover their hair and leave the house only when accompanied by a male relative. If they do not do so, they risk being subjected to harassment and death threats. Islamist groups, which largely control public institutions such as universities or hospitals, strictly apply these rules to women. For example, female students in Mosul received leaflets warning them to wear “proper Muslim attire” at universities.<sup>665</sup>

## **b) Situation of Women in the Region of Kurdistan**

In the Kurdistan Region, despite the fact that a law defines “honour killings” as murder, crimes of this type still take place. Women who are, for example, victims of sexual aggression, are frequently ostracized and even killed by their family members in an attempt

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<sup>660</sup> IRIN, *Iraq: Appalling conditions of women prisoners disputed*, 13 December 2006, <http://www.irinnews.org/report.aspx?reportid=62518>. See also: UNHCR, *2005 Country of Origin Information Iraq*, p. 35-36, see above footnote 53.

<sup>661</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 12, see above footnote 10.

<sup>662</sup> See also “Criminal Sanctions”.

<sup>663</sup> Article 128(1) of the *Law No. (111) of 1969, Penal Code* reads:

“Legal excuse either discharges a person from a penalty or reduces that penalty. Excuse only exists under conditions that are specified by law. Notwithstanding these conditions, the commission of an offence with honorable motives or in response to the unjustified and serious provocation of a victim of an offence is considered a mitigating excuse.”

Article 130 of the *Penal Code* reads:

“If there exists a mitigating excuse for a felony for which the penalty is death, the penalty shall be reduced to life imprisonment or imprisonment for a term of years or detention for a period of not less than 1 year. If the penalty is life imprisonment or imprisonment for a term of years; the penalty shall be reduced to a period of detention of not less than 6 months unless otherwise stipulated by law.”

<sup>664</sup> Article 409 of the *Law No. (111) of 1969, Penal Code* reads:

“Any person who surprises his wife in the act of adultery or finds his girlfriend in bed with her lover and kills them immediately or one of them or assaults one of them so that he or she dies or is left permanently disabled is punishable by a period of detention not exceeding 3 years. It is not permissible to exercise the right of legal defense against any person who uses this excuse nor do the rules of aggravating circumstance apply against him.”

<sup>665</sup> See also “Persons Accused of “Un-Islamic” Behaviour”.

to preserve the family's "honour". Given the fact that "honour killings" are prohibited by law, they may be concealed as accidents, suicides or suicide attempts, and, reportedly, most cases are investigated as such. According to the KRG Human Rights Ministry, 239 women burned themselves between January and August 2006 alone. The authorities in the Governorate of Sulaymaniyah recorded 37 traumatic burn cases in November 2006 involving women, but it is feared that the actual number might be much higher as many cases are not reported.<sup>666</sup> Ashraf Qazi, the Special Representative of the Secretary General for Iraq, in a letter dated 24 August 2006 to the Iraqi President Jalal Talabani and the President of the KRG, Massoud Barzani, expressed his concern about the practices related to "honour crimes".<sup>667</sup>

A survey undertaken by the German NGO WADI<sup>668</sup> in the Garman district of the Governorate of Sulaymaniyah revealed that between 60 and 70 percent of the 1,500 women interviewed in 40 villages had suffered from female genital mutilation (FGM). Some local women's organizations have been campaigning against the practice for many years. Since 2001, they have received important support from clerics issuing *fatwas* against the practice and local TV stations covering the issue. As part of its campaign against FGM, WADI organized a conference in Erbil on 26 September 2006 that was supported by local authorities, who had previously denied that FGM was practiced in the region. A first step in prosecuting the practice is that midwives found to engage in FGM lose their licence. However, midwives are not the only ones involved in FGM. WADI reports that FGM is practiced by Muslims, Christians and Kaka'i.<sup>669</sup> According to Amnesty International (AI), there are indications that the practice is decreasing.<sup>670</sup>

Further, women and girls in Iraq may be exposed to other harmful traditional practices such as forced and/or early marriage (including exchanging of women between families for marriage purposes and marriages between young women and much older men). The right of men and women to enter into marriage only if they freely and fully consent is not enshrined in the Constitution. It does provide, however, that the State must protect childhood and prohibits all forms of violence and abuse in the family.<sup>671</sup> In addition, Iraq is party to the

<sup>666</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 11, see above footnote 10.

<sup>667</sup> *Ibidem*, *October 2006 Human Rights Report*, p. 11-12, see above footnote 66.

<sup>668</sup> WADI is a German-Iraqi NGO, founded in Germany in 1991, which began its activities in Northern Iraq in 1993. WADI's projects in Iraq mainly focus on empowering women and assisting women in distress, but also includes support to marginalized groups, such as prisoners and IDPs; see WADI, *A brief overview of Wadi's activities 1993-2006*, <http://www.wadinet.de/projekte/frauen/khanzad/women-brief.htm>.

<sup>669</sup> Sandra Strobel and Thomas v. der Osten-Sacken, "Female Genital Mutilation in Iraqi Kurdistan", Presentation to the conference: 1ère Journée Humanitaire sur la Santé des Femmes dans le Monde organized by Gynécologie sans Frontières, WADI, 8 May 2006, [http://www.wadinet.de/news/dokus/fgm-conference\\_1ere\\_journee\\_humanitaire-en.htm](http://www.wadinet.de/news/dokus/fgm-conference_1ere_journee_humanitaire-en.htm). See also: WADI, *A brief overview of Wadi's activities 1993-2006*, <http://www.wadinet.de/projekte/frauen/khanzad/women-brief.htm>; RFE/RL, *Iraq: Study Says Female Genital Mutilation Widespread In North*, 21 January 2005, <http://www.rferl.org/featuresarticle/2005/01/5c740d58-641a-4f32-b375-5c731a811634.html>; Nicholas Birch, *Genital Mutilation is Traditional in Iraq's Kurdistan*, Women's E-News, 1 August 2004, <http://www.wadinet.de/projekte/frauen/fgm/attach4.htm>; IWPR, *Female circumcision wrecking lives*, Iraqi Crisis Report No. 120, 13 April 2005, <http://www.kwahk.org/articles.asp?id=68>.

<sup>670</sup> AI, *Iraq – Decades of Suffering*, February 2005, p. 20, [http://web.amnesty.org/library/pdf/MDE140012005ENGLISH/\\$File/MDE1400105.pdf](http://web.amnesty.org/library/pdf/MDE140012005ENGLISH/$File/MDE1400105.pdf).

<sup>671</sup> Article 29(1)(B) and Article 29(4).

International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Elimination of Discrimination Against Women (CEDAW), both of which guarantee the right to marry at one's free will. Under Iraq's *Personal Status Law*,<sup>672</sup> forced marriage is prohibited and punishable by up to three years' imprisonment.<sup>673</sup> The legal age for marriage is 18,<sup>674</sup> however a 1979-amendment to the *Personal Status Law* lowered the minimum age for marriage to 15 years with the consent of the parents, an adult brother or an adult married sister. Despite these legal provisions, many women and young girls are forced to marry and risk enduring violence if they reject their families' choice, including "honour killings". Marriages of girls below the age of 15 are done according to religious customs and are not legally recognized. In rural areas of Northern Iraq, a practice called *Jin bi Jin*, meaning "a woman for a woman", can be a form of forced marriage as it involves the exchange of women between two families where no bride price is paid. Similar practices can also be found in other areas of Iraq. Another custom, known as "exchange-for-blood marriage", involves giving a girl or woman in marriage to another family as compensation for a killing.<sup>675</sup>

### c) Single Women and Women Head of Household

This group is made up of women on their own, or with their children, because their family members or spouses were killed,<sup>676</sup> kidnapped or otherwise targeted, and because they risk or have already faced harassment or attacks themselves.<sup>677</sup> Depending on the perpetrators, additional factors such as a woman's ethnicity, religion or professional background may put her at even greater risk. Women in this group are typically targets of kidnapping, rape or other forms of sexual harassment and abuse, including forced prostitution and human trafficking. Women who do not benefit from any type of family network or tribal links to protect them are even more at risk and are likely to be prime targets for traffickers. Those who have no means of livelihood are further likely to fall prey to trafficking and prostitution in order to survive.<sup>678</sup>

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<sup>672</sup> See "Personal Status".

<sup>673</sup> Article 9 of the *Personal Status Law*, see above footnote 52.

<sup>674</sup> Article 7 of the *Personal Status Law*, see above footnote 52.

<sup>675</sup> See AI, *Iraq – Decades of Suffering*, February 2005, p. 22/23, [http://web.amnesty.org/library/pdf/MDE140012005ENGLISH/\\$File/MDE1400105.pdf](http://web.amnesty.org/library/pdf/MDE140012005ENGLISH/$File/MDE1400105.pdf); BBC News, *Tribal justice takes hold in Iraq*, 2 February 2004, [http://news.bbc.co.uk/2/hi/middle\\_east/3449869.stm](http://news.bbc.co.uk/2/hi/middle_east/3449869.stm).

<sup>676</sup> According to Iraqi Government officials and NGOs, more than 90 women become widows each day due to continuing violence in the country; see IRIN, *Iraq: Widow numbers rise in wake of violence*, 26 April 2006, <http://www.irinnews.org/report.aspx?reportid=26320>; according to the Iraqi organization Women Against War, there are an estimated 400,000 widows in Baghdad alone; see: Joshua Partlow, *Widows Often Find Help Elusive in Iraq*, The Washington Post, 23 July 2006, [http://www.washingtonpost.com/wp-dyn/content/article/2006/07/22/AR2006072200920\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2006/07/22/AR2006072200920_pf.html). See also Dahr Jamail and Ali Al-Fadhily, *Iraq: Widows Become the Silent Tragedy*, IPS, 7 December 2006, <http://ipsnews.net/news.asp?idnews=35751>; AP, *Violence in Iraq increasingly targeting women*, 22 November 2006, <http://www.metimes.com/storyview.php?StoryID=20061122-105650-7783r>.

<sup>677</sup> According to UNAMI HRO, women are also targeted as "a means to punish other members of the family"; see UNAMI HRO, *October 2006 Human Rights Report*, p. 12, see above footnote 66.

<sup>678</sup> See UNHCR, *2005 Eligibility Guidelines*, p. 21, see above footnote 8.



## 2. Sexual Orientation

### a) General

Iraq's largely marginalized and vulnerable LGBT community is often targeted for attacks. Although attacks on the basis of a person's sexual orientation and general intolerance of homosexual practices occurred before 2003, the current environment of impunity and lawlessness along with the stronger embracing and extralegal enforcement of strict Islamic values have led to a spate of killings in recent years.

### b) Current Situation

While Iraqi law does not institutionally discriminate against LGBT citizens, homosexuality and alternate gender identity remain strictly taboo and subject to intense individual, familial and social sanctions.

In a conservative society where religious sanctions are increasingly enforced by extrajudicial means, Shari'a proscriptions of homosexual conduct place LGBT Iraqis in significant physical danger. In October 2005, Grand Ayatollah Ali Al-Sistani allegedly issued a *fatwa* which reportedly called for the killing of homosexuals "*in the most severe way*."<sup>679</sup> The *fatwa*, published on a website in the Iranian city of Qom in the name of Al-Sistani, appeared in the Arabic-language section but not the English.<sup>680</sup> While Al-Sistani has denied issuing any such *fatwa*, his representative, Seyed Kashmiri, appeared to acknowledge the ruling when he explained to BBC News that "*homosexuals and lesbians are not killed for practising their inclinations for the first time*," and that not all rulings are to be implemented.<sup>681</sup>

From October 2005 until the removal of the statement from the Al-Sistani website on 10 May 2006, at least twelve LGBT Iraqis were reportedly killed in targeted attacks based on their sexual orientation.<sup>682</sup> The statement was revoked following the public killing of 14-year-old Ahmed Khalil in Al-Doura by men wearing police uniforms, on the basis of his imputed homosexuality and amid "*mounting evidence that fundamentalists have infiltrated government security forces to commit homophobic murders*."<sup>683</sup> Killings have increased in brutality as well as frequency; in a highly public attack, Haydar Faiek, a transsexual Iraqi, was burned alive in September 2005 in Karada's main street.<sup>684</sup> Ali Hili, the founder of the *Iraqi LGBT Society* said that he had received hundreds of reports of attacks, and had

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<sup>679</sup> Daniel Howden, *Sistani renounces fatwa on gays*, The Independent, 16 May 2006, [http://news.independent.co.uk/world/middle\\_east/article485024.ece](http://news.independent.co.uk/world/middle_east/article485024.ece).

<sup>680</sup> Michael McDonough, *Gay Iraqis fear for their lives*, BBC News, 17 April 2006, [http://news.bbc.co.uk/2/hi/middle\\_east/4915172.stm](http://news.bbc.co.uk/2/hi/middle_east/4915172.stm).

<sup>681</sup> *Ibid.*

<sup>682</sup> Based on compiled news reports and information received in host countries, together with a list of gay Iraqis killed since 2003 provided to UNAMI HRO by *IraqiLGBT*, a UK- and Baghdad-based gay rights group.

<sup>683</sup> Howden, *Sistani renounces fatwa on gays*, see above footnote 679.

<sup>684</sup> Daniel McGrory, *Gays flee as religious militias sentence them all to death*, The Times, 17 May 2006, <http://www.timesonline.co.uk/article/0,,7374-2183948,00.html>.

evidence that over forty people had been killed based on their sexual orientation or identity.<sup>685</sup> UNAMI HRO reported that in the first week of December 2006 alone, at least five homosexual males were allegedly kidnapped from Sha'ab District in Baghdad. Reportedly, their personal documents and information contained in their computers were confiscated. The mutilated body of one of the kidnapped individuals was found a few days later in the same area.<sup>686</sup> The activist group to which the kidnap victims belonged also reported that two lesbian members providing a safe house for gay Iraqis and children seeking to escape the sex trade were killed by extremist militia in June 2006.<sup>687</sup> Iraqi gays speaking to UNHCR in host countries indicated that anti-gay incidents are drastically underreported since families may be implicated in anti-gay violence or are unwilling to admit that slain members were homosexual.

Militias have reportedly been threatening families of men believed to be gay, stating that they will begin killing family members unless the men are handed over or killed by the family.<sup>688</sup> Residents of Baghdad's Al-Amiriyah and Al-Jamia'a neighbourhoods report the public killing of gays and the targeting of their relatives.<sup>689</sup> Family members have also reported community vindication for killing their gay sons. A Baghdad father stated that he was released without trial to social approval once he explained that he had hanged his son upon discovering he was gay.<sup>690</sup>

*"Muslims believe that homosexual behaviour is an offence against Islam and anyone who behaves in this way should be sentenced to death without compassion",* Sheikh Ali Amar, a Baghdad cleric, told IRIN in February 2006.<sup>691</sup> Shari'a courts are reportedly operating in predominantly Shi'a towns, including Al-Amarah and Basrah, and in Baghdad's Shula, Hurriyah and Sadr City Districts, and are extra-judicially and unofficially trying, convicting and executing gay Iraqis.<sup>692</sup> Such courts have reportedly been operating in militia-controlled areas of Iraq, trying and executing perceived political opponents as well as numerous classes of persons seen as engaging in offences against Islam.<sup>693</sup> A clerical judge in one such court stated that he believed that homosexuality was on the decline in Iraq, since *"most [gays] have been killed and others have fled."*<sup>694</sup>

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<sup>685</sup> David France, *Dying to Come Out: The War on Gays in Iraq*, Gentlemen's Quarterly Magazine, February 2007, [http://men.style.com/gq/features/landing?id=content\\_5304](http://men.style.com/gq/features/landing?id=content_5304).

<sup>686</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 26, see above footnote 10.

<sup>687</sup> Tris Reid-Smith, *Iraq Police Abduct Gays at Gunpoint*, Pink Paper, 29 November 2006, <http://www.globalgayz.com/iraq-news.html#article19>.

<sup>688</sup> McGrory, see above footnote 684.

<sup>689</sup> IWPR, *Baghdad Gays Fear for Their Lives*, Iraq Crisis Report No. 199, 20 October 2006, [http://www.iwpr.net/?p=icr&s=f&o=324756&apc\\_state=heniicrd6201b571b0dd9ebc3b068b94ab0b968](http://www.iwpr.net/?p=icr&s=f&o=324756&apc_state=heniicrd6201b571b0dd9ebc3b068b94ab0b968).

<sup>690</sup> IRIN, *Iraq: Male homosexuality still a taboo*, 5 February 2006, <http://www.irinnews.org/Report.aspx?ReportId=26110>.

<sup>691</sup> *Ibid.*

<sup>692</sup> IWPR, *Baghdad Gays Fear for Their Lives*, see above footnote 689.

<sup>693</sup> Ellen Knickmeyer, *"We Don't Need a Verdict," One Commander Says*, The Washington Post, 25 August 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/24/AR2006082401721.html>.

<sup>694</sup> IWPR, *Baghdad Gays Fear for Their Lives*, see above footnote 689. See also "Persons Accused of 'Un-Islamic' Behaviour".

According to officials at the Human Rights Ministry, the Government of Iraq requires more time to respond to human rights abuses of homosexual Iraqis due to the highly sensitive nature of the issue.<sup>695</sup> The Ministry of Human Rights reports that “honour killings” are common when family members are believed to be gay, and a Baghdad-based lawyers’ association reported fifteen cases of “honour killings” of homosexuals in Baghdad over the previous two years alone.<sup>696</sup> Ibrahim Daud, a family lawyer in Baghdad who has been involved in nearly 65 cases of honour killings involving gay men, said, “*killing for honour has been a common practice for years, and a short prison sentence for the killer is common.*”<sup>697</sup>

The fear of ostracism, “honour killings” and militia targeting is also forcing many young Iraqi gays into the sex trade, as organized gangs use the threat of exposure to coerce Iraqi gays into working for them.<sup>698</sup> In addition, economic pressures in Iraq, where 48% of youth are unemployed, have led to a sharp increase in male commercial sex workers, despite the high risk of death at the hands of their families or armed groups. The Iraqi Ministry of Labour and Social Affairs has made efforts to address the commercial sex trade, but remains under-resourced to address the issue.<sup>699</sup>

Targeted violence against Iraq’s LGBT community goes largely unpunished, along with status-based and honour killing, kidnapping and forcible coercion into prostitution.<sup>700</sup> Police are unlikely to provide protection and gay Iraqis report frequent abuse, harassment and misconduct by police, including “*blackmail, torture, sexual abuse and theft.*”<sup>701</sup> Torture and mistreatment of civilians and detainees by Iraqi police is common, including sodomy and sexual brutality as a means of torture.<sup>702</sup> Further, while sodomy is not a criminal offence in Iraq, UNAMI’s Human Rights Office has received reports of Iraqis held without charge for extended periods in criminal detention facilities for allegedly engaging in acts of sodomy, including a minor child.<sup>703</sup>

### 3. Persons Accused of “Un-Islamic” Behaviour

As part of the ongoing stricter interpretation and implementation of Islamic values and traditions in Iraq, persons that appear not to dress or behave in accordance with Islamic rules have been subjected to discrimination, threats, kidnappings, mutilation and killings.

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<sup>695</sup> IRIN, *Iraq: Male homosexuality still a taboo*, 5 February 2006, <http://www.irinnews.org/Report.aspx?ReportId=26110>.

<sup>696</sup> *Ibid.*

<sup>697</sup> *Ibid.*

<sup>698</sup> *Ibidem*, *Iraq: Focus on boys trapped in commercial sex trade*, 8 August 2005, <http://www.irinnews.org/Report.aspx?ReportId=25350>. UNAMI HRO reported that two minors, eleven-year-old Ameer and fourteen-year-old Ahmed, who had reportedly been forced into child prostitution, were killed for their sexual orientation; see UNAMI HRO, *December 2006 Human Rights Report*, p. 26, see above footnote 10.

<sup>699</sup> *Ibid.*

<sup>700</sup> Jennifer Copeland, *Persecution of Iraq’s Gay Community*, More4News.com, 8 August 2006, <http://www.channel4.com/more4/news/news-opinion-feature.jsp?id=347>.

<sup>701</sup> IWPR, *Baghdad Gays Fear for Their Lives*, see above footnote 689.

<sup>702</sup> HRW, *The New Iraq? Torture and ill-treatment of detainees in Iraqi custody*, January 2005 Vol. 17, No. 1(D), <http://www.hrw.org/reports/2005/iraq0105/index.htm>.

<sup>703</sup> Information received from UNAMI HRO in February 2007.



Both sexes have become victims of such attacks, as have liberal Muslims and members of religious minorities. Perpetrators of such acts are militant Islamists, both Sunni and Shi'a. There have been reports from several cities, such as Baghdad, Basrah and Fallujah, of religious edicts being made public banning a range of activities.<sup>704</sup>

Persons not abiding by strict Islamic dress codes are easily identifiable targets. Women, including non-Muslims,<sup>705</sup> have been assaulted, including with acid, for not covering their hair or wearing the *abaya*, the black, all-encompassing veil,<sup>706</sup> and men have been attacked for wearing short trousers, shaving their beards or having long hair. Reportedly, in areas under the control of religious groups or militias, women have been beaten for showing too much naked skin by not wearing socks or not covering their hair.<sup>707</sup>

Others have been targeted for engaging in activities considered "immoral" or "un-Islamic", such as women driving cars, working outside the house or playing sports. Basketball player Samira Kubaissy was killed in January 2006 after she had been accused by extremists of un-Islamic behaviour.<sup>708</sup> Men and women are called upon to segregate in public. On 15 March 2005, members of the Mehdi Army attacked picnicking Basrah University students, claiming they were violating the principles of Islam with their western-style clothing, and by singing, dancing and mingling with the other sex. The Sadrists fired guns at the students and beat them with sticks. Police were also present during the incident but did not intervene. University officials reported that at least 15 students were hospitalized.<sup>709</sup> On 8 March 2005, three women were killed in the Shi'ite neighbourhood of Al-Sadr. They

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<sup>704</sup> For example, flyers distributed in Baghdad's neighbourhood of Tobji in October 2006 banned "vices" such as music and singing, celebratory gunfire at weddings, the selling of alcohol and drugs, wearing improper Western clothes and cutting hair and warned that those that who violate these bans would be "*held accountable*". This religious edict was reportedly issued by the *Committee for Promotion of Virtue and Prevention of Vice*, which is linked to the local office of Muqtada Al-Sadr; see: Sudarsan Raghavan, *Another Freedom Cut Short*, The Washington Post, 6 October 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/10/05/AR2006100501825.html>. See also on religious *fatwas* issued in Basrah, The Independent, *For the women of Iraq, the war is just beginning*, 8 June 2006, [http://news.independent.co.uk/world/middle\\_east/article717570.ece](http://news.independent.co.uk/world/middle_east/article717570.ece).

<sup>705</sup> For further information on non-Muslim women forced to cover their hair, see p. 122.

<sup>706</sup> IRIN, *Iraq: Women attacked for removing headscarves*, NGO says, 7 March 2006, <http://www.irinnews.org/report.aspx?reportid=26174>; *ibidem*, *Iraq: Acid attacks on "immodest" women on the rise*, 4 July 2005, <http://www.irinnews.org/Report.aspx?ReportId=25229>.

<sup>707</sup> For example, in Baghdad's mainly Shi'ite suburb of Za'afaraniya, members of the Mehdi Army reportedly slap schoolgirls not wearing the hijab and in Amiriyah, a Sunni stronghold in Baghdad, militants shave the heads of three women for not being dressed decently and lash young men for wearing shorts; see: Nancy Trejos, *Women Lose Ground in the New Iraq*, The Washington Post, 16 December 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/12/15/AR2006121501744.html>; Beaumont, see above footnote 174; IRIN, *Iraq: Athletes targeted for sectarian, religious reasons*, see above footnote 648. In May 2006, three athletes were killed in Baghdad's Sunni neighbourhood of Al-Saidiya after leaflets were distributed warning people not to wear shorts, as it "*violates the principles of Islamic religion when showing forbidden parts of the body*"; see BBC News, *Iraqis shot "for wearing shorts"*, 26 May 2006, [http://news.bbc.co.uk/2/hi/middle\\_east/5020804.stm](http://news.bbc.co.uk/2/hi/middle_east/5020804.stm); The Associated Press, *Iraqi Athletes Killed for Wearing Shorts*, 27 May 2006, <http://abcnews.go.com/International/wireStory?id=2012915>.

<sup>708</sup> Trejos, *ibid.*; Beaumont, see above footnote 174; IRIN, *Iraq: Athletes targeted for sectarian, religious reasons*, see above footnote 648; The Independent, *For the women of Iraq, the war is just beginning*, 8 June 2006, [http://news.independent.co.uk/world/middle\\_east/article717570.ece](http://news.independent.co.uk/world/middle_east/article717570.ece).

<sup>709</sup> Catherine Philp, *Death at "immoral" picnic in the park*, Times Online, 23 March 2005, <http://www.timesonline.co.uk/article/0,,7374-1537512.00.html>.

were believed to be prostitutes.<sup>710</sup> Armed Islamic groups and militias have also launched violent campaigns against homosexuals, killing several.<sup>711</sup> Persons known to have HIV/AIDS, who have already suffered from severe discrimination and, under the former regime, spent many years virtually imprisoned in sanatoria,<sup>712</sup> continue to be discriminated against. Some have been killed as they are perceived to have engaged in “*indecent methods against Islamic beliefs*” such as homosexuality, sex outside of marriage and drug use.<sup>713</sup>

In addition, members of certain professions have become victims of religious extremists. There are continuous reports of barbers being killed, threatened or forced to close their shops for shaving men, giving “Western-style” haircuts, or doing *Al-Haff*, the Iraqi practice in which barbers use thread to pull out small hairs on the face to give a closer shave, all considered by Islamic extremists as prohibited under Islam.<sup>714</sup> Male doctors have reportedly been killed for treating female patients and owners of alcohol,<sup>715</sup> DVD and CD shops and shops selling musical instruments or what is considered “inappropriate clothing” have also been targeted.<sup>716</sup>

Furthermore, in several government offices, many of which are run by religious parties, Islamic rules have been introduced, including the segregation of staff by sex or the duty imposed on women to wear a headscarf.<sup>717</sup> For example, women teachers have been ordered to adopt Islamic codes of clothing and behaviour.<sup>718</sup> Some women were reportedly denied employment and educational opportunities because they did not present themselves as sufficiently conservative.

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<sup>710</sup> BBC News, *Iraqi women shot dead in Baghdad*, 8 March 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4329075.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4329075.stm).

<sup>711</sup> See “Sexual Orientation”.

<sup>712</sup> On the situation under the former regime, see: Paul von Zielbauer, *Iraqis Infected by H.I.V.-Tainted Blood Try New Tool: A Lawsuit*, The New York Times, 4 September 2006, <http://travel2.nytimes.com/2006/09/04/world/middleeast/04aids.html>.

<sup>713</sup> IRIN, *Iraq: HIV-positive couple murdered*, 9 August 2006, <http://www.irinnews.org/report.aspx?reportid=60142>.

<sup>714</sup> UNAMI HRO reported in its December 2006 human rights report that it “*has also received reports to the effect that several barbers were killed in Kirkuk in the reporting period, probable targets of Islamic extremists advocating conformist Islamic practices such as outlawing shaving for Muslim men. For instance, on 9 December, a “terrorist group” assassinated Qasm Hassan, a barber at the Al-Wasiti Quarter, south Kirkuk*”; see UNAMI HRO, *December 2006 Human Rights Report*, p. 16, see above footnote 10. See also: Raghavan, see above footnote 704; IRIN, *Iraq: Barbers threatened by hardliners*, 24 March 2005, <http://www.irinnews.org/report.aspx?reportid=24977>.

<sup>715</sup> For further information see, for example, “Yazidis”<sup>352F</sup> and “Roma (Kawliyah)”, as alcohol shops are usually run by non-Muslims.

<sup>716</sup> Raghavan, see above footnote 704. See also: UNAMI HRO, *October 2006 Human Rights Report*, p. 12, see above footnote 66; CNN, *Mosque, music stores bombed in Baquba*, 3 April 2006, <http://edition.cnn.com/2006/US/04/02/sunday/index.html>; Al Jazeera and agencies, *Traditional Iraqi music under threat*, <http://english.aljazeera.net/news/archive/ArchiveId=1546>.

<sup>717</sup> Beaumont, see above footnote 174; UNAMI HRO, *June 2006 Human Rights Report*, p. 10, see above footnote 27.

<sup>718</sup> Peter Beaumont, *Iraq’s universities and schools near collapse as teachers and pupils flee*, The Guardian, 5 October 2006, <http://www.guardian.co.uk/Iraq/Story/0,,1887804,00.html>.

## V. ELIGIBILITY FOR INTERNATIONAL PROTECTION

### A. Overall Approach

In view of the ongoing violence, conflict and human rights violations in Central and Southern Iraq, UNHCR considers Iraqi asylum-seekers from these areas to be in need of international protection. In those countries where the numbers of Iraqis are such that individual refugee status determination is not feasible, UNHCR encourages the adoption of a *prima facie* approach.

In relation to countries which are signatory to the 1951 Convention relating to the Status of Refugees (“1951 Convention”) and/or its 1967 Protocol, and have in place procedures requiring refugee status determination under the Convention on an individual basis, Iraqi asylum-seekers from Central and Southern Iraq should be considered as refugees based on the 1951 Convention criteria, given the high prevalence of serious human rights violations related to one of the five grounds. Where, however, such asylum-seekers are not recognized under the 1951 Convention refugee criteria, international protection should be afforded through the application of an extended refugee definition, where this is available,<sup>719</sup> or otherwise through a complementary form of protection.

International protection needs of asylum-seekers from the three Northern Governorates of Sulaymaniyah, Erbil and Dohuk should be individually assessed based on the 1951 Convention refugee definition. In cases where an asylum-seeker is not recognized as a refugee under the 1951 Convention but nevertheless demonstrates protection needs for which complementary forms of protection may be appropriate, the case should be assessed accordingly. Taking into consideration the tenuous and unpredictable nature of the situation in the region and the possibility of sudden and dramatic change, the approach outlined in

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<sup>719</sup> See Article 1 of the Convention Governing the Specific Aspects of Refugee Problems in Africa (“OAU Convention”), 10 September 1969, available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b36018>:

“1. For the purposes of this Convention, the term “refugee” shall mean every person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events is unable or, owing to such fear, is unwilling to return to it.

2. The term “refugee” shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.”

and Section III para. 3 of the Cartagena Declaration on Refugees, 22 November 1984, available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b36ec>:

“To reiterate that, in view of the experience gained from the massive flows of refugees in the Central American area, it is necessary to consider enlarging the concept of a refugee, bearing in mind, as far as appropriate and in the light of the situation prevailing in the region, the precedent of the OAU Convention (article 1, paragraph 2) and the doctrine employed in the reports of the Inter-American Commission on Human Rights. Hence the definition or concept of a refugee to be recommended for use in the region is one which, in addition to containing the elements of the 1951 Convention and the 1967 Protocol, includes among refugees persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order.”

these Guidelines for asylum-seekers from Central and Southern Iraq may, at some point, have to be followed.

UNHCR considers that an internal flight or relocation alternative (IFA/IRA) in Central and Southern Iraq is on the whole not available, because of the overall ability of agents of persecution to perpetrate acts of violence with impunity, the widespread violence and human rights violations, risks associated with travel, and the hardship faced in ensuring even basic survival in areas of relocation. If, however, the availability of an IFA/IRA must be assessed as a requirement in a national eligibility procedure, it should be examined carefully and on a case-by-case basis, bearing in mind the strong cautions in these Guidelines<sup>720</sup> and, in general, UNHCR's 2003 Guidelines on International Protection on Internal Flight Relocation/Alternative.<sup>721</sup>

As regards the three Northern Governorates, the overall security situation has been less precarious than the situation in Central and Southern Iraq. However, it remains tense and unpredictable due to a number of primarily political factors. In regard to the availability of an internal flight alternative in the Central and Southern regions, no such alternative is available for Iraqi asylum-seekers originating from the Northern Governorates due to the widespread violence, insecurity and human rights violations in those areas. Whether an IFA/IRA may be available for them within the three Northern Governorates themselves must be examined carefully on a case-by-case basis. The examination should take into account factors such as the background, profile and circumstances of the individual concerned; the existence of legal and physical barriers to accessing the area of relocation, which are known to be prevalent; possibilities of new risks of harm in the area of relocation; and whether undue hardship is likely to be faced by living in the area of relocation. Furthermore, certain categories of individuals with given profiles are not admitted there, including those as listed in these Guidelines.<sup>722</sup>

In light of Iraq's history of serious human rights violations and violations of humanitarian law in the country's long history of conflicts, the applicability of the exclusion clauses is a relevant consideration in the context of refugee protection. An individualized assessment is needed based on all relevant facts in each case particularly in relation to those Iraqis with certain backgrounds and profiles, as set out in these Guidelines. Acts which may bring an applicant within the scope of the exclusion clauses could have occurred before or after the fall of the Saddam Hussein regime in 2003. There have been several periods of armed conflict, both international and non-international, as well as specific events which could give rise to exclusion considerations. Exclusion is warranted where the individual responsibility of the asylum-seeker for a crime under the exclusion clauses is established.

In cases where Iraqi asylum-seekers find themselves in countries where there is no national legislative or administrative framework for refugee status determination, concerned Governments should permit Iraqis from Central and Southern Iraq to enter and/or remain in

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<sup>720</sup> See, more specifically, "Internal Flight or Relocation Alternative".

<sup>721</sup> UNHCR, *Guidelines on International Protection No. 4: "Internal Flight or Relocation Alternative"*, see above footnote 4.

<sup>722</sup> See "Persons Who May Not Be Able to Find Protection".

those countries, even only on a temporary basis, according to any appropriate framework which may facilitate this and allow access to basic protection measures. In relation to persons from the three Northern Governorates, international protection needs may be assessed individually, bearing in mind the caution highlighted already concerning the situation there, which thus may justify the same approach as for asylum-seekers from Central and Southern Iraq, should the situation deteriorate. Persons assessed to be in need of international protection should be permitted lawful stay or residence.

The sections which follow below provide an overview of the refugee criteria in the 1951 Convention, as well as factual considerations relevant to the proper assessment of the international protection needs of Iraqi asylum-seekers, where this is done on an individual rather than a *prima facie* basis.

## ***B. Inclusion for Refugee Status Under the 1951 Convention Criteria***

Article 1A(2) of the 1951 Convention, provides that the term “refugee” should apply to any person who

*“owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”*

The fact that large parts of Iraq are undergoing armed conflict and individuals flee these areas, does not mean that the refugee definition in the 1951 Convention is not applicable. This definition applies in peacetime as well as in times of armed conflict, be it international or non-international in character. While the 1951 Convention does not explicitly refer to those who are compelled to leave their country of origin or habitual residence in the context of armed conflict, such persons are eligible for refugee status if they have a well-founded fear of persecution for reason of one or more of the Convention grounds. This is particularly relevant where individuals are fleeing armed conflicts rooted in ethnic, religious or political differences, where specific groups are victimised. Those fleeing under such circumstances may be at risk of serious harm due to their religion, (imputed) political opinion or ethnicity. There is no need for the applicant to have been singled out or individually targeted, nor is there a requirement that he or she suffers from a risk or impact which is different than for other persons. It is also irrelevant whether the group affected is large or small. Whole communities may risk or suffer persecution for Convention reasons. The fact that all members of the community are equally affected does not in any way undermine the legitimacy of any particular individual claim.

The 1951 Convention does not require that, for a claim to be successful, it must be based on events arising prior to or at the time the applicant leaves the country of origin. Grounds for recognition as a refugee may arise based on events and circumstances occurring after his or her departure. In such situations, the person may become a refugee while being in the host country (“*sur place*”). This means that for Iraqis who had left Iraq prior to the fall of the former regime, their refugee claims should be examined based on the current situation. This

approach would also include those who had previously presented asylum claims and whose claims had been rejected. They should be permitted to submit new claims, and their claims should be examined accordingly.

## 1. Well-Founded Fear of Persecution

The refugee definition of the 1951 Convention contains both a subjective and an objective element. The former refers to an individual's fear of harm in the event of return to the country of origin or, in the case of a stateless person, the country of habitual residence. The objective element refers to the applicant's fear being well-founded, which means that there is a reasonable likelihood that the harm feared or some other form of harm would materialize upon return.<sup>723</sup>

Whether or not an applicant's fear is well-founded must be assessed in the context of the situation in the country of origin, taking into account the personal profile, experiences and activities of the applicant which would put him or her at risk. While having been subjected to persecution or mistreatment in the past would normally indicate that the applicant continues to be at risk of some form of harm in the future, this is not a precondition for recognition as a refugee.<sup>724</sup> Additionally, the experiences of others, such as friends, relatives or persons in a similar situation as the applicant or of the same ethnic, religious or social group, may also show that the applicant's fear of becoming a victim of the harm is well-founded.<sup>725</sup>

The 1951 Convention does not define "persecution". However, it may be inferred from Article 33(1) of the 1951 Convention that a threat to life or freedom on account of race, religion, nationality, political opinion or membership of a particular social group constitutes persecution, as would other serious violations of human rights for the same reasons.<sup>726</sup> Yet, the scope of persecution should not be defined solely in terms of existing codified human rights standards. Other kinds of serious harm or treatment, may also amount to persecution.<sup>727</sup> Severe discrimination could also amount to persecution, in particular where livelihood is threatened. Measures which are not of a serious character by themselves, may amount to persecution on a cumulative basis.

In the context of Central and Southern Iraq where extreme violence and acts of serious human rights violations by state and non-state actors is rife, the overall situation is such that there is a likelihood or reasonable possibility of serious harm. While there are reports that widespread human rights violations are perpetrated by the authorities including through use of militias, large numbers of religious and political groups commit extreme forms of

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<sup>723</sup> See UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*, HCR/IP/4/Eng/Rev.1, UNHCR 1979, Reedited, Geneva, January 1992, para. 37-41, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b3314> (further: "UNHCR, *Handbook*").

<sup>724</sup> *Ibidem*, para. 45.

<sup>725</sup> *Ibidem*, para. 43.

<sup>726</sup> *Ibidem*, para. 51. The requirement of a link with a Convention ground is discussed below at "Link With a 1951 Convention Ground".

<sup>727</sup> See UNHCR, *Handbook*, para. 51, see above footnote 723.



violence on a daily basis. Ordinary civilians are often the targets of violence, which includes car bombs, suicide attacks and improvised explosive devices. These methods of violence are usually targeted at chosen areas where civilians of specific religious or ethnic groups gather, including places of worship, market places and neighbourhoods. As clarified above, even where an individual may not have personally experienced threats or risks of harm, events surrounding his or her areas of residence or relating to others, may nonetheless give rise to a well-founded fear. There is also more specific targeting of individuals by extremist elements of one religious or political group against specific individuals of another, through kidnappings and execution-style killings. Rape is also increasingly being used as a means of persecution. Due to the vast number of actors who could perpetrate violence, an asylum-seeker's failure to identify the perpetrator of violence should not be considered as detrimental to his/her credibility.

Persecution is not limited, however, to acts which cause physical harm. Acts which restrict human rights can also amount to persecution, in particular, where the consequences are substantially prejudicial to the individual concerned.<sup>728</sup> Hence measures which restrict one's ability to earn a living so that survival is threatened, would amount to persecution.<sup>729</sup> Another type of restrictive measures is those which limit an individual's fundamental right to freedom of religion, which could also amount to persecution.<sup>730</sup> This applies with regard to measures of a discriminatory nature which result in limitations on religious belief or practice, as well as forced conversion or forced compliance or conformity with religious practices, including, for example, certain clothing requirements or forms of behaviour.<sup>731</sup> Consideration should be given to the nature of the restrictions, as well as their impact, including cumulative effect, on the individual concerned. It may be noted that throughout Iraq, discriminatory treatment by radical elements belonging to majority Muslim groups against moderate Muslims as well as against members of minority religious groups is increasingly taking on such serious proportions that it could be considered as amounting to persecution. In addition, non-Muslim as well as moderate Muslim women are coming under increasing pressure to abide by strict Islamic codes of behaviour which may be so restrictive as to be intolerable to the individuals concerned.

In the three Northern Governorates, there is relatively greater religious and ethnic tolerance, and non-Muslims as well as members of non-Kurdish ethnic groups, are generally

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<sup>728</sup> UNHCR, *Handbook*, para. 54, see above footnote 723.

<sup>729</sup> UNHCR, *Handbook*, para. 62-64, see above footnote 723.

<sup>730</sup> Article 18(3) of the ICCPR permits restrictions on the freedom to manifest one's religion or beliefs if these restrictions "*are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.*" Furthermore, such "*limitations may be applied only for the purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated. Restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner.*" See Human Rights Committee, *General Comment No. 22*, adopted on 20 July 1993, UN Doc. CCPR/C/21/Rev.1/Add.4, 27 September 1993, at paragraph 8, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=453883fb22>.

<sup>731</sup> Further guidance on the assessment of claims to refugee status based on religion can be found in UNHCR's *Guidelines on International Protection: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*, HCR/GIP/04/06, 28 April 2004, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=4090f9794>.

respected. Nonetheless, there are reports of arbitrary detention and ill-treatment by the authorities of suspected political opponents. Other reports indicate measures of forcible assimilation into Kurdish society and a trend towards increasing discrimination of the non-Kurdish population. Hence, the international protection needs of Iraqi asylum-seekers from the three Northern Governorates should be assessed individually based on the criteria of the 1951 Convention. In particular, given reports of Kurdish political efforts to dominate and “kurdify” the traditionally mixed areas of the Governorates of Kirkuk, Ninewa, Salah Al-Din and Diyala, applicants of non-Kurdish origin, who claim discriminatory treatment in these areas should have their claims assessed to determine if the impact of treatment they or others experienced or fear experiencing, would constitute harm amounting to persecution. In addition, there are indications of growing political tensions and the overall situation remains tenuous and unpredictable. Assessing the international protection needs of asylum-seekers from the three Northern Governorates should thus take into account a situation which may change suddenly and dramatically.

Where the applicant is at risk of harm at the hands of a non-State actor, the analysis of the well-foundedness of his or her fear requires an examination of whether or not the State, including the local authority, is able and willing to provide protection. In the situation of Central and Southern Iraq, given weak government structures, and the fact that government security forces are infiltrated by radical elements from militia groups, protection from State authorities would, in almost all cases, not be available. Consequently, an asylum-seeker should not be expected to seek the protection of the authorities, and failure to do so should not be the sole reason for doubting credibility or rejecting the claim. In addition, given that these areas of Iraq are highly unstable and insecure, and travel fraught with risks, an internal flight or relocation alternative would on the whole be unavailable. In the three Northern Governorates, there are limited possibilities for an internal flight alternative and each case will need to be examined individually. Nonetheless, individuals with certain profiles are not admitted there, including those as listed in these Guidelines.<sup>732</sup>

Overall, in certain communities where some protection by tribal leaders against persecutory acts of family members has been available to individuals, particularly for women who face honour killings, such protection is no longer readily available. In many situations, pursuing traditional systems of justice leads to further violations of rights by the communities themselves rather than ensuring justice and respect for human rights. Thus an individual should not be expected to avail himself or herself of traditional justice mechanisms and failure to do so should not be the sole reason for rejecting a claim.

## **2. Link With a 1951 Convention Ground**

The well-founded fear of being persecuted must be related to one or more of the Convention grounds. That is, it must be “for reasons of” race, religion, nationality, membership of a particular social group, or political opinion. The Convention ground must be a relevant contributing factor, though it need not be shown to be the sole, or dominant,

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<sup>732</sup> See below “Persons Who May Not Be Able to Find Protection”.



cause.<sup>733</sup> More than one Convention ground may also be applicable.<sup>734</sup> This will be the case for many Iraqis seeking international protection. Even in instances of common criminal activity, victims are often targeted, at least in part, because of one or more of the 1951 Convention grounds.

#### **a) Race, Religion, Nationality and Political Opinion**

Given the nature of the armed conflict and the overall security and political situation in Iraq, the Convention grounds “religion” and (imputed) “political opinion” are particularly relevant. They are also often interlinked. The main religious divide between the Sunnis and Shi’ites has pitted extremists of the two groups against each other along religious lines, impacting virtually all members of these groups. At the same time, given that the insurgency is Sunni driven while the present Government is predominantly Shi’ites, there are also clear political overtones to the violence between the two groups. As explained in these Guidelines, political polarization along religious lines goes back in time to the policies of past regimes, and is exacerbated by the post-2003 emphasis on religious and ethnic identities.<sup>735</sup> Thus, in many cases, while an individual’s religious affiliation is a factor in making that person a target for persecutory measures, political opinion is also imputed into the religious affiliation and the individual targeted for that reason as well.

Non-Muslim minority groups are also particularly affected. Groups such as Christians, Sabaeen-Mandaeans, Kaka’i, Yazidis, and Baha’is, which are targeted by Islamic extremist elements for being un-Islamic, including as “infidels”, are also perceived as supporters of the US-led invasion, the MNF and/or the current Iraqi administration and are therefore additionally targeted by Sunni insurgents. In regard to religious persecution, as indicated in these Guidelines, the Baha’is, in particular, face severe discrimination given that the law which prohibits Baha’i as a religion continues to exist.

The Convention grounds “race” or “nationality” may also be relevant in cases where persecution is linked to an individual’s ethnicity, real or perceived, as for example in the case of Shabak or Yazidis who are considered to be Kurdish, Arabs, Turkmen or Roma. In many cases, there will be an overlap with the Convention grounds “religion” and/or “political opinion”.

Persecutory acts in Iraq can thus be clearly linked to political and sectarian reasons, satisfying the causal nexus requirement. As described in these Guidelines, kidnappings, torture, suicide bombings, killings and other crimes are methods used by groups involved in armed conflict. There are also indications that Sunnis and Shi’ites are using violence to

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<sup>733</sup> UNHCR, *Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, HCR/GIP/02/01, 7 May 2002, para. 20, available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3d36f1c64>.

<sup>734</sup> See UNHCR, *Interpreting Article 1 of the 1951 Convention relating to the Status of Refugees*, April 2001, available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3b20a3914>.

<sup>735</sup> See “

drive out other religious groups from their areas. Since these acts are targeted at members of specific religious, ethnic and political groups, the Convention grounds “religion”, “race”, “nationality” and “political opinion” are clearly relevant factors for the commission of these acts.

## **b) Membership of a Particular Social Group**

A person’s “membership of a particular social group” may also be a relevant factor, often in combination with other Convention grounds. In the Iraq context, this factor would often be combined with the ground of “religion” and (imputed) “political opinion”. As set out in UNHCR’s relevant Guidelines:

*“a particular social group is a group of persons who share a common characteristic other than their risk of being persecuted, or who are perceived as a group by society. The characteristic will often be one which is innate, unchangeable, or which is otherwise fundamental to identity, conscience or the exercise of one’s human rights.”<sup>736</sup>*

This encompasses two different ways of defining a “particular social group”: on the one hand, under the so-called “protected characteristics” approach, a group is considered to be united by an immutable characteristic or one that is so fundamental to human dignity that a person should not be compelled to forsake it. On the other hand, individuals who share a common characteristic which makes them a cognizable group or sets them apart from society at large may also form a particular social group.<sup>737</sup>

In the Iraqi context, certain forms of persecution of women, including for example “honour killings” or other attacks, may be related to a transgression of religious prescriptions rather than social mores, in which case the Convention ground “religion” as well as that of “membership of a particular social group” may be applicable. Individuals targeted because they belong to particular families may be considered as members of a particular social group, although such targeting may also be linked to political or religious grounds. Individuals subject to persecution for their unconventional sexual orientation or for their professions may be targeted because their sexual behaviour or their work is considered as un-Islamic and thus both the grounds “membership of a particular social group” as well as religion may be applicable.

The “membership of a particular social group” ground may also be relevant where there is a risk of persecution due to a person belonging to a particular social class based on his or her wealth, as it may also be relevant in the case of those exercising certain professions.<sup>738</sup> However, as noted elsewhere in these Guidelines, often such persons are also targeted because their activities are considered to be inconsistent with religious beliefs of the persecutors, or because they are considered to have political opinions not tolerated by the latter.

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<sup>736</sup> UNHCR, *Guidelines on International Protection No. 2: “Membership of a Particular Social Group” Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, 7 May 2002, HCR/GIP/02/02, para. 11, available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3d36f23f4>.

<sup>737</sup> *Ibidem*, para. 6-7, for further guidance.

<sup>738</sup> *Ibid.* See also: UNHCR, *Handbook*, para. 43, see above footnote 723.

### C. *Exclusion From International Refugee Protection*

In light of Iraq's history of serious human rights violations and transgressions of international humanitarian law in the country's long experience with conflicts, exclusion considerations under Article 1F of the 1951 Convention may well arise in individual claims for refugee status.

The exclusion clauses contained in Article 1F of the 1951 Convention provide for the denial of refugee status to individuals who would otherwise meet the refugee definition set out in Article 1A of the 1951 Convention, but who are deemed not deserving of international protection on account of the commission of certain serious acts.<sup>739</sup>

Detailed guidance on the interpretation and application of Article 1F of the 1951 Convention can be found in UNHCR's relevant Guidelines and Background Note on Exclusion.<sup>740</sup> Given the possibly serious consequences of exclusion from international refugee protection, it is important to apply the exclusion clauses with great caution and only after a full assessment of the individual circumstances of the case.

For exclusion to be justified, individual responsibility must be established in relation to a crime within the scope of Article 1F. Such responsibility flows from the person having committed or participated in the commission of a criminal act, or on the basis of command/superior responsibility for persons in positions of authority. Applicable defences as well as proportionality considerations should form part of the decision-making process.

The standard of proof for findings of fact related to exclusion on the basis of Article 1F is that of "*serious reasons for considering*". For this standard to be met, credible and reliable information is required.<sup>741</sup> The burden of proof lies, in principle, on the decision maker, although, as seen below, in certain circumstances which give rise to a presumption of individual responsibility for excludable acts, a reversal of the burden of proof may be justified.<sup>742</sup>

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<sup>739</sup> Article 1F stipulates that "*the provisions of the 1951 Convention shall not apply to any person with respect to whom there are serious reasons for considering that he [or she] (a) has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes; b) has committed a serious non-political crime outside the country of refuge prior to his [or her] admission to that country as a refugee; c) has been guilty of acts contrary to the purposes and principles of the United Nations.*"

<sup>740</sup> UNHCR, *Guidelines on International Protection No. 5: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, 4 September 2003, HCR/GIP/03/05, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3f5857684>, and *Background Note on the Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, 4 September 2003, para. 107-111, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3f5857d24>.

<sup>741</sup> See UNHCR, *Background Note on the Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, 4 September 2003, para. 107-111, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3f5857d24>.

<sup>742</sup> *Ibidem*, para. 105-106.

A number of issues which are particularly relevant in the Iraqi context are highlighted below. However, decision makers should always refer to UNHCR's Guidelines and Background Note on Exclusion<sup>743</sup> when considering the applicability of Article 1F.

Exclusion considerations may be triggered in any individual case if there are elements in the applicant's story that suggest that he or she may have been associated with criminal acts that fall within the scope of Article 1F. In the context of Iraq, exclusion considerations may be of particular relevance in the cases of Iraqis with certain backgrounds and profiles. These would include, for example:

- The previous Ba'athist regime, its armed forces (in particular elite troops and paramilitary forces), the police, the security and intelligence apparatus, and the judiciary
- Members of armed groups opposing the former regime
- The current ISF
- Militias
- Insurgency groups
- Criminal groups.

It should be noted, however, that the fact that a person was at some point a member of the former regime or a member of an organization involved in unlawful violence does not in itself assign individual liability for excludable acts. An individualized assessment, based on all relevant facts, is required in each case.

## **1. Acts Within the Scope of Article 1F**

In cases where exclusion considerations arise, it is necessary to identify and assess the acts which may bring the applicant within the scope of Article 1F. If such acts are identified, it also needs to be determined whether there is credible and reliable information linking the applicant to the acts in question. It should be recalled that Article 1F exhaustively enumerates the types of crimes which may give rise to exclusion from international refugee protection on account of the applicant's conduct.<sup>744</sup>

In the Iraq context, acts which may bring an applicant within the scope of Article 1F occurred both before and after the fall of the regime of Saddam Hussein in 2003. There have been several periods of armed conflict, both international and non-international. Exclusion considerations may arise with regard to a variety of acts by many different actors. In addition to possible violations of international humanitarian law, association with other events in Iraq's history might also give rise to exclusion. These events would include, for example:

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<sup>743</sup> See above footnote 740.

<sup>744</sup> More detailed guidance on the kinds of conduct which fall within the scope of Article 1F of the 1951 Convention can be found at paragraphs 23-49 of UNHCR's *Background Note on Exclusion*, see above footnote 741.

### a) Before the Fall of the Former Regime

- The systematic persecution of the Kurdish people (including through the *Anfal* campaign in 1988 and the gassing of civilians in Halabja in 1987, forced resettlement, destruction of villages and confiscation of properties)<sup>745</sup>
- The forced expulsion of non-Arab citizens from Kirkuk and other oil-rich areas as part of the *Arabization* campaign<sup>746</sup>
- The forced deportation and denaturalization of Feili Kurds in 1980
- The systematic drainage of the marsh areas (along with bombing raids, torture, disappearances and mass executions) and the consequent destruction of the economic, social and cultural base of the Marsh Arabs after the 1991 Gulf War<sup>747</sup>
- Acts of violence committed by Shi'a opposition groups and the Government throughout the 1990s until the fall of the former regime;
- The Government's repression of the Shi'ite population including "systematic assassinations, attacks and threats carried out against the Shi'ite leadership"<sup>748</sup>
- Systematic persecution by the former regime of (perceived) political opponents, including through summary and arbitrary executions, torture and other forms of cruel and inhuman treatment or punishment (for example amputations and mutilations for ordinary criminal offenses), and enforced or involuntary disappearances.<sup>749</sup>

Crimes committed by various political groups and in particular their armed wings involved in violent resistance against the previous regime of Saddam Hussein (e.g. Kurdish *Peshmerga*,<sup>750</sup> Badr Corps, Dawa Party) and mostly directed against government officials and institutions would also need to be assessed in the light of the exclusion clauses, in particular Article 1F(b), as the acts in question may have been disproportionate to the alleged political objectives. Similar considerations would apply with regard to serious human rights violations against civilians as well as KDP and PUK military and political officials reportedly committed by several Kurdish Islamist groups such as the Islamic

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<sup>745</sup> See, for example, HRW, *Genocide in Iraq – The Anfal Campaign Against the Kurds*, July 1993, <http://www.hrw.org/reports/1993/iraqanfal/>.

<sup>746</sup> See "De-Arabization".

<sup>747</sup> See, for example, HRW, *The Iraqi Government Assault on the Marsh Arabs*, January 2003, <http://www.hrw.org/backgrounder/mena/marsharabs1.htm>.

<sup>748</sup> See, for example, UNHCHR, Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq, *The Situation of Human Rights in Iraq*, E/CN.4/1999/37, 26 February 1999, para. 20-23, <http://www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/5d0983c1727027ac8025673f0056c924?OpenDocument>.

<sup>749</sup> See, for example, Indict, *Crimes committed by the Iraqi regime*, <http://www.indict.org.uk/crimes.php>; UN Commission on Human Rights, *Report of the Special Rapporteur, Andreas Mavrommatis, on the situation of human rights in Iraq*, E/CN.4/2002/44, 15 March 2002, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3caaffc42>; USDOS, Bureau of Democracy, Human Rights and Labor, *2001 Country Report on Human Rights Practices – Iraq*, 4 March 2002, <http://www.state.gov/g/drl/rls/hrrpt/2001/nea/8257.htm>; various reports by AI, <http://web.amnesty.org/library/eng-irq/index>; and various reports by HRW, <http://www.hrw.org/doc?t=mideast&c=iraq>.

<sup>750</sup> For an overview on the Peshmerga and its role throughout the various conflicts, see Michael Garrett Lortz, *Willing to face Death: A History of Kurdish Military Forces – The Peshmerga – From the Ottoman Empire to Present-Day Iraq*, Master of Arts Thesis in International Affairs, Florida State University, 14 November 2005, <http://etd.lib.fsu.edu/theses/available/etd-11142005-144616/>.

Movement in Kurdistan and its various break-away groups, including Jund Al-Islam/Ansar Al-Islam, which opposed the ruling Kurdish parties as of 1991.

## **b) After the Fall of the Former Regime**

Examples of acts carried out by an applicant, which may bring him or her within the scope of an exclusion clause would include:

- Arbitrary arrest, incommunicado detention, torture, disappearances and summary or extrajudicial executions of civilians reportedly committed by parts of the ISF, and in particular the Police, Special Police Commandoes/Iraqi National Police and the FPS;
- Abductions, extortion and intimidation, torture, summary or extra-judicial killings and forced displacement of civilians by militias, at times in collaboration with the ISF, and insurgency groups;
- Forced displacement of Arab settlers in Kirkuk, as well as arbitrary arrests, abductions, incommunicado detention and torture attributed to the Kurdish *Peshmerga*, security and intelligence agencies;
- Abductions, extortion, rape, murder and torture by criminal gangs, at times in cooperation with or on behalf of militias or insurgents.

The applicable sub-clause of Article 1F would need to be determined in light of the circumstances of the individual case.

## **2. Crimes Against Peace, War Crimes and Crimes Against Humanity (Article 1F[a])**

### **a) Crimes Against Peace**

Crimes against peace arise from the

*“planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing”.*<sup>751</sup>

Given the nature of this crime, it can only be committed in the context of an international armed conflict, and only by those in a high position of authority representing a State or a State-like entity. Any of the afore-mentioned acts committed by persons in such positions in relation to the armed conflicts between Iran and Iraq (1980-1988) or the invasion of Kuwait in 1990 and the subsequent Gulf War (1991) could fall within the scope of this category under Article 1F(a).<sup>752</sup>

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<sup>751</sup> Article 6(a) of the *Charter of the International Military Tribunal*, available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b39614>.

<sup>752</sup> For further details, see paragraphs 26-29 of UNHCR’s *Background Note on Exclusion*. See also UN Security Council resolutions regarding Iraq’s invasion of Kuwait (UNSC, *Resolution 660 (1990)*, 2 August 1990, available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3b00f12240>) and the violent suppression of the Kurdish and Shi’ite uprisings in Iraq following the Gulf War



## b) War Crimes

War crimes are serious violations of the laws and customs of war which give rise to criminal responsibility directly under international law, either because this is explicitly provided for in the relevant international instruments,<sup>753</sup> or on the basis of customary international law. Decision makers should bear in mind that only those acts which are committed during times of armed conflict, and which are linked to the conflict (the so-called “nexus” requirement) can constitute war crimes. In conducting an exclusion analysis, it is necessary to consider whether the armed conflict is international or non-international in nature, as different legal provisions are applicable to acts committed in either. War crimes may be committed by civilians as well as military persons. Anyone – civilian or military – who enjoys protection under the relevant provisions of international humanitarian law can be the victim of a war crime.<sup>754</sup> In the Iraq context, the applicability of Article 1F(a) “war crimes” may arise with regard to acts committed during the various periods of armed conflict between 1979 and the present.<sup>755</sup>

### i. International Armed Conflict

Acts which constitute “war crimes” when committed in an international armed conflict are defined in the grave breaches provisions of the Four Geneva Conventions of 1949 and Additional Protocol (AP) I thereto of 1977. Article 8(2)(a) and (b) of the Statute of the International Criminal Court is also relevant for the qualification of acts which take place in an international armed conflict after July 1998. Acts committed during an international armed conflict<sup>756</sup> which come within the definitions set out in the relevant provisions may give rise to exclusion under Article 1F(a) as “war crimes”, provided they take place in the context of, and were associated with, the armed conflict. If this link, or “nexus”, is not present, the acts in question could not amount to “war crimes” under Article 1F(a). Rather,

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(UNSC, *Resolution 688 (1991)*, 5 April 1991, available in UNHCR’s Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3b00f16b30>).

<sup>753</sup> See below under “International Armed Conflict” and “Non-International Armed Conflict”.

<sup>754</sup> See UNHCR, *Background Note on Exclusion*, at paragraphs 30-32 and Annex B, see above footnote 741.

<sup>755</sup> In this context, it is worth noting that members of the KDP and PUK armed forces have been involved in a series of international and internal conflicts, sometimes fighting the Iraqi Central Government, sometimes siding with it, including during the Iran-Iraq War (1980-1988), the Kurdish Civil War (1995-1998) as well as the fighting against Kurdish Islamist groups after 1991, in particular the assault on Ansar Al-Islam in March 2003 with the help of US Forces. KDP/PUK armed forces also supported the US-led troops in defeating Iraqi Government troops in Kirkuk and Mosul in March/April 2003. In relation to these conflicts, exclusion considerations, in particular with relation to Article 1F(a) may come into play. It is noteworthy that the *Peshmerga* also had women in its ranks. See, for example, HRW, *Ansar al-Islam in Iraqi Kurdistan*, see above footnote 414; USDOS, Bureau of Public Affairs, *Saddam’s Chemical Weapons Campaign: Halabja, March 16, 1988*, 13 March 2003, <http://www.state.gov/documents/organization/18817.pdf>.

<sup>756</sup> Since 1979, Iraq went through various periods of international armed conflict, notably

- The Iraq-Iran War (1980-1988);
- The invasion and occupation of Kuwait in 1990 and subsequent Gulf War (1991); and
- The period from the US-led invasion in March 2003 until the handover of sovereignty to the Iraqi Interim Government on 28 June 2004.

they would need to be assessed under Article 1F(b) or, depending on the circumstances, as crimes against humanity under Article 1F(a).<sup>757</sup>

## *ii. Non-International Armed Conflict*

The legal criteria for determining what acts or methods of warfare are prohibited in a non-international armed conflict are found in Article 3 common to the Four Geneva Conventions of 1949, AP II thereto of 1977,<sup>758</sup> and Article 8(2)(c) and (e) of the Statute of the International Criminal Court, which is relevant for the qualification of acts which take place after July 1998.<sup>759</sup>

Originally, “war crimes” were considered only in international armed conflicts. Breaches of common Article 3 and AP II did not give rise to criminal responsibility at the international level and, as a consequence, such breaches could not be considered “war crimes”. However, since the mid-1990s, it has become generally accepted that serious violations of international humanitarian law in a non-international armed conflict may give rise to individual criminal responsibility under international law, and there is now general recognition that war crimes may also be committed in the context of non-international armed conflicts.<sup>760</sup>

For the purposes of an exclusion analysis, this means that violations of common Article 3 and AP II which took place before the mid-1990 could not give rise to exclusion on the basis of Article 1F(a) as “war crimes”. Conduct in breach of these provisions could, however, come within the scope of Article 1F(b) as serious non-political crimes or Article 1F(a) as crimes against humanity. In the Iraq context, these considerations should be borne

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<sup>757</sup> See “Crimes Against Humanity”.

<sup>758</sup> Iraq is not a party to the AP II of 1977. However, acts prohibited under Article 4 and 13 of AP II are considered to form part of customary international law.

<sup>759</sup> It is worth noting that from July 1998 onward, conscripting or enlisting children under the age of fifteen into armed forces or groups or using them to participate actively in hostilities is a war crime and would as such fall within the scope of Article 1F(a). See Article 8(2)(e)(vii) of the *Rome Statute of the International Criminal Court*, available at [http://www.icc-cpi.int/library/about/officialjournal/Rome\\_Statute\\_120704-EN.pdf](http://www.icc-cpi.int/library/about/officialjournal/Rome_Statute_120704-EN.pdf) (further: “ICC Statute”). See also: Preparatory Commission for the International Criminal Court, *Report of the Preparatory Commission for the International Criminal Court. Addendum. Part II, Finalized draft text of the Elements of Crimes*, UN Doc. PCNICC/2000/1/Add.2, 2 November 2000, p. 37 and 46, available in UNHCR’s Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=46a5fd2e2>.

<sup>760</sup> As confirmed by the ICTY, criminal responsibility arises under customary international law for serious violations of Article 3 common to the Four Geneva Conventions of 1949, as supplemented by other general principles and rules on the protection of victims of internal armed conflict, and for breaching certain fundamental principles and rules regarding means and methods of combat in such conflicts. See ICTY, *Prosecutor v. Dusko Tadic aka “Dule”, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction*, 2 October 1995, para. 134, <http://www.un.org/icty/tadic/appeal/decision-e/51002.htm>. Moreover, violations of AP II are explicitly contained as war crimes in Article 4 of the ICTR Statute, <http://69.94.11.53/ENGLISH/basicdocs/statute.html>.



in mind when assessing crimes committed during the 1991 Shi'ite and Kurdish Uprisings.<sup>761</sup>

Acts committed during later periods of non-international armed conflict in Iraq may give rise to exclusion under Article 1F(a) as “war crimes”, provided the above-mentioned requirement of the nexus with the armed conflict is met. This could be the case, in particular, for crimes committed during the Kurdish Civil War (1995–1998)<sup>762</sup> and the armed conflict between the ISF/MNF and armed insurgent groups following the handover of sovereignty to the Iraqi Interim Government on 28 June 2004.<sup>763</sup> Acts of violence between the Sunni and Shi'ite communities, which began with tit-for-tat killings in mid 2005 and escalated into brutal violence after the February 2006 Samarra bombing, should be assessed within the context of this armed conflict and may constitute war crimes, if the nexus requirement with the armed conflict is met and if the acts in question meet the definitions under the relevant legal provisions.<sup>764</sup>

### c) Crimes Against Humanity

Crimes against humanity involve the fundamentally inhumane treatment of the population in the context of a widespread or systematic attack directed against it. Such crimes include murder, extermination, deportation or forcible transfer of population, imprisonment in violation of fundamental rules of international law, torture, rape, persecution on political, racial or religious grounds, and other inhumane acts (see also Article 7 of the ICC Statute). The act in question, however, only becomes a crime against humanity if it is part of a

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<sup>761</sup> For an overview of the kinds of violations of international humanitarian law committed in this context, see HRW, *Endless Torment – The 1991 Uprising in Iraq and its Aftermath*, June 1992, <http://www.hrw.org/reports/1992/Iraq926.htm>.

<sup>762</sup> On 31 August 1996, the Iraqi troops at the request and with the assistance of the KDP first shelled and then captured the city of Erbil Kurdish self-administrated zone. According to the Special Rapporteur of the Commission on Human Rights, large-scale human rights violations took place, including the excessive use of force, summary executions and arbitrary arrests; UNHCHR, Special Rapporteur of the Commission on Human Rights, *Situation of human rights in Iraq*, A/51/496, 15 October 1996, paragraph 95, <http://www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/e9032b67acacae68025670e0036ca50?OpenDocument>; see also UNHCHR, Special Rapporteur of the Commission on Human Rights, *Situation of human rights in Iraq*, A/51/496/Add.1, 8 November 1996, <http://www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/272b2c48b9147de58025671200517701?OpenDocument>.

<sup>763</sup> As noted earlier in these Guidelines (see above footnote 14), the hostilities between the MNF/ISF and the armed insurgency following the hand-over of sovereignty on 28 June 2004 to the Iraqi Interim Government have been qualified by the ICRC as a non-international armed conflict. See: ICRC, *Iraq post 28 June 2004: protecting persons deprived of freedom remains a priority*, 5 August 2004, <http://www.icrc.ch/Web/Eng/siteeng0.nsf/iwpList322/89060107D77D7299C1256EE7005200E8>. For a discussion of whether the conflict, or “conflicts”, could be considered as an “internationalized internal armed conflict”, see the sources cited in the above footnote 14.

<sup>764</sup> See also the summary of a press briefing by the ICRC on 30 November 2006, in which the ICRC reminded all parties engaged in the violence that

“regardless of the complexity of the issues at stake in the Iraqi conflict, it is unacceptable and contrary to the most basic principles of humanity and law to target persons not participating in the hostilities. State and non-State actors are equally bound by these rules. The ICRC calls again upon all parties to the conflict to respect the rules of international humanitarian law and to spare civilians and civilian property. In addition, it urges all those who can make use of their moral and political influence on the ground to call for respect of human life and dignity.”

See ICRC, *Iraq: civilians continue to pay the highest price in the conflict*, Press Briefing, 30 November 2006, <http://www.icrc.org/web/eng/siteeng0.nsf/html/iraq-briefing-301106>.

coherent system or a series of systematic and repeated acts. Thus, acts of torture<sup>765</sup> committed in a systematic manner or on a widespread scale, targeting political suspects or other civilians, could constitute crimes against humanity as envisaged by Article 1F(a). It is important to note that crimes against humanity can be committed in the context of an internal or international armed conflict, as well as outside a situation of armed conflict.<sup>766</sup>

Crimes against humanity were committed throughout the ruling of the former regime (1979-2003) in situations of international and internal armed conflict as well as during government campaigns aiming at systematically suppressing political opponents or minority groups.<sup>767</sup> Torture was used systematically and on a widespread scale in Iraq under the former regime of Saddam Hussein.<sup>768</sup>

### 3. Serious Non-Political Crimes (Article 1F(b))

The gravity of serious non-political crimes as stipulated in Article 1F(b) should be judged against international standards, not simply by its categorization in the host country or country of origin. Examples of “serious” crimes include homicide, rape, torture and armed robbery. A serious crime should be considered non-political when other motives (such as personal reasons or gain) predominate. Where no clear link exists between the crime and its alleged political objective or when the act in question is disproportionate to the alleged political objective, non-political motives are predominant. In the Iraq context, acts such as assassinations, abductions or torture committed by State security forces, armed opposition

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<sup>765</sup> Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment defines torture as

*“any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity”.*

See the Convention Against Torture, available in UNHCR’s Refworld at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b3a94>.

<sup>766</sup> See UNHCR, *Background Note on Exclusion*, at paragraphs 33–36 and Annex C, see above footnote 741.

<sup>767</sup> See consistent reporting by the Special Rapporteur of the Commission on Human Rights on the Human Rights Situation in Iraq, <http://www.unhchr.ch/huridocda/huridoca.nsf/FramePage/Iraq+En?OpenDocument>. A Dutch court in The Hague ruled in 2005 that the killing of thousands of Kurds in Iraq in the 1980s was an act of genocide. It said that it had “no other conclusion than that these attacks were committed with the intent to destroy the Kurdish population of Iraq”; see: BBC News, *Killing of Iraq Kurds “genocide”*, 23 December 2005, <http://news.bbc.co.uk/2/hi/europe/4555000.stm>. See also: HRW, *Genocide in Iraq – The Anfal Campaign Against the Kurds*, July 1993, <http://www.hrw.org/reports/1993/iraqanfal/>. There are also claims that the destruction of the marshlands in Southern Iraq constituted “genocide”; see, for example, Prof. Joseph W. Dellapenna, *The Iraqi Campaign Against the Marsh Arabs: Ecocide as Genocide*, Villanova University School of Law, 31 January 2003, <http://jurist.law.pitt.edu/forum/forumnew92.php>; USIP, *The Marsh Arabs of Iraq: Hussein’s Lesser Known Victims*, 25 November 2002, <http://www.usip.org/newsmedia/releases/2002/nb20021125.html>.

<sup>768</sup> See consistent reporting by the Special Rapporteur of the Commission on Human Rights on the Human Rights Situation in Iraq, available at <http://www.unhchr.ch/huridocda/huridoca.nsf/FramePage/Iraq+En?OpenDocument>.

groups (pre-2003) or insurgency or criminal groups or militias (post-2003) may fall within the scope of Article 1F(b).<sup>769</sup>

#### **4. Acts Contrary to the Purposes and Principles of the United Nations (Article 1F[c])**

In UNHCR's view, acts contrary to the purposes and principles of the United Nations as provided for in Article 1F(c) must have an international dimension and be capable of affecting peace, security and peaceful relations between States. In principle, only persons holding most senior positions of power may fall within the scope of this provision. For example, the UN Security Council (UNSC) considered Iraq's invasion in Kuwait in 1990 as a "*breach of international peace and security*."<sup>770</sup> Also, the violent suppression of the popular uprisings in the aftermath of the Gulf War in 1991, which led to massive displacement to neighbouring countries, in particular Turkey and Iran, was condemned by the UNSC as a threat to international peace and security in the region.<sup>771</sup> It should be noted, however, that most acts which, on account of their gravity and impact on the international plane, come within the scope of Article 1F(c) of the 1951 Convention would also meet the requirements of Article 1F(a) or (b).<sup>772</sup>

#### **5. Individual Responsibility**

##### **a) Basis for Incurring Individual Responsibility**

Exclusion on the basis of Article 1F of the 1951 Convention requires a finding of serious reasons for considering that the applicant incurred individual responsibility for excludable acts. For this to be established, it must be determined based on credible and reliable information that he or she committed, or participated in the commission of, the material elements of the crime(s) in question with the requisite mental element (*mens rea*).<sup>773</sup> Depending on the circumstances, a person may incur individual responsibility by perpetrating excludable crimes him or herself; by inducing others to commit such crimes (for example, through planning, inciting, ordering); or by making a substantial contribution to the commission of crimes by others in the knowledge that his or her acts facilitated the criminal conduct (for example, through aiding or abetting, or by participating in a joint criminal enterprise).<sup>774</sup> Under certain circumstances, applicants who held a position of authority within a civilian or military hierarchy may also be held responsible and incur

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<sup>769</sup> For a more detailed discussion, see: UNHCR, *Background Note on Exclusion*, at paragraphs 37-45, see above footnote 741.

<sup>770</sup> UNSC, *Resolution 660 (1990)*, 2 August 1990, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3b00f12240>.

<sup>771</sup> UNSC, *Resolution 688 (1991)*, 5 April 1991, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3b00f16b30>.

<sup>772</sup> See UNHCR, *Background Note on Exclusion*, at paragraphs 46-49, see above footnote 741.

<sup>773</sup> As reflected in Article 30 of the ICC Statute, the mental element generally required for individual responsibility is "intent" (with regard to conduct or consequences) and "knowledge" (with regard to circumstances or consequences); see UNHCR, *Background Note on Exclusion*, at paragraph 64, see above footnote 741.

<sup>774</sup> See UNHCR, *Background Note on Exclusion*, at paragraphs. 50-56, see above footnote 741.

individual responsibility for crimes committed by persons under their effective command or control.<sup>775</sup>

As a general rule, mere membership in a particular group or organization is not sufficient to establish individual responsibility for excludable acts. Therefore, for example, the fact that an individual was part of the former regime or Ba'ath Party, does not in itself entail individual liability for excludable acts.<sup>776</sup> Thus, for applicants who were associated with a group or organization that reportedly has been involved in human rights abuses, it is necessary to conduct a thorough assessment of their activities, role and responsibilities and to determine whether there are serious reasons for considering that the persons' conduct and state of mind gives rise to individual responsibility for crimes within the scope of Article 1F.

In cases where it is established that the applicant's conduct had a significant effect on, and thus amounts to a substantial contribution to, the commission of excludable acts, a careful examination of the applicant's place within the organizational hierarchy is necessary, as holding certain positions could be indicative of the applicant's knowledge of the crimes perpetrated by subordinates or by other parts of the hierarchy. Relevant factors include the nature of the applicant's organization or institution and the extent to which the individual was aware of, for example, the types of operations carried out by members of that organization, or of the fate of the persons arrested under his or her supervision or as a result of the gathering of intelligence information.

In certain cases, an applicant's voluntary membership in a particularly violent group or organization may justify a presumption of individual responsibility for crimes committed by the group or organization, as it may be considered that the individual concerned somehow contributed significantly to the commission of violent crimes. Caution must be exercised when considering whether such a presumption exists. Factors to be taken into account include the actual activities of such a group, its place and role in the society in which it operates, its organizational structure and the individual's position in it, the individual's ability to have a significant influence on its activities, whether the group is cohesive or fragmented and whether and how the nature of the group's violent conduct has evolved over time. Even if a presumption of individual responsibility arises, this does not mean that the person concerned is automatically excludable. The presumption is rebuttable: the applicant must be informed of the evidence/allegations on the basis of which exclusion may be decided and given the opportunity to show that he/she should not be excluded.

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<sup>775</sup> This would be the case if the applicant knew, or should have known, that his or her subordinates were committing or about to commit such crimes, and failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission, or to submit the matter to the competent authorities for investigation and punishment. See UNHCR, *Background Note on Exclusion*, at paragraph 56, see above footnote 741.

<sup>776</sup> It is also important to note that Ba'ath Party membership was widespread as it carried with it significant benefits, including, for example, greater career opportunities, economic advantages, trips abroad, access to better facilities, and access to university education. Moreover, journalists, officers, high ranking officials, scientists, teachers, lecturers and university-staff were often compelled to join the Ba'ath Party even if they did not share its ideology. Ba'ath party membership alone is therefore not conclusive as regards the applicability of the exclusion clauses.

A plausible explanation regarding the applicant's non-involvement in, or dissociation from, any excludable acts, coupled with an absence of serious evidence to the contrary, should remove the applicant from the scope of the exclusion clauses.<sup>777</sup>

In the context of Iraq, a presumption of individual responsibility for excludable crimes may arise as a result of the person's continued and voluntary functioning in very senior positions of the former government, the Ba'ath Party or the security or military apparatus since these institutions were clearly engaged in activities that fall within the scope of Article 1F. In this context, it is also important to note that the former Iraqi Government has faced international condemnation, including from the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq,<sup>778</sup> the Commission on Human Rights and the General Assembly, for gross and systematic human rights abuses. Where the individual has remained in very senior positions of the aforementioned institutions, exclusion may be justified, unless he or she can rebut the presumption of knowledge of and personal involvement in such abuses.

#### **b) Grounds Negating Individual Responsibility**

A complete exclusion analysis also requires an assessment of whether or not any circumstances which would negate individual responsibility arise in the applicant's case, for example because the person concerned did not have the necessary *mens rea*, or because there are circumstances which give rise to a valid defense, thus exonerating him or her from individual responsibility for his or her acts.<sup>779</sup>

In the Iraqi context, grounds for rejecting individual responsibility may also need to be considered, in particular as to whether duress/coercion, self-defence or the defence of other persons was at issue. The defence of duress would apply where the criminal acts resulted from the applicant acting necessarily and reasonably to avoid a threat of imminent death or serious bodily harm to him or herself or another person.<sup>780</sup> Acting on orders from superiors, in the absence of the imminent harm necessary to establish duress, will normally not provide a defence to criminal responsibility.<sup>781</sup>

In examining defences to criminal responsibility, it should also be noted that persons belonging to the military, security and intelligence services as well as certain professional groups whose work was of special value to the Government (e.g. medical doctors, dentists, retired professionals, government employees, university professors, journalists, members of the media, authors and employees of the Information Ministry) were not allowed to leave the country or required special authorization. Unlawful departures carried with them the

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<sup>777</sup> For further guidance on the criteria which must be met for a presumption of individual responsibility to be justified, see: UNHCR, *Background Note on Exclusion*, at paragraphs 57-62, 105-106 and 110, see above footnote 741.

<sup>778</sup> See UNHCHR, *Documents on Special Rapporteur of the Commission on Human Rights on the Situation of Human Rights in Iraq*, <http://www.unhchr.ch/huridocda/huridoca.nsf/FramePage/Iraq+En?OpenDocument>.

<sup>779</sup> *Ibidem*, para. 64-75.

<sup>780</sup> The relevant criteria are provided for in Article 31(1)(d) of the ICC Statute.

<sup>781</sup> It should be noted, however, that Article 33 of the ICC Statute provides for a defence of superior orders, in certain circumstances.

risk of detention and serious mistreatment for remaining family members. There are allegations of collective punishment against men and women, such as rape and other forms of torture, in cases where family members were wanted by the authorities but had left the country.<sup>782</sup> In other cases, legislation provided for severe punishment of those that refused to carry out certain acts. For example, medical doctors who refused to carry out ear amputations and tattooing of army deserters or evaders in line with RCC Decree 115 of 25 of 25 August 1994 were subject to severe punishment.<sup>783</sup>

### **c) Proportionality Considerations**

If it is established that an applicant incurred individual responsibility for acts within the scope of Article 1F, the final step in the exclusion analysis consists of weighing the seriousness of the acts in question against the consequences of exclusion for the individual concerned.<sup>784</sup>

### **d) Consequences of Exclusion**

Persons to whom an exclusion clause applies are not eligible for refugee status. They cannot benefit from international protection under the 1951 Convention, nor under UNHCR's mandate. However, they may still be protected against return to a country where they are at risk of ill-treatment by virtue of other international instruments.<sup>785</sup>

It is important to recall, however, that family members of excluded individuals are not automatically excluded as well. Their claim to refugee status needs to be examined on an individual basis, and in light of their own situation. Family members may qualify for refugee status even if their fear of persecution results from their relationship to the excluded relative. Family members are only excluded if there are serious reasons for considering that they are also individually responsible for excludable crimes. Where family members have been recognized as refugees, however, the excluded applicant cannot benefit from the right to family unity to secure protection or assistance as a refugee.<sup>786</sup>

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<sup>782</sup> UNHCHR, Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq, *The Situation of Human Rights in Iraq*, A/65/340, 13 September 2001, p. 6-7, [http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/8e85ad0aea73e88bc1256af10051cade/\\$FILE/N0153521.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/8e85ad0aea73e88bc1256af10051cade/$FILE/N0153521.pdf) ; *ibidem*, A/55/294, 14 August 2000, p. 7, [http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/81fd25017cae76c4c125697a0045cd36/\\$FILE/N0060774.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/81fd25017cae76c4c125697a0045cd36/$FILE/N0060774.pdf).

<sup>783</sup> UNHCHR, Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq, *The Situation of Human Rights in Iraq*, A/49/651, para. 53-54 and 65, 8 November 1994, <http://www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/4ca4ae2431b4edb880256708005c71fa?Opendocument>.

<sup>784</sup> *Ibidem*, para. 76-78.

<sup>785</sup> See UNHCR, *Guidelines on International Protection No. 5: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, HCR/GIP/03/05, 4 September 2003, para. 9, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/txis/vtx/refworld/rwmain?docid=3f5857684>, and UNHCR's *Background Note on Exclusion*, see above footnote 741, para. 21-22.

<sup>786</sup> See UNHCR, *Background Note on Exclusion*, see above footnote 741, at paragraphs 94-95.

## ***D. Internal Flight or Relocation Alternative***

A detailed analytical framework for assessing the availability of an internal flight alternative or internal relocation alternative (IFA/IRA), is contained in UNHCR's 2003 "*Guidelines on International Protection: the "Internal Flight or Relocation Alternative" within the context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*".<sup>787</sup>

As provided in the Guidelines, in order to assess the possibility of applying an IFA/IRA, two main sets of analyses should be undertaken, namely whether internal relocation is 1) **relevant** and, if so, whether it is 2) **reasonable**. The determination of whether the proposed internal flight or relocation area is an appropriate alternative in the particular case requires an assessment over time, taking into account not only the circumstances that gave rise to the persecution feared, and that prompted flight from the original area, but also whether the proposed area provides a meaningful alternative in the future.

In the context of Iraq, UNHCR's analysis distinguishes between the situation in South and Central Iraq and the situation in the three Northern Governorates. The availability of an IFA/IRA in the latter area would also depend on whether the individual concerned is from Central and Southern Iraq or from within the three Governorates themselves.

### **1. IFA/IRA in Areas of Central and Southern Iraq**

UNHCR considers that an internal flight or relocation alternative in Central and Southern Iraq is on the whole not available, because of the overall ability of agents of persecution to perpetrate acts of violence with impunity, the widespread violence and prevalent human rights violations giving rise to new risks of persecution, risks associated with travel, and the hardship faced in ensuring even basic survival in areas of relocation. When, however, the availability of an internal flight or relocation alternative must be assessed in a national procedure, it should be examined cautiously and in the context of the individual claim. UNHCR's Guidelines on Internal Flight/Relocation Alternative<sup>788</sup> should be taken into account.

#### **a) The Relevance Analysis**

##### **i. Risk of Persecution or Other Serious Harm Upon Relocation**

As indicated in these Guidelines, persecution could emanate from state as well as non-state agents. Within Central and Southern Iraq, both state and non-state agents of persecution could pursue their targets throughout and state agents are known to be able to operate with impunity. In regard to non-state agents of persecution, protection by national authorities would on the whole not be available given the fact that the national authorities have limited capacities to enforce law and order, and the security agencies, namely the ISF, are

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<sup>787</sup> UNHCR, *Guidelines on International Protection No. 4: "Internal Flight or Relocation Alternative"*, see above footnote 4.

<sup>788</sup> *Ibid.*



themselves infiltrated by radical elements. The void created by the absence of a strong central government is gradually being filled by militant groups operating from bases in different areas of Central and Southern Iraq. These groups, whether religious or ethnic, cannot be considered to be operating as effective authorities in the areas under their control, as they themselves are the targets of frequent attacks from individuals and groups in those areas. Absolute allegiance to the ideology of the group is a fundamental requirement, and in the general absence of the rule of law, arbitrariness and human rights violations are rife. The highly volatile and fluid political and security situation existing in Central and Southern Iraq renders the area subject to a great deal of significant unpredictability, with possibilities of new risks of persecution arising from a wide range of actors anywhere at anytime.

Furthermore, in the smaller towns and cities, ongoing communalism and lack of state protection has enforced the need for individuals to stay close to their kinsmen. Any newcomer, particularly when he/she does not belong to the existing sect, tribes or families, is liable to be severely discriminated against or subjected to ill-treatment so as to amount to persecution. Even those who originated from the area may be perceived as newcomers, if they left a long time ago and have lost all links with their tribal-based community.

## **ii. *Particular Considerations Relating to Formerly Arabized Areas***<sup>789</sup>

The increasing ethnic-religious violence in the formerly arabized areas, the highly sensitive political, ethnic and economic nature of these areas and the risk of further destabilizing the situation through significant population movements need to be considered when assessing the availability of an IFA/IRA in these Governorates.

It must be noted that the distribution of land and housing is disputed between the main ethnic factions. Any access to land granted to newcomers on an *ad hoc* basis (generally done in order to increase an ethnic population in a particular area) by authorities in certain areas is heavily contested by the other ethnic factions, and may have serious consequences for the ability of individuals to secure protection and/or durably reside there without undue hardship.

## **iii. *Accessibility***

Overall, travel within Central and Southern Iraq is unsafe, with both physical and legal barriers to travel to and reside in various areas.

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<sup>789</sup> See also “De-Arabization” and “Kurds, Arabs, Turkmen<sup>428F</sup>, Ethnic-Based Christian Groups (Assyrians, Chaldeans, Armenians)<sup>429F</sup>, Yazidis<sup>430F</sup> and Shabak<sup>431F</sup> in Ethnically Mixed Areas”.



## *Travel by Road*

Road travel in Iraq, particularly in Central Iraq, remains highly dangerous.<sup>790</sup> There has been an increase in roadside bombings in and around Baghdad, Basrah, Mosul, Kirkuk and on all main routes, including fatal attacks on both military and civilian vehicles. Attacks occur throughout the day, but travel after sunset is particularly dangerous. There are daily attacks against the MNF/ISF throughout Central and Southern Iraq. There has also been a rise in violent attacks at false checkpoints set up by insurgents and militias.<sup>791</sup> Travelling is often delayed by MNF/ISF checkpoints and convoys, which also increases the risk of being targeted by insurgents or criminals or being caught in armed clashes.

As formerly mixed areas become increasingly dominated by one sect and their armed groups,<sup>792</sup> travel in such areas has become highly dangerous for members of the opposite sect. There has been a rise in violent attacks at false checkpoints set up by insurgents and militias who specifically target members of the opposite sect.<sup>793</sup> For example, on the road between Baghdad and Balad, Sunnis face increased risks as these areas are under the control of Shi'ite militias. Shi'ites in turn face added risks between Balad and Mosul.

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<sup>790</sup> The USDOS says that “(A)ll vehicular travel in Iraq is extremely dangerous”; see: USDOS, Bureau of Consular Affairs, *Travel Warning – Iraq*, [http://travel.state.gov/travel/cis\\_pa\\_tw/tw/tw\\_921.html](http://travel.state.gov/travel/cis_pa_tw/tw/tw_921.html) [accessed April 2007]. The UK Foreign & Commonwealth Office says that “(R)oad travel remains highly dangerous”; see United Kingdom Foreign & Commonwealth Office (FCO), *Travel Advice by Country – Iraq*, <http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029390590&a=KCountryAdvice&aid=1013618386640> [accessed April 2007].

<sup>791</sup> For example, on 1 April 2007, unknown gunmen positioned a fake checkpoint in near the town of Hibhib in Diyala Governorate and abducted 19 civilians at gunpoint; see Aasem Taha, *Mass kidnapping on main road north of Baghdad*, *Voices of Iraq*, 2 April 2007, [http://www.iraqupdates.com/p\\_articles.php?refid=DH-S-02-04-2007&article=16080](http://www.iraqupdates.com/p_articles.php?refid=DH-S-02-04-2007&article=16080); on 11 November 2006, Sunni gunmen reportedly ambushed a convoy of minibuses at a fake checkpoint on the highway south of Baghdad near the town of Latifiyah in the “Triangle of Death”, killing 10 Shi'ite passengers and kidnapping about 50; CBS/AP, *10 Shi'ites Killed In Iraq Bus Ambush*, 11 November 2007, <http://www.cbsnews.com/stories/2006/11/11/iraq/main2174419.shtml>; on 5 June 2006, gunmen ordered a three minibuses to stop at a fake checkpoint near the town of Qara Tappah in the Governorate of Dyala, dragging 21 persons, many of them high-school students off the buses before executing those of Shiite and Kurdish origin; see The Telegraph, *Militants execute 21 in Iraq bus attack*, 5 June 2006, <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2006/06/04/uiraq.xml&sSheet=/news/2006/06/04/ixnews.html>.

<sup>792</sup> See also “Affected Areas”.

<sup>793</sup> For example, on 1 April 2007, unknown gunmen positioned a fake checkpoint near the town of Hibhib in Diyala Governorate and abducted 19 civilians at gunpoint; see Taha, see above footnote 791; on 11 November 2006, Sunni gunmen reportedly ambushed a convoy of minibuses at a fake checkpoint on the highway south of Baghdad near the town of Latifiyah in the “Triangle of Death”, killing 10 Shi'ite passengers and kidnapping about 50; CBS/AP, *10 Shi'ites Killed In Iraq Bus Ambush*, 11 November 2007, <http://www.cbsnews.com/stories/2006/11/11/iraq/main2174419.shtml>; on 5 June 2006, gunmen ordered three minibuses to stop at a fake checkpoint near the town of Qara Tappah in the Governorate of Dyala, dragging 21 persons, many of them high-school students off the buses before executing those of Shiite and Kurdish origin; see The Telegraph, *Militants execute 21 in Iraq bus attack*, 5 June 2006, <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2006/06/04/uiraq.xml&sSheet=/news/2006/06/04/ixnews.html>.

In addition, there is also a continuing criminal threat of car-jacking and robbery.<sup>794</sup> According to the US Department of State,

*“(t)ravel in or through Ramadi and Fallujah; in and between al-Hillah, al-Basrah, Kirkuk, and Baghdad; between the International Zone and Baghdad International Airport; and from Baghdad to Mosul is particularly dangerous.”*

The fact that Iraqis continue to travel should not be taken as an indicator that traveling is safe. Rather, Iraqis travel out of necessity and avoid traveling as much as possible.

The following provides an overview of Iraq’s main roads and possible security issues.

**- Baghdad Western South route**

This road leads from Baghdad to the Jordanian, Syrian and Saudi borders passing through the Governorates of Al-Anbar, Babylon, Najaf, Kerbala, Qadissiyah and Al-Muthanna. This road divides into two 50 kms south of Baghdad with one road (Highway No. 10) leading further to the Jordanian and Syrian borders and the other (Highway No. 31) leading to the Saudi Arabian border crossing of ‘Ar’ar.

The first 50kms are considered very dangerous, and the road remains very risky towards the Jordanian/Syrian borders passing by Fallujah and Ramadi with armed conflict and crime being a daily occurrence. The road leading further South to the Saudi border is considerably safer, except for the route towards the town of Hilla (Triangle of Death) and south of it. In late March 2007, the town of Haswa, 50 km south of Baghdad, saw an increase in violence and the road was closed for two days. Further South, the road as such is mostly safe but security incidents are common in the cities it passes, in particular Najaf and Kerbala. Traveling after sunset is not safe. Increased security incidents also occur during Shi’ite religious festivities when Sunni insurgents target Shi’ite pilgrims on their way to the holy cities of Najaf and Kerbala.<sup>795</sup> On the route between Nassriyah and Basrah frequent incidents of car-jacking have taken place. It was also reported that the fact that cars try to avoid approaching MNF convoys often lead to car accidents.

**- Baghdad Eastern South route**

This road (Highway No. 6) passes from Baghdad through the Governorates of Al-Wassit, Missan and Basrah towards the Kuwaiti border. This road is generally considered safer than the Western route although sporadic roadside bombs are being reported and car-jackings are a common occurrence.

**- Baghdad Western North route**

This road passes from Baghdad through the Governorates of Salah Al-Din and Ninewa (Highway No. 1) and further North to Dahuk and finally the Turkish border. The road is extremely dangerous between Baghdad and the town of Tikrit

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<sup>794</sup> FCO, *Travel Advise by Country – Iraq*, see above footnote 790; USDOS, *Travel Warning – Iraq*, see above footnote 790.

<sup>795</sup> See, for example, Brian Murphy, *Bombers Massacre Shiite Pilgrims in Iraq*, AP, 7 March 2007, <http://abcnews.go.com/International/wireStory?id=2928921>.

with armed conflict between the MNF/ISF and the insurgency taking place (e.g. Dhuluiya, Tikrit, Samarra). The road passes through both Shiite and Sunni-controlled areas and, accordingly, persons belonging to the opposite sect face increased risks of falling victim to sectarian violence. Between Baghdad and Balad, Sunnis face increased risks as these areas are under the control of Shiite militias. Shiites in turn face added risks between Balad and Mosul. Travelling is often delayed by MNF/ISF checkpoints and convoys, which also increases the risk of being targeted by roadside bombs or armed clashes with insurgents.

Within the Region of Kurdistan, the road is guarded by the Kurdish armed forces (*Peshmerga*) and is considered safe.

**- Baghdad Eastern North route**

This road leads from Baghdad through the Governorates of Diyala, Kirkuk and further North to Erbil (Highway No. 2) and Sulaymaniyah (Highway No. 4). The route between Baghdad up to 35 km south of Kirkuk has been considered one of the most dangerous roads in Iraq for the last three years with sectarian violence, armed conflict and crime being prevalent. Passing through the city of Kirkuk is also considered dangerous with ethnic tensions and insurgency activities heightening in view of the planned referendum on the status of Kirkuk. The roads from Kirkuk to Erbil and Sulaymaniyah are guarded by the Kurdish *Peshmergas* and are considered safe.

Curfews exist in all areas of Central and Southern Iraq (23:00 to 06:00), and may be lengthened at short notice. In Baghdad the current curfew is from 22:00 to 05:00.

Bus stations and buses, both considered “soft targets” where large crowds gather, are frequently targeted. Such attacks usually appear motivated by sectarian differences.<sup>796</sup>

Furthermore, the general shortage of car fuel poses another obstacle to the mobility of people.

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<sup>796</sup> For example, on 27 February 2007, a bomb killed five people at a bus station in Hilla; China Daily, *Bus station bomb kills 5 as Iraqi leaders call for calm*, 27 February 2007, [http://english.people.com.cn/200602/27/eng20060227\\_246328.html](http://english.people.com.cn/200602/27/eng20060227_246328.html); on 6 December 2006, gunmen seized two dozen Shiites from a bus station in the predominantly Sunni town of Muqdadiyah north of Baghdad after separating them from the crowd. They killed them and dumped their bodies in a nearby village; see AP, *Iraq gunmen seize 24 people from bus station, killing 20*, 7 December 2006, [http://www.usatoday.com/news/world/iraq/2006-07-12-bus-restuarant-attacks\\_x.htm](http://www.usatoday.com/news/world/iraq/2006-07-12-bus-restuarant-attacks_x.htm); on 17 May 2006, gunmen opened fire with machine guns at a bus stop outside a Baghdad market, killing 23 people in an apparent sectarian attack; see Oliver Poole, *Iraqi gunmen kill 23 in bus stop attack*, The Telegraph, 18 May 2006, <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2006/05/17/wirq17.xml>; in August and December 2005, the Nahda bus station, the main terminal in Baghdad, which serves as the station for buses bound for the Kurdish north and the Shiite-dominated south, has been the scene of bombings and a suicide attack, killing scores of people; see: Jonathan Steele, *Suicide bomber kills 30 in Baghdad bus station attack*, The Guardian, 9 December 2005, <http://www.guardian.co.uk/Iraq/Story/0,2763,1663451,00.html>; Kirk Semple, *Suicide Bombing Attack on a Bus in Baghdad's Main Terminal Kills 30*, The New York Times, <http://www.nytimes.com/2005/12/08/international/middleeast/08cnd-iraq.html?ex=1291698000&en=f9dd8de381f2925c&ei=5088&partner=rssnyt&emc=rss>.

## *Travel by Air*

For those who can afford it, airplane travel has become more readily available via the three major airports in Basra, Baghdad and Erbil. However, insurgents are targeting Baghdad International Airport, which is located 20km southwest of Baghdad and also serves as a US military base (Camp Victory).<sup>797</sup> Civilian and military aircraft arriving to and departing from the airport have been subjected to attack by small arms and missiles.<sup>798</sup> In addition, insecurity and lack of proper maintenance of Iraq's aircrafts often lead to cancellations and delays.<sup>799</sup> Insurgents reportedly have also targeted Erbil Airport.<sup>800</sup> The US Embassy (and the UN) prohibits all US government employees from departing Baghdad International Airport on commercial airlines.<sup>801</sup>

The road to the airport, a 12km stretch of highway linking the airport to the International Zone has been a regular target for insurgents and was labelled the most dangerous road in Iraq. Travellers on the road face constant threats from IEDs, small arms fire and RPG attacks.<sup>802</sup> Incidents had lessened somewhat over the latter part of 2006. They have, however, risen again in 2007, and fatal attacks continue to take place on an almost daily basis.<sup>803</sup>

### ***iv. Restrictions on Entry/Residency and/or Locations of Settlement***

Furthermore, some neighbourhoods in Baghdad and the local authorities in several Governorates have imposed restrictions on the entry and residence of IDPs and/or their locations of settlement. Measures or restrictions designed to halt new entries into some Governorates/areas/cities are motivated by security, economic (limited municipal resources) saturation-related and political considerations. It is important to note that

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<sup>797</sup> On 7 March 2007, four mortar rounds crashed into the airport compound, including one which struck the main terminal; see Reuters, *Mortars strike Baghdad airport, no casualties*, 8 March 2007, <http://www.alertnet.org/thenews/newsdesk/KHA838258.htm>. On 11 March 2006, explosives were found near a Royal Jordanian Airways plane at Baghdad Airport; see FCO, *Travel Advise by Country – Iraq*, see above footnote 790.

<sup>798</sup> FCO, *Travel Advise by Country – Iraq*, see above footnote 790; USDOS, *Travel Warning – Iraq*, see above footnote 790. See also: SITE Institute, according to which the Islamic State of Iraq issued a communiqué on 23 March 2007, claiming responsibility for launching an attack on the aircraft carrying the “Crusader” Australian Prime Minister, John Howard, during his 18 March 2007 visit; SITE Institute, *Islamic State of Iraq Claims Attack on Aircraft Carrying Australian Prime Minister, John Howard*, 23 March 2007, <http://www.siteinstitute.org/bin/articles.cgi?ID=publications265807&Category=publications&Subcategory=0>.

<sup>799</sup> Hannah Allam, *Commercial flights provide a bird's-eye view of Iraq's problems*, McClatchy Newspapers, 15 March 2007, [http://www.realcities.com/mld/krwashington/news/columnists/hannah\\_allam/16911111.htm?source=rss&channel=krwashington\\_hannah\\_allam](http://www.realcities.com/mld/krwashington/news/columnists/hannah_allam/16911111.htm?source=rss&channel=krwashington_hannah_allam).

<sup>800</sup> FCO, *Travel Advise by Country – Iraq*, see above footnote 790; USDOS, *Travel Warning – Iraq*, see above footnote 790.

<sup>801</sup> USDOS, *Travel Warning – Iraq*, see above footnote 790.

<sup>802</sup> See, for example, John F. Burns, *Terror on Iraq's “Death Street”*, The New York Times, 30 May 2005, <http://www.ihf.com/articles/2005/05/29/news/street.php>; Jill Carroll and Dan Murphy, *Toughest commute in Iraq? The six miles to the airport*, The Christian Science Monitor, 26 April 2005, <http://www.csmonitor.com/2005/0426/p01s03-woiq.html>.

<sup>803</sup> Assessment received by UNAMI/Safety and Security Unit by e-mail on 23 May 2007.

regulations regarding entry and residency are subject to change without prior notice, such that the information provided below may no longer be current by the time of publication of these Guidelines.

Access of IDPs to the city of Fallujah in the Governorate of Al-Anbar and the Governorates of Kerbala, Basrah<sup>804</sup> and Babylon<sup>805</sup> is restricted to families originating from these areas, due to overcrowding of public buildings, overloading of basic services and security concerns. In the Governorate of Najaf, IDPs not originating from the city of Najaf are not allowed to settle in the city centre but must live in suburbs or outer districts. As a consequence, the Ministry of Displacement and Migration (MoDM) is no longer registering IDPs not originating from these areas. For example, there are reports that in the Governorate of Kerbala approximately 5,000 IDP families are not registered and accordingly do not have access to services (see below). Latest reports suggest that persons identified as IDPs (e.g. carrying personal belongings or furniture) are being turned away at entry checkpoints.

Registration of new IDPs in the Governorate of Kirkuk is hindered by political motives related to the upcoming referendum on the status of the Governorate later in 2007. Reportedly, the local authorities issued an order banning new IDPs from the Governorate, though it appears not to be fully enforced.

For security purposes, local authorities in the Governorates of Thi-Qar and Muthanna began in early 2007 to register IDPs only if they belonged to one of the tribes in these Governorates. IDPs are required to register with the National Security Directorate and need to have a sponsor who must be a local government employee. Only if these conditions are met will the IDP be registered by MoDM.

Failure to register may result in blocked access to basic services, including food rations, fuel and any kind of protection. Persons relocating to the aforementioned Governorates may be at risk of expulsion or face undue hardship if only allowed to reside outside the city centers with little access to services and subject to possible rejection by local communities.<sup>806</sup>

## **b) The Reasonableness Analysis**

Overall, for the reasons set out below and as demonstrated by the difficulties faced by IDPs in Central and Southern Iraq, UNHCR considers it unreasonable to expect an individual fleeing persecution in Iraq to relocate to an area in Central and Southern Iraq. Such an individual would not be able to lead a relatively normal life without undue hardship. Lack of basic facilities and difficulties with livelihoods and survival render it extremely harsh for

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<sup>804</sup> Until recently, IDPs had to provide evidence that they originate from a mixed area and that their displacement was caused by sectarian violence.

<sup>805</sup> In the Governorate of Babel, professionals are allowed to enter even if they do not originate from the Governorate.

<sup>806</sup> Cluster F, Update 23 May 2007, see above footnote 22.

persons to live normal lives at even basic subsistence levels within Central and Southern Iraq.

**i. Access to Food (Public Distribution System, PDS)**

The majority of families in Iraq are dependent on the Public Distribution System (PDS) to meet their basic food needs. A lack of documentation is a key obstacle to obtaining the food ration. In principle, IDPs can transfer their food ration cards to their place of relocation. However, in practice this has not taken place in many areas for security reasons or political/demographic concerns.<sup>807</sup> Persons not able to register with the authorities in their place of displacement (see above restrictions on entry) are not able to transfer their ration cards, and accordingly do not have access to the commodities under this programme.

In addition, security and sectarianism regularly hinder access, transportation and distribution of the PDS, resulting in delays in delivery and distribution and shortfalls in both the quality and quantity of items in the basket. Many food items do not reach either the main or local warehouses. Food agents and drivers can fail to gain access to warehouses and/or the recipient communities, and discrimination in the service delivery of the PDS is also an issue in mixed areas.

**ii. Access to Shelter**

Housing is an urgent priority for the majority of IDPs in all governorates. Although many are living with host families (relatives or friends), inadequate infrastructure-related services, including access to sanitation, potable water and electricity, pose additional health risks to many IDPs, who are also faced with the additional crisis of overcrowding. This is particularly true in Central and Southern Iraq. The inability of many IDPs to contribute to household expenses increases this problem. A significant number of IDP families are also living in public buildings in unsanitary, overcrowded conditions with limited access to electricity. A smaller number are living in collective towns and several hundreds in tented camps.<sup>808</sup>

Whilst significant numbers of IDPs have been able to rent housing in recent months, lack of employment opportunities and depleting financial resources make it difficult for these families to continue rental payments. Some IDPs residing in public buildings live with the threat of eviction.

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<sup>807</sup> IDPs are supposed to return to their place of origin in order to file a request to transfer the food ration cards. This also involves a financial burden. Given that the food ration cards serve as the basis for voter registration for Iraqi elections and referenda, they have acquired political significance. As a consequence, IDPs cannot transfer their food ration cards to the Governorate of Kirkuk, whose demographics are highly disputed. On the other hand, some towns are reportedly reluctant to allow families to take their ration cards when they move, as they do not wish to decrease their political weight; see Kristèle Younès, *The world's fastest growing refugee crisis*, Refugees International, March 2007, p. 5, [http://www.refugeesinternational.org/files/9915\\_file\\_RI\\_Iraqreport.pdf](http://www.refugeesinternational.org/files/9915_file_RI_Iraqreport.pdf).

<sup>808</sup> Cluster F, Update 23 May 2007, see above footnote 22.



It has been reported that new IDPs, as well as armed groups, are occupying properties left by residents forced to flee, especially in Baghdad. Under the new Baghdad Security Plan (*Operation Imposing Law*), those illegally occupying properties have to leave within two weeks or face eviction and arrest. However, at the time of writing, this order has not been implemented.<sup>809</sup>

### **iii. Access to Basic Services (Water, Sanitation, Health)**

Potable water, sufficient sanitation and health services are pressing needs for IDPs, particularly in villages and rural areas. The additional pressure placed on basic services by new IDP arrivals has resulted in serious deficiencies. The presence of IDPs in any community places an added burden on already weak and strained water and sanitation networks and health services.

Many IDP families are unable to afford the cost of potable tankered water, used increasingly to supplement the shortfalls in the national pipelines. In many parts of the country, IDPs rely instead on unclean sources such as rivers and broken pipes, increasing their exposure to waterborne diseases and other health risks. UNAMI has reported that some 70 percent of the population lack access to potable water and 81 percent lack access to effective sanitation.

Poor diet, overcrowded living conditions and limited access to potable water and sanitation facilities exacerbate the spread of communicable diseases and increase health risks. IDPs face limited access to health care, either because existing services are overstretched by large concentrations of IDPs or because of settlement away from urban areas where facilities either do not exist or are too far to access. Severe shortages in medical equipment, supplies and manpower, and inadequate infrastructure as a result of sustained conflict have weakened Iraq's public health care system, disproportionately affecting IDP families, who can hardly afford alternative private treatment or the escalating cost of medicines.

### **iv. Access to Income and Employment**

Income sources in Iraq are almost exclusively linked to wages or self-employment revenues. The employment situation in the country is extremely precarious. After leaving their homes, most IDPs are not able to secure work in their area of displacement. Many are unable to bring their possessions with them at the time of displacement and their savings are rapidly depleted. While during the first few months after the Samarra bombings, some IDPs were able to transfer their government positions or their retirement benefits to their governorate of displacement, they now face increasing difficulties and delays in doing so.

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<sup>809</sup> Anne Garrels, *Baghdad Squatters Face Deadline to Leave*, NPR, 20 February 2007, <http://www.npr.org/templates/story/story.php?storyId=7492225>; IRIN, *Iraq: New security plan could make more homeless*, 15 February 2007, <http://www.irinnews.org/Report.aspx?ReportId=70208>; Marc Santora, *Iraqi government announces a sweeping security campaign*, International Herald Tribune, 13 February 2007, <http://www.iht.com/articles/2007/02/13/news/iraq.php>.

The Governorates with the highest presence of new IDPs (Al-Anbar, Baghdad, Diyala, Salah Al-Din, Babylon, Kerbala, Missan and Najaf) feature an average unemployment rate which is typically much higher than the national average. UNAMI estimates that the national unemployment rate is some 50 percent rising to 70 percent in the worst affected provinces, such as Al-Anbar. It is important to note that the pace and scale of displacement is causing increasing distress to already unstable labour markets. Both the displaced and host communities are affected by both shortages in job opportunities and the likelihood of reduced wages as a result of the local labour surplus. Heightened employment shortages and inflationary pressures linked to IDPs' concentration may result in tensions between IDPs and their host communities.

#### **v. *Access to Education***

Access to education for IDP children is increasingly problematic. Overcrowded schools with a shortage of equipment, school supplies and teachers are unable to support additional students. In some cases, IDP children are denied registration. Poor maintenance, unreachable roads and a lack of bus transportation also limit access to education. Some schools have been closed because of occupation by military groups and the MNF, or, due to security concerns, are temporarily closed or have schedules disrupted.

#### **c) *Conclusion***

In light of the overall situation in Central and Southern Iraq, UNHCR considers that on the whole an internal flight or relocation alternative would not be relevant or reasonable, given, in particular, the existence of widespread violence and prevalent human rights violations, the physical risks and legal barriers encountered in reaching other areas, as well as the serious difficulties faced in accessing basic services and ensuring economic survival in a situation of displacement.

## **2. IFA/IRA in the Three Northern Governorates of Sulaymaniyah, Erbil and Dahuk**

#### **a) *Overall Situation***

The security situation in the three Northern Governorates has been less precarious than in Central and Southern Iraq. Since the end of the PUK-KDP fighting in 1997, the security situation has stabilized and local authorities have committed themselves to increasing security against external and internal threats. However, the security situation remains tense and unpredictable for the following, primarily political, reasons:

- a. There is anticipation that the conflict prevailing in the other parts of the country, in particular in the Governorates of Kirkuk and Ninewa, might spill over to the three Northern Governorates;
- b. Despite the recent unification of the two KRG administrations, the exercise of joint control still needs to be demonstrated on the crucial portfolios of Peshmerga Affairs,



Interior and Finance. While the Ministry of Extra Regional Affairs has been nominated as the Ministry responsible for displacement issues, it is a new Ministry and will take time before it can effectively carry out its responsibilities;

c. Apparent Kurdish ambitions to expand their areas of control, in particular in the Governorates of Kirkuk and Ninewa, are being met with concern from Arab and Turkmen communities, as well as Turkey and Iran;

d. Tensions are expected to rise in view of a popular referendum on the status of Kirkuk and other disputed areas slated for 2007;<sup>810</sup>

e. The reported presence of some 5,000 PKK and 1,000 PJAK fighters in Northern Iraq is a cause for concern. A number of attacks inside Turkey allegedly perpetrated by PKK fighters operating from Northern Iraq prompted Turkey to threaten Iraq with military retaliation. Both Turkey and Iran continue to have troops on the border and carried out operations against Kurdish fighters along the Iraqi border last year.<sup>811</sup> The Iraqi Government's repeated promise to close down all PKK offices in the country has yet to fully materialize;<sup>812</sup>

f. Radical Islamic elements, offshoots from *Ansar Al-Islam* (an indigenous Kurdish Islamist Movement) which during the 2003 US-led invasion was attacked by Coalition and Kurdish forces for reportedly providing a safe haven to major terrorist groups, have regrouped, mainly near the Iraqi-Iranian border. They are held responsible for (suicide) attacks in the Kurdistan Region, primarily against senior PUK/KDP political and military officials;<sup>813</sup>

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<sup>810</sup> See also "De-Arabization".

<sup>811</sup> AP, *Iraq warns Turkey against cross-border operation*, 21 February 2007, <http://www.metimes.com/storyview.php?StoryID=20070221-115132-9033r>; Vincent Boland and Guy Dinmore, *Turkey weighs cross-border attack on PKK separatists*, The Financial Times, 1 February 2007, <http://www.ft.com/cms/s/8b5425fab199-11db-b901-0000779e2340.html>; Reuters Alertnet, *Turk PM asserts right to intervene in Iraq, raps US*, 12 January 2007, <http://www.alertnet.org/thenews/newsdesk/L12896544.htm>; The Christian Science Monitor, *Turkey sharpens response to upsurge in Kurd violence*, 29 August 2006, <http://www.csmonitor.com/2006/0829/p10s01-woeu.html>; see also The Guardian, *Kurds flee homes as Iran shells Iraq's northern frontier*, 18 August 2006, <http://www.guardian.co.uk/Iraq/Story/0,1852843,00.html>; Oxford Analytica, *Tensions mount at Iraq-Turkey border*, 25 July 2006, [http://www.hillnews.com/thehill/export/TheHill/Comment/OpEd/072506\\_oxford.html](http://www.hillnews.com/thehill/export/TheHill/Comment/OpEd/072506_oxford.html); RFE/RL, *Iraq: Turkey Threatens Military Incursion*, 21 July 2006, <http://www.rferl.org/featuresarticle/2006/07/04C77744-2F65-4989-B6DE-D00564FD5DB8.html>; IRIN, *Iraq: Officials warn of displacement following attacks*, 28 May 2006, <http://www.irinnews.org/report.aspx?reportid=26911>; *ibidem*, *Iraq: Kurdish families flee as Iran shells rebel positions*, 2 May 2006, <http://www.irinnews.org/report.aspx?reportid=26335>.

<sup>812</sup> UPI, *Iraq Promises Crackdown On PKK*, 18 November 2006, <http://www.washingtontimes.com/upi/20061118-014937-3262r.htm>; CNN, *Iraq to close offices of Kurdish separatist group*, 19 September 2006, <http://www.cnn.com/2006/WORLD/meast/09/19/iraq.main/index.html>.

<sup>813</sup> UNHCR, *2006 Return Advisory*, p. 6, see above footnote 7.

g. Growing dissatisfaction with alleged corruption, restrictions on the freedom of the press and the lack of public services generate regular demonstrations and public unrest across the KRG-administered area;<sup>814</sup>

h. Despite the KRG authorities' commitment to respect human rights in their areas, serious violations of human rights continue to take place with specific groups being targeted. Journalists and media organizations have repeatedly claimed that press freedom is restricted and that criticism of the ruling parties can lead to physical harassment, arrest and imprisonment on fabricated charges.<sup>815</sup> In 2005 and 2006, street protests due to lack of public services were at times violently suppressed, with large numbers killed, wounded or arrested.<sup>816</sup> Furthermore, those perceived to be sympathetic to Islamist groups may be at risk of arbitrary arrest and detention. In unofficial detention centres run by the political parties' security and intelligence apparatus, detainees are held incommunicado and without judicial review of their detention for prolonged periods of time. The use of torture and other forms of ill-treatment have also been reported.<sup>817</sup>

In view of the ongoing power struggle, the Kurdish authorities aim to keep the area "Kurdish" and are in principle reluctant to accept any increase of non-Kurdish populations. Therefore, and for security-related reasons, the KRG authorities are implementing strict controls on the presence of non-Kurdish persons. Depending on the applicant, especially his or her ethnic and political profile, he/she may not be allowed to relocate to the three Northern Governorates for security, political or demographic reasons. While certain factors seem to lead clearly to denial of admission (e.g. former Ba'ath Party membership or a criminal record), at times it is difficult to establish clear criteria to predict who will be admitted or rejected.

Since the escalation of sectarian violence and consequent widespread displacement after the Samarra bombing on 22 February 2006, scores of Iraqis, mainly Kurds and Christians originating from the Region of Kurdistan, and, to a lesser extent, Arab Shi'ites and Sunnis as well as Turkmen, have sought refuge in the relatively safe three Northern Governorates.<sup>818</sup> International and national media have quite extensively covered this trend

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<sup>814</sup> See, for example, Ivan Watson, *Kurdish Area Attracts Arabs — and Trouble*, NPR, 23 January 2007, <http://www.npr.org/templates/story/story.php?storyId=6963948>; RFE/RL, *Iraq: Kurds Call For More Government Accountability*, 9 August 2006, <http://www.rferl.org/featuresarticle/2006/08/b502064d-63c7-484b-adcf-91b92c3d0d07.html>; IWPR, *Kurds Protest Energy Shortages*, Iraq Crisis Report No. 184, 7 July 2006, [http://www.iwpr.net/?p=icr&s=f&o=322133&apc\\_state=henh](http://www.iwpr.net/?p=icr&s=f&o=322133&apc_state=henh); IRIN, *Iraq: Kurdish authorities vow to upgrade services after protests*, 19 March 2006, <http://www.irinnews.org/report.aspx?reportid=26206>.

<sup>815</sup> See "Situation in the Region of Kurdistan".

<sup>816</sup> See "Persons Opposing the Ruling Parties".

<sup>817</sup> See "(Perceived) Members of Islamist Armed Groups".

<sup>818</sup> According to the KRG authorities, over 140,000 IDPs fled to the Region of Kurdistan by 10 May 2007. 9,175 IDP families (approximately 55,050 persons) entered Dahuk Governorate, which received the largest number of newly displaced among the three Northern Governorates. The large majority of IDPs in Dahuk Governorate are Kurds, around 10% are Christians and only about 5% are Arabs and Turkmen. Most Kurdish and Christian IDP families fled to Dahuk because of their links to that Governorate. In the Governorate of Erbil, 5,070 IDP families (approximately 30,420 persons) have sought refuge. They are composed of Arabs, Kurds and Christians. The Kurdish IDPs usually have links to the Governorate of Erbil, while most Christians and Arabs do not. In Sulaymaniyah Governorate, 9,643 families (approximately 57,858 persons) that arrived since the Samarra bombing were registered. They mostly reside in Sulaymaniyah town and in Kalar District.

and generally describe the three Northern Governorates as a “safe haven” for Iraqis of various religious and ethnic backgrounds.<sup>819</sup>

On the one hand, the KRG authorities have admitted a considerable number of IDPs, provided limited financial/material assistance to some groups of new IDPs,<sup>820</sup> assisted in securing new jobs and housing for some and established schools teaching in Arabic, though hardly sufficient to absorb increasing numbers of IDPs. Also, Kurdish officials seized the chance to strengthen their workforce, be it labourers in the booming construction sector, much needed doctors and dentists in the health sector,<sup>821</sup> academics in Kurdish universities or civil servants in the KRG ministries.<sup>822</sup> On the other hand, however, a significant number of IDPs face difficulties or may be prevented from finding protection in the three Northern Governorates, be it that they would not be admitted, may not be able to legalize their stay, fear continued persecution or face undue hardship to make their living, as unemployment is high and assistance is provided to few. Furthermore, the influx has squeezed already strained public services (in particular the provision of water, fuel and electricity), the lack of which has been the cause for demonstrations and public unrest across the Governorates of Erbil and Sulaymaniyah in 2005 and 2006.<sup>823</sup> The prevailing housing crisis has been further exacerbated and rents are increasing.<sup>824</sup> The local authorities

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The majority of families are Arabs (both Shi'ite and Sunni), Kurds (with links to the Governorate), Christians (mainly Chaldeans originating from the Governorate as well as some Christians from Baghdad and Basrah) and some Turkmen. See: Cluster F, Update 23 May 2007, see above footnote 22.

<sup>819</sup> See, for example, Omar Sinan, *Iraqi Arabs seek sanctuary in Kurdish north*, AP, 7 February 2007, <http://news.lp.findlaw.com/ap/o/51/02-07-2007/0669002c4b47f08f.html>; Mohammed A. Salih, *Students, Professors Flee to the Kurdish North*, IPS, 26 January 2007, <http://ipsnews.net/news.asp?idnews=36329>; Senanayake, *Iraq: Growing Numbers Flee Sectarian Violence*, see above footnote 196; Shamal Aqrabi, *Christians, Muslims flee Baghdad for Kurdistan*, Reuters, 23 January 2007, [http://www.iraqupdates.com/p\\_articles.php/article/13779](http://www.iraqupdates.com/p_articles.php/article/13779). See also: IWPR, *Kurdistan Bolstered by Influx of Arab Academics*, Iraqi Crisis Report No. 209, 19 January 2007, [http://iwpr.net/?p=icr&s=f&o=328622&apc\\_state=henh](http://iwpr.net/?p=icr&s=f&o=328622&apc_state=henh); *ibidem*, *Iraqi Kurdistan safe haven for fleeing Arabs*, Iraqi Crisis Report No. 198, 13 October 2006, [http://iwpr.net/?p=icr&s=f&o=324561&apc\\_state=henpicr](http://iwpr.net/?p=icr&s=f&o=324561&apc_state=henpicr); The Economist, *From killing zone to safe haven*, 10 August 2006, [http://www.economist.com/world/africa/displaystory.cfm?story\\_id=7281204](http://www.economist.com/world/africa/displaystory.cfm?story_id=7281204).

<sup>820</sup> Christian IDPs in the Governorates of Erbil and Dahuk, who originate from the Kurdistan Region, currently receive a monthly allowance by the Ministry of Finance headed by Sarkis Aghajan (US \$65 in the Governorate of Dahuk, US \$100 in the Governorate of Erbil).

<sup>821</sup> According to Sulaymaniyah Director General of Health, Dr. Sherko Abdullah, 150 doctors from central and southern parts of Iraq have come to Sulaymaniyah Governorate since 2003. The local authorities provide the doctors with rental assistance (US \$200/month) and help them set up their own clinics or find a job public hospitals and health centres, see Hawlati, *Arab Doctors Head for Kurdistan*, published and translated by Iraqi Press Monitor, No. 563, 8 November 2006, [http://iwpr.net/?apc\\_state=henmicr&o=c-1-1162944000-2-1163030400-3-icr&o1=month-11,year-2006&month=11&year=2006](http://iwpr.net/?apc_state=henmicr&o=c-1-1162944000-2-1163030400-3-icr&o1=month-11,year-2006&month=11&year=2006).

<sup>822</sup> IWPR, *Iraqi Kurdistan safe haven for fleeing Arabs*, see above footnote 819; The Economist, *From killing zone to safe haven*, 10 August 2006, [http://www.economist.com/world/africa/displaystory.cfm?story\\_id=7281204](http://www.economist.com/world/africa/displaystory.cfm?story_id=7281204).

<sup>823</sup> See, for example, RFE/RL, *Iraq: Kurds Call For More Government Accountability*, 9 August 2006, <http://www.rferl.org/featuresarticle/2006/08/b502064d-63c7-484b-adcf-91b92c3d0d07.html>; IWPR, *Kurds Protest Energy Shortages*, Iraqi Crisis Report No. 184, 7 July 2006, [http://www.iwpr.net/?p=icr&s=f&o=322133&apc\\_state=henh](http://www.iwpr.net/?p=icr&s=f&o=322133&apc_state=henh); IRIN, *Iraq: Kurdish authorities vow to upgrade services after protests*, 19 March 2006, <http://www.irinnews.org/report.aspx?reportid=26206>.

<sup>824</sup> A two-room apartment in Ainkawa, a town near Erbil, where many Christian IDPs have settled, currently costs at least US \$ 500 a month, with more spacious properties costing double; see AFP, *Iraq Christians Flee Baghdad for Peace and Hardship in the North*, 26 June 2006, [http://www.iraqupdates.com/p\\_articles.php/](http://www.iraqupdates.com/p_articles.php/)

have plans to establish camps to deal with the large numbers of IDPs.<sup>825</sup> The local community appears divided over the influx and some express fear of the spread of insecurity, renewed *Arabization*, further degeneration of public services, skyrocketing prices, and the spread of such social phenomena as begging, prostitution and HIV/AIDS.<sup>826</sup>

Therefore, despite the hospitable attitude of the KRG authorities towards some IDPs, the availability of an IFA/IRA must be carefully assessed on a case-by-case basis, taking into consideration the following:

## **b) The Relevance Analysis**

### **i. Accessibility**

The three Northern Governorates of Sulaymaniyah, Erbil and Dahuk are not easily accessible, as travel by road in Iraq is highly dangerous. The road leading from Baghdad to Dahuk passes through the Governorates of Salah Al-Din and Ninewa (Highway No. 1). The route between Baghdad and the town of Tikrit is a scene of armed conflict between the MNF/ISF and the insurgency (e.g. Dhuluiya, Tikrit, and Samarra). In addition, the road passes through both Shi'ite and Sunni-controlled areas. Accordingly, persons belonging to the opposite sect face increased risks of falling victim to sectarian violence. The other major route to the North leads from Baghdad through the Governorates of Diyala, Kirkuk and further to Erbil (Highway No. 2) and Sulaymaniyah (Highway No. 4). The route between Baghdad up to 35 km south of Kirkuk has been considered the most dangerous road in Iraq for the last three years, with sectarian violence, armed conflict and crime prevalent. Passing through the city of Kirkuk is also considered dangerous, as ethnic tensions and insurgency activities have heightened in anticipation of the planned referendum on the status of Kirkuk.<sup>827</sup> The roads from Mosul to Dahuk and Kirkuk to Erbil and Sulaymaniyah, respectively, are guarded by the Kurdish *Peshmergas* and are considered safe.<sup>828</sup>

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[article/8923](#). According to information received by UNHCR, an employee's average salary ranges between US \$200-500.

<sup>825</sup> A tented camp to initially host 2,000 IDP families is planned for Shalalat in the Governorate of Ninewa, 5km North-East of Mosul City and South of Sheikhan (therefore located outside the Region of Kurdistan). The camp's security and administration would be the responsibility of the local authorities of Dahuk Governorate. Also, the authorities in Sulaymaniyah Governorate have brought up the idea of establishing camps for new IDPs; so far there are no concrete steps given the reluctance expressed by UNHCR and ICRC.

<sup>826</sup> IWPR, *Iraqi Kurdistan safe haven for fleeing Arabs*, see above footnote 819. Hawler Post newspaper reported on 6 September 2006 that the Kurdistan Institute for Political Issues conducted a poll between 26 August and 3 September 2006 involving 900 persons from Erbil, Sulaymaniyah and Dahuk on the issue of the Arabs relocating in the Kurdistan Region due to instability in their areas: the results showed that 79% were against allowing Arabs to come to the Region of Kurdistan, 63% were against their settlement in the Region and said it will have a bad impact on the security situation. Only 13% believed that it was good to let them settle in the Region of Kurdistan.

<sup>827</sup> See "De-Arabization".

<sup>828</sup> See also above "Travel by Road".

In order to access the three Northern Governorates from other parts of Iraq, all Iraqis, including Kurds, must go through checkpoints at the unofficial borders (the so-called “green line”) between Central Iraq and the KRG-administered area. Other areas along the unofficial border have been heavily mined in the past decade and are regularly patrolled by Kurdish *Peshmerga*. Such conditions make it nearly impossible for persons to cross into the three Northern Governorates through the countryside without endangering themselves. Therefore, entry through the few major roads and their checkpoints is, practically, the only option available.

There are regular flights by Iraqi Airways between Baghdad and Sulaymaniyah and Baghdad and Erbil. A one-way ticket costs US \$95 (to Erbil) and US \$60 (to Sulaymaniyah), an amount that cannot be borne by many for economic reasons. In addition, the Baghdad airport road is not considered safe.<sup>829</sup>

## ii. *Entry Measures*<sup>830</sup>

The Kurdish parties have introduced strict security measures at their checkpoints and persons not originating from the Region of Kurdistan, depending on their profile, may be denied entry into the Region of Kurdistan. Despite the unification of the administrations in the Region of Kurdistan, the three Governorates of Sulaymaniyah, Erbil and Dahuk continue to apply their independent entry and residency measures.

### *Governorate of Sulaymaniyah*

In the Governorate of Sulaymaniyah, admission into the Governorate is generally not restricted and does not require a sponsor.<sup>831</sup> However, persons from *arabized* areas claimed by the PUK, i.e. Kirkuk and Khanaqeen in the Governorate of Diyala, are generally denied entry to the Governorate for political and demographic reasons, unless they only wish to come for a visit.<sup>832</sup> In that case, they are allowed entry but are not able to bring their belongings or a large amount of luggage with them.

Persons arriving in Sulaymaniyah by airplane do not face any entry restrictions.

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<sup>829</sup> See above “Travel by Air”.

<sup>830</sup> This Chapter is largely based on information obtained from UNAMI, UNHCR staff (checked with local authorities) and UNHCR’s implementing partners.

<sup>831</sup> There are special procedures applicable to persons wishing to relocate to the District of Kalar. An IDP first has to approach the security office in person and submit a petition requesting permission to relocate. The applicant needs a Kurdish sponsor who resides in Kalar. The sponsorship letter needs to be ratified by the Notary Public Office in Kalar. Only after these conditions have been met will the security officer provide the permission to relocate and to bring family members and belongings. Any applicant without a sponsor from Kalar will be denied permission to relocate. Once the IDP has moved to Kalar and rented a house, a letter from the *Mukhtar* (neighbourhood representative) needs to be submitted to the security office to confirm the IDPs’ address in Kalar.

<sup>832</sup> While Kurds are not permitted entry in order to maintain a Kurdish presence in these formerly *arabized* areas, Arabs, Turkmen, Yazidis and members of other religious or ethnic groups from disputed areas are denied entry as the authorities do not want to be confronted with the accusation of changing the demographics by relocating non-Kurds from these areas.

### *Governorate of Erbil*

In the Governorate of Erbil, non-Kurds need to have a sponsor,<sup>833</sup> which may prove difficult for persons not originating from the Governorate. Those Christian and Arab IDPs that manage to have a sponsor usually have previous links to the Governorate, e.g. family or business relations, or manage to find a sponsor based on their economic or professional profile (they may find a company to sponsor them, due to their profession, otherwise be encouraged to work in the Governorate, e.g. doctors or engineers). The sponsor has to present him/herself at the entry checkpoint and provide his or her ID card, phone number and address. The IDP has to fill out a card at the entry checkpoint and will be allowed to enter the Region. Persons that do not have a sponsor will be denied entry into the Governorate.

### *Governorate of Dahuk*

In the Governorate of Dahuk, families are allowed to enter without a sponsor, while single men not originating from the Kurdistan Region continue to need a sponsor for security reasons.<sup>834</sup> The sponsor has to present him/herself at the entry checkpoint and provide his or her ID card, phone number and address. The IDP has to fill out a card at the entry checkpoint and will be allowed to enter the Region. Single males without a sponsor will generally be denied entry to the Governorate, though it appears that the authorities exceptionally grant entry to IDPs without a sponsor, provided that 1) the person's background can be thoroughly checked by the KDP, if the party has an office in the person's place of origin (e.g. in Kirkuk, Ninewa), and it is determined that he does not pose a security risk and 2) the person can establish that he fled violence or persecution.<sup>835</sup> Otherwise, the person will not be admitted to the Governorate of Dahuk.

### **iii. Residency**

Every person who does not originate from the Region of Kurdistan and is allowed to enter will have to apply for a quasi residence permit in order to legalize his/her stay. The provision of a quasi residency permit depends mainly on security concerns. Generally, persons suspected of links to the insurgency, or the former regime, or who have a criminal record, will not be able to obtain residency. Again, the procedures vary from Governorate to Governorate.

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<sup>833</sup> The sponsor could either be an individual person or a company. The responsibility of the sponsor is to inform authorities that he/she knows the IDP and, in case of security-related incidents, the sponsor will be questioned. The sponsor should have his/her food ration card issued in the Governorate of Erbil and have a good reputation.

<sup>834</sup> The sponsor could either be an individual person or a company. The responsibility of the sponsor is to inform authorities that he/she knows the IDP and, in case of security-related incidents, the sponsor will be questioned. The sponsor should have his/her food ration card issued in the Governorate of Dahuk and have a good reputation.

<sup>835</sup> It is the discretion of the authorities to decide whether this threshold is reached, and this may vary in the various Governorates.

### *Governorate of Sulaymaniyah*

Persons not originating from the Region of Kurdistan must have a sponsor<sup>836</sup> who should accompany the person/family to the Residency Section in the Security Department. Doctors, owners of companies/restaurants and university teachers are currently exempted from the sponsorship requirement. IDPs with a sponsor are requested to fill out an information card upon arrival with the following information:

- Place of residence;
- Name of sponsor;
- Personal data (name, age, etc.).

He/she will have to undergo a security screening in which the reasons for relocation are investigated. Provided the person is not considered a security risk, he/she will be granted a quasi residency permit for 3-6 months, which is subject to extension.

Persons who do not have a sponsor are denied a quasi residency permit and are requested to leave the Governorate or are otherwise forcibly removed.<sup>837</sup> Persons originating from Kirkuk or Khanaqeen, including Kurds, Arabs, Turkmen and members of other ethnic or religious groups, are not able to obtain a quasi residency permit for demographic and political reasons.

### *Governorate of Erbil*

Persons not originating from the Region of Kurdistan need to have a sponsor, who should accompany the person/family to the Residency Section in the Security Department. Persons without a sponsor will not be able to obtain a quasi residency permit. The IDPs are requested to fill out an information card upon arrival with the following information:

- Place of residence;
- Name of sponsor;
- Personal data (name, age, etc.).

He/she will have to undergo a security screening investigating the reasons for relocation. Applicants for a quasi residence permit must establish either political links to the region or that they have fled violence or persecution; otherwise applications for a quasi residence

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<sup>836</sup> The sponsor could be an individual person or a company. The responsibility of the sponsor is to inform authorities that he/she knows the IDP and, in case of security-related incidents, the sponsor will be questioned. The sponsor should have his/her food ration card issued in the Governorate of Sulaymaniyah and have a good reputation.

<sup>837</sup> Awene website / Sulaymaniyah, No. 46, 28 November 2006 (in Sorani Kurdish), reported that 42 Iraqi Arabs, who were working in Bazyan Cement Factory, were detained on 26 November 2006 by Chamchamal Security Forces in order to be returned to their places of origin outside the Region of Kurdistan given that they had entered the Governorate of Sulaymaniyah without sponsorship and without registering with the security forces. The head of the Chamchamal Security Directorate, Muqadam Ahmad Nadr, told Awene that the arrested people had come to Chamchamal (sub-District in Sulaymaniyah Governorate) without the knowledge of the security forces, adding that “any Arab residing in Chamchamal need[s] to report their presence to the authorities.”



permit will be denied due to the serious lack of shelter in the Governorate. Persons who are not able to legalize their stay are not permitted to remain in the Governorate.<sup>838</sup>

#### *Governorate of Dahuk*

IDPs not originating from the Kurdistan Region have to approach the Residency Section in the Security Department to obtain a residency paper. Single men not originating from the Kurdistan Region generally need to have a sponsor in order to legalize their stay. On an exceptional basis, and provided that 1) the person's background can be thoroughly checked and it is determined that he does not pose a security risk; and, 2) the person can establish that he fled violence or persecution, a quasi residency permit might be given. Otherwise, the person will not be able to remain in the Governorate of Dahuk and will be removed.

IDPs applying for a residency paper are requested to fill in an information card upon arrival with the following information:

- Place of residence;
- Name of sponsor, in case of single men;
- Personal data (name, age, etc.).

He/she will have to undergo a security screening in which the reasons for relocation are investigated. In Dahuk Governorate, applicants for a quasi residence permit need to either establish political links to the region or provide evidence that they have fled violence or persecution; otherwise applications for a quasi residence permit will be denied due to the serious lack of shelter in the Governorate.

#### **iv. General Rules**

In all three Governorates, the quasi residency permit is valid for three to six months and is subject to extension. Once an IDP has obtained a quasi residency permit, he/she remains under surveillance. Persons who are considered a threat to security or who have committed a crime will not have their quasi residency permit renewed or may have it withdrawn and be obliged to leave the Governorate.

Persons relocating to the three Northern Governorates need to legalize their stay with the local authorities, regardless of the length of stay or the purpose of visit (tourism, business, family visit, relocation to escape violence or persecution). Even if the person stays only for a short period of time, he/she nevertheless must register with the security. Renting an apartment or staying at a hotel require a quasi residency permit. Accordingly, persons who do not register with the authorities or are denied a quasi residency permit will not be able to rent an apartment or to check into a hotel. It is worth noting that hotels are instructed to register their clients on the basis of their ID card and are obliged to share such information with the security. If the person intends to change his/her location, the authorities must be informed as well.

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<sup>838</sup> UNHCR is not aware if persons have actually been removed from the Governorate.



#### **v. *Risk of Persecution or Other Serious Harm Upon Relocation***

A person from Central or Southern Iraq may be out of reach of his or her persecutors if relocated to the three Northern Governorates, as the state protection of the Kurdish authorities may come into play. Protection by the KRG authorities will, however, only be provided if the person is both admitted to the Region of Kurdistan and if the Kurdish authorities are able and willing to provide protection in the given case concerned.

Despite the existence of police/security structures in the three Northern Governorates, of which an individual could conceivably avail him/herself in order to seek state protection, as well as the fact that the KRG authorities are to some extent able and willing to provide such protection, people in the three Northern Governorates depend mainly on their family, community or tribal links for protection. Persons not originating from the North will, therefore, only be able to rely on the protection of the authorities. Depending on the cause of persecution, the authorities may not be willing or able to provide protection.

This is particularly the case for members of the former Ba'ath Party, Government or security apparatus, since the KRG authorities would not be willing to provide protection to persons thought to have supported the former regime, which was responsible for egregious crimes against the Kurdish people.

There is also a strong likelihood that a high-profile person (e.g. a political leader, academic, judge, etc.) could still be at risk of persecution by non-state actors if relocated to the three Northern Governorates. The KRG authorities are not always able to protect individuals in their territory from such attacks.

Women at risk of "honour killing", as well as persons fleeing tribal conflict (blood feuds) may also still be reached by their persecutors if relocated within Iraq.

#### **c) The Reasonableness Analysis**

Persons legally residing in the three Northern Governorates in principal have access to food rations through the PDS, education, health and employment. Also, IDPs are allowed to rent apartments or houses, but are, except for Kurds, not entitled to own immovable property. However, for a number of reasons, access to these services is not always guaranteed. For example, IDPs often face bureaucratic hurdles and delays of several months in obtaining their food rations in the place of displacement, meaning that they may be without food for several months.

In addition, it must be noted that there are at least 770,000 IDPs in the three Northern Governorates.<sup>839</sup> Accordingly, services such as education, health, electricity, fuel and water are under tremendous pressure. All Governorates lack drugs and medical equipment and have difficulties absorbing increasing numbers of school children. All three Governorates

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<sup>839</sup> See: Cluster F, Update 23 May 2007, see above footnote 22. This figure includes both persons displaced as result of sectarian violence and ongoing military operations since 2006 (143,000 persons) as well as persons displaced prior to 2006 (634,000 persons).

have reported a shortage of Arabic-speaking teaching staff and school facilities. High rents are exhausting the resources of displaced families, and reportedly some families had to return to their places of origin because they could no longer afford the high living costs.<sup>840</sup> Unemployment is soaring and many young Kurds leave the Region for economic reasons.<sup>841</sup>

IDPs originating from the three Northern Governorates usually do not face difficulties accessing public services at par with the general population. However, Kurds originating from “disputed areas”, i.e. Mosul, Kirkuk and Khanaqeen, are discouraged from relocation by additional restrictions imposed by the authorities in an attempt to maintain a “Kurdish presence” in these areas for political and demographic reasons. For example, Kurdish IDPs from Mosul are not able to transfer their food ration cards to Dahuk Governorate unless they can establish that they have fled violence or persecution. This process can prove lengthy and they may face several months without access to their food rations. IDPs from Kirkuk and Khanaqeen are not able to obtain their food rations in the Governorate of Sulaymaniyah, thereby seriously affecting their ability to provide for their daily living, given that the majority of Iraqis depend on the PDS.

IDPs who do not register with the local authorities, or are not granted a quasi residency permit, do not have access to PDS, employment and housing (all three Governorates) and are not entitled to access the public education and health systems (Governorates of Sulaymaniyah and Dahuk).

Access to public services and employment may also prove difficult for persons with no family, tribal or political connections in the Region. This is particularly true for women, as for cultural reasons they need their family/tribe to support them economically.

Another factor is whether the claimant has family, community and/or political links in the proposed area of relocation that could facilitate his/her economic survival and integration. If a person previously resided in the three Northern Governorates for a considerable length of time without protection problems, he or she would, in general, be deemed integrated into the local community and could be expected to relocate to that area. However, this is not applicable for persons from “disputed areas” as they are generally discouraged or even prevented by the local authorities from returning to the Region of Kurdistan, even if they had previously resided there.

While the larger cities in the Region of Kurdistan generally have a mixed population that allows persons of other ethnic, religious or tribal affiliation to integrate, relocation to more rural or homogenous areas is more difficult, as the person might be exposed to a serious risk of rejection by the community, which could result in physical insecurity and/or undue hardship.

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<sup>840</sup> Younès, see above footnote 807, p. 5.

<sup>841</sup> See, for example, Ivan Watson, *Many Youths Long to Leave Kurdistan Behind*, NPR, 30 January 2007, <http://www.npr.org/templates/story/story.php?storyId=7085621>; *ibidem*, *Kurdish Area Attracts Arabs — and Trouble*, NPR, 23 January 2007, <http://www.npr.org/templates/story/story.php?storyId=6963948>.

In addition, non-Kurdish persons, particularly Arabs, usually do not speak the language nor are familiar with Kurdish customs and traditions, making it difficult for them to integrate into Kurdish societies. Arabs are also often met with suspicion by the Kurdish authorities and population for perceived links to the former regime and/or the ongoing insurgency.<sup>842</sup> According to UNAMI, Arab IDPs in the three Northern Governorates suffer from discrimination and are given the least assistance by the Kurdish authorities due to security fears.<sup>843</sup>

#### **d) Persons Who May Not Be Able to Find Protection**

The following provides a non-comprehensive list of groups of persons who may not be able to find protection upon relocation in the three Northern Governorates. Such persons may not be admitted to the Region, may still be targeted by the perpetrators of persecutory acts, or may have difficulties accessing basic services and therefore face undue hardship.

- Persons with no family, community, political or business links to the three Northern Governorates, as they may not be able to find a sponsor guaranteeing their entry and/or residency;
- Former Ba'athists, unless their background has been cleared and no involvement in crimes has been established;
- Members of former security/intelligence services;
- Persons with a criminal record;
- Arab males, as well as those suspected of supporting the insurgency or intending to carry out terrorist attacks in the Region of Kurdistan;
- Persons with a high profile (e.g. political figures, academics, judges, etc.), because they may still be within reach of their persecutors;
- Turkmen and Arabs from Kirkuk, who may be denied entry to the Governorate of Sulaymaniyah for political reasons (this may be viewed as changing the demographics of Kirkuk); if admitted, they may face undue hardship due to obstacles in accessing services;
- Kurds and members of religious minorities from Kirkuk, Khanaqeen and Mosul, who would face problems relocating to the Governorates of Sulaymaniyah and Dahuk for political and demographic reasons; if admitted, they may face undue hardship due to obstacles to accessing services;
- Women fearing "honour killing" as well as persons fleeing tribal conflict (blood feuds), as they may still be within reach of their families or communities which are the sources of the threats;
- Single women and female heads of household, if not accompanied by male relatives and/or receiving financial assistance from relatives, who may face undue hardship due to limited access to employment, except for qualified professionals.

### **3. IFA/IRA Within the Three Northern Governorates for Iraqis Who Originate From These Governorates**

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<sup>842</sup> See also Sunni Arabs.

<sup>843</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 17-18 and 20, see above footnote 10.

After repeated announcements about merging the KDP-administration in Erbil/Dahuk and the PUK-administration in Sulaymaniyah, the two administrations were united on 21 January 2006. The seat of the KRG is in Erbil. According to the power-sharing agreement, the KDP heads or will head the KRG Ministries of Finance, Peshmerga Affairs, Higher Education, Agriculture, Martyrs, Culture, Electricity, Natural Resources, Municipalities, Sports and Youth as well as the Ministry for Extra-Regional Affairs. The PUK oversees the Interior, Justice, Education, Health, Social Affairs, Water Resources, Transportation, Reconstruction, Planning and Human Rights ministries. The KRG Ministries of Finance, Peshmerga Affairs and Interior should unite within one year;<sup>844</sup> however, to date no agreement has been reached on the merger of these crucial portfolios.

In the past, UNHCR has argued that a person originating from the area under one party's administration might not be able to relocate to the area under the other party's administration should he or she face persecution in his or her area of origin, given the various political, legal and other obstacles encountered in relocating.<sup>845</sup> Despite the unification of the two administrations and the establishment of a joint Government and National Assembly, the two administrations still remain largely split and continue to exercise their individual powers. The (partial) unification reinforces the argument that the granting of legal residence and protection to a person fleeing persecution in the area dominated by the other party may be withdrawn for political reasons (i.e. not to upset the other party in the process of unification).

Persons seeking to relocate from one area to the other in order to flee persecution may face the following difficulties:

- Difficulty accessing the other area (passing of checkpoints);<sup>846</sup>
- Granting of residency may depend on political considerations and may be withdrawn if the political agenda changes;
- Granting of protection may also depend on political considerations as well as tribal and personal affiliation;
- Fear that family members who stay behind could be harassed if a person flees to the other administration's area;
- Difficulties accessing basic services without family/community support network (mainly single women and female heads of households);
- Those fearing persecution by Islamist groups may not be able to find protection in the other part of the three Northern Governorates, as they may still be within reach of their persecutors; the same applies to women fearing "honour killing" as well as persons fleeing tribal conflict (blood feuds) as they may still be within reach of their families and communities.

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<sup>844</sup> KRG, *Kurdistan Regional Government Unification Agreement*, para. 1-5, 21 January 2006, [http://www.krg.org/articles/article\\_detail.asp?LangNr=12&RubricNr=107&ArticleNr=8891&LNNr=28&RN Nr=70](http://www.krg.org/articles/article_detail.asp?LangNr=12&RubricNr=107&ArticleNr=8891&LNNr=28&RN Nr=70). For a full list of the KRG cabinet, inaugurated on 7 May 2006, see KRG, *Ministers of the new unified cabinet*, 7 May 2006, [http://www.krg.org/articles/article\\_detail.asp?ArticleNr=10938&LangNr=12&LNNr=28&RNNr=70](http://www.krg.org/articles/article_detail.asp?ArticleNr=10938&LangNr=12&LNNr=28&RNNr=70).

<sup>845</sup> See UNHCR, *2005 Eligibility Guidelines*, Annex VII, p. 57-59, see above footnote 8.

<sup>846</sup> Despite the unification, there continue to be a total of four checkpoints on the former border between the KDP and the PUK-ruled areas.

## *Conclusion*

Availability of an internal flight or relocation alternative in the three Northern Governorates needs to be assessed individually based on the specific Governorate to be entered, as well as the circumstances, background and profile of the individual concerned, including whether the individual originates from Central and Southern Iraq or from within the three Northern Governorates. Consideration should be given to the underlying policies of the authorities to keep the three Northern Governorates “Kurdish” and the implications this has for determining the political and ethnic profile of those who may be permitted to enter and reside. Those from the Arabized areas are not permitted to enter, and neither are those with the profiles as listed above. Whether the agents of persecution could pursue their targets would also need to be assessed. The security risks entailed in travelling to the three Northern Governorates whether from Central and Southern Iraq or from within the three Northern Governorates are also relevant factors in assessing the relevance of the internal flight or relocation alternative.

## VI. EFFECTIVE PROTECTION OF REFUGEES OF ARAB ORIGIN IN IRAQ

Refugees of Sunni Arab origin, in particular Palestinians, Syrians and Iranians (Ahwazis), have come under increased pressure due to their perceived affiliation with the former regime and the ongoing Sunni-led insurgency.<sup>847</sup> There have been consistent allegations of Arab refugees becoming targets for false accusations in the media, arbitrary detention, extra-judicial executions and torture by militias, and evictions. The Iraqi Government is responsible for providing protection to these refugees, given that they cannot avail themselves of the protection of their home countries. Shi'ite-dominated ISF and militias have been identified as the main perpetrators of attacks against refugees.<sup>848</sup> Currently, the Iraqi authorities are neither willing nor able to provide effective protection, which requires the delivery of legal, physical and material protection. Also, many refugees of Arab origin do not hold valid documentation, limiting their freedom of movement, access to services and putting them at risk of detention and possibly *refoulement*. While “effective protection” should be linked to the seeking of viable durable solutions, the current security and political climate as well as economic conditions in Iraq do not allow for the refugees’ local integration.

Palestinian refugees make up the largest refugee group in Iraq. They have been targeted since the fall of the former regime. Security incidents against Palestinian refugees have steadily risen since the 22 February 2006 Samarra bombing. However, in December 2006, there was a sharp increase of reports of threats, abductions and killings.<sup>849</sup> Between November 2006 and January 2007, UNHCR received reports of 37 Palestinians killed in targeted attacks. There are regular reports of bodies found with torture marks. In the case of abductions, at times ransoms have been requested. However, payment does not necessarily result in the release of the family member. There have even been reports that families have had to pay a ransom for the return of a relative’s corpse. While most reported incidents are targeted attacks, including killings and kidnappings, they include mortar attacks on Palestinian residential areas, presumably by militias, and group detentions by ISF. The Baladiyat compound, the principal Palestinian area in Baghdad, came under mortar attack twice in December 2006, causing deaths and injuries, including small children. In January 2007, two group detentions took place on the same day. There were allegations of mistreatment, and possibly torture, at the hands of the ISF from one of the groups of detainees. The rise in attacks has led to increasing numbers of Palestinians fleeing to the Iraqi-Syrian border.<sup>850</sup> It is believed that the vast majority of Palestinians having been able

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<sup>847</sup> See for further information: UNHCR’s Press Briefing Notes, available at <http://www.unhcr.org/cgi-bin/texis/vtx/iraq?page=briefing>, which regularly provide updates on the situation of Palestinians in particular. See also: Gabriela Wengert and Michelle Alfaro, *Can Palestinian refugees in Iraq find protection?*, Forced Migration Review, No. 26, September 2006, <http://www.fmreview.org/FMRpdfs/FMR26/FMR2609.pdf>.

<sup>848</sup> See also “Lack of National Protection”.

<sup>849</sup> For a (non-comprehensive) list of reported incidents involving Palestinian refugees, see “Annex IX: Attacks on Palestinian Refugees in Iraq”.

<sup>850</sup> As of 31 January 2007, UNHCR assisted a total of 1,087 Palestinians ex-Iraq in Syria, Jordan and the Iraq-Syrian border areas (97 refugees in the Ruweished Camp in Jordan, 356 Palestinians in the No Man’s

to flee Iraq have done so illegally through the use of false documents and through the assistance of smugglers.

More detailed information is contained in UNHCR's 2006 aide-mémoire on Palestinians in Iraq.<sup>851</sup>

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Land on the border between Iraq and Syria near Al-Tanf, 330 Palestinians on the Al-Walid border crossing between Iraq and Syria and 304 Palestinians in the Al-Hol Camp in Syria).

<sup>851</sup> See: UNHCR, *Aide-Mémoire: Protecting Palestinians in Iraq and Seeking Humanitarian Solutions for Those Who Fled the Country*, December 2006, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=45b0fc2e2>.

## VII. ANNEXES

The following annexes provide a non-comprehensive overview of attacks on various specific groups in Iraq as outlined in these Guidelines. The information has been gathered by UNHCR from public sources. While UNHCR could not independently verify all of the reports, the information should be considered as an indicator of the level of violence that is taking its toll on these groups in Iraq.

### *Annex I: Attacks on Christian Religious and Political Representatives*

The following incidents were reported during the last five months of 2006:

- On 6 December 2006, it was reported that Elder Munthir, 69, a high-ranking leader of the Presbyterian Church in Mosul, who had been kidnapped on 26 November, was found dead.<sup>852</sup>
- On 4 December 2006, Father Samy Al-Raiys, a Chaldean Catholic priest, Rector at the Major Seminary of the Chaldean Patriarchate and teacher of Morality in the Faculty of Theology at Babel College in Baghdad, was kidnapped on his way to the Church of Mar Khorkhis (Saint George);<sup>853</sup> he was later released.<sup>854</sup>
- On 28 November 2006, Father Doglas Yousef Al Bazi, Chaldean parish priest at Saint Elias in Baghdad, was released after nine days in captivity. He had been kidnapped on 19 November 2006.<sup>855</sup>
- On 23 November 2006, Isoh Majeed Hedaya, President of the *Syriac Independent Unified Movement* (SIUM) was assassinated in Qaraqosh. He was a leading proponent of the creation of an autonomous region for the Assyrians in the Ninewa Plain.<sup>856</sup>
- On 11 October 2006, the decapitated body of Father Boulos Iskander Behnam was found in Mosul. He had been kidnapped by an unidentified group that demanded a ransom and that his church condemn a statement made by Pope Benedict XVI.<sup>857</sup>
- On 24 September 2006, a hand-grenade was thrown at the car of the priest Izria Wurda when leaving the orthodox Maria cathedral in the Al-Riad quarter of Baghdad. Persons present at the service, police and passers-by hurried to the scene when a car loaded with

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<sup>852</sup> Asia News, *Christian leader in Mosul kidnapped and killed*, 6 December 2006, <http://www.asianews.it/index.php?l=en&art=7937&geo=23>.

<sup>853</sup> *Ibidem*, *Another Chaldean Priest Abducted in Baghdad*, 5 December 2006, <http://www.aina.org/news/2006120595730.htm>.

<sup>854</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 10, see above footnote 10.

<sup>855</sup> Asia News, *Kidnapped priest released in Baghdad*, 29 November 2006, <http://www.asianews.it/index.php?l=en&art=7879&geo=23>.

<sup>856</sup> EasternStar News Agency, *Assyrian Leader in Iraq Assassinated for Advocating Assyrian Autonomy*, 27 November 2006, <http://www.aina.org/news/20061127133032.htm>; UNAMI HRO, *December 2006 Human Rights Report*, p. 13, see above footnote 10.

<sup>857</sup> Al Jazeera, *Iraq priest "killed over pope speech"*, 13 October 2006, <http://english.aljazeera.net/news/archive/archive?ArchiveId=36747>.



explosives blew up. Two people were reportedly killed, including the vergier of the church, Josef Ischo, and a child. Seventeen persons in all were injured.<sup>858</sup>

- On 15 August 2006, Father Hanna Saad Sirop, Chaldean Catholic Priest and Director of the Theology Department at Babel College in Baghdad was kidnapped as he left a Baghdad church after a mass celebrating the Assumption; he was freed after 27 days during which he had reportedly been threatened and tortured;<sup>859</sup>
- In early August 2006, Father Raad Washan, a Chaldean priest in Baghdad, was kidnapped and held for approximately 48 hours.<sup>860</sup>

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<sup>858</sup> Society for Threatened People, *Society for Threatened Peoples calls for Christian refugees from Iraq to be given long-term asylum in Germany*, 25 September 2006, <http://www.gfbv.de/pressemit.php?id=664&stayInsideTree=1>.

<sup>859</sup> AP, *Over 35,000 Christians have fled Iraq*, 12 October 2006, <http://www.jpost.com/servlet/Satellite?cid=1159193427145&pagename=JPost%2FJPArticle%2FShowFull>; Asia News, *Priest abducted in Baghdad threatened and tortured*, 13 September 2006, <http://www.asianews.it/view.php?l=en&art=7203>.

<sup>860</sup> Cindy Wooden, *Pope appeals for release of priest kidnapped in Baghdad*, Catholic News Service, 22 August 2006, <http://www.catholicnews.com/data/stories/cns/0604741.htm>.

## ***Annex II: Attacks on Sabaeen-Mandaean Representatives***

The following incidents were reported since 2003 (not comprehensive):

- On 3 December 2006, militiamen broke into the house of Taleb Salman Uraibi, assistant to one of the Mandaean religious Sheikhs, in Hay Ur neighbourhood and abducted him. His body was found later that day with evidence of torture.<sup>861</sup> Reportedly, his family was prevented from holding a funeral service for him by extremists who threatened to blow up their house.<sup>862</sup>
- On 11 October 2006, Sheikh Raad Mutar Saleh was shot dead by gunmen after they broke into his house in Al-Suwaira in the Governorate of Wassit.<sup>863</sup>
- On 5 July 2006, there was an attack on the life of *Ganzebra*<sup>864</sup> Sattar Jabbar Helou, the most senior Mandaean cleric and his brother, *Tarmida* Karim Jabbar Helou, also a cleric. Under the eyes of the ISF, the Sheikh was dragged out of his car and abducted in Baghdad. Thanks to the intervention of a senior Iraqi official, Sheikh Sattar was released.<sup>865</sup> The Society for Threatened People further reported a failed attempt to kidnap Sheikh Sattar's 17-years old son.<sup>866</sup>
- On 23 March 2005, an armed assault took place on the house of Adel Dishar Zamil, the head of the Sabaeen-Mandaean community in Wassit Governorate. A threat calling him an infidel was written on his door.<sup>867</sup>
- On 16 January 2005, Riyadh Radhi Habib, President of the Mandaean Supreme Spiritual Council in Basrah, died after being shot more than 90 times by three gunmen reportedly demanding that he convert to Islam.<sup>868</sup>
- On 10 January 2005, an armed assault took place on the house of Salem Turfi Aziz, the community's head in Kirkuk.<sup>869</sup>
- On 30 November 2004, *Tarmida* Saleem Ghada was ambushed at the Mandaean place of prayer on the Diyala River. The clergyman was leading prayers when he was shot seven times in the legs, severely wounding him.<sup>870</sup>

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<sup>861</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 14, see above footnote 10.

<sup>862</sup> Nina Shea, *Testimony before The US Congressional Committee On International Relations, Subcommittee On Africa, Global Human Rights, And International Operations*, Center For Religious Freedom, 21 December 2006, <http://www.christiansofiraq.com/ninasheatestifiesdec216.html>.

<sup>863</sup> Keith Roderick, *The Unholy Month of Ramadan*, National Review Online, 18 October 2006, <http://article.nationalreview.com/?q=NGZhNmUwNjdmMDcwODhkNDMyMTQ2Y2UzYTFkMDQxNmY>.

<sup>864</sup> The Sabaeen-Mandaean priestly hierarchy is divided into three ranks: ordinary priests or *Tarmida* (disciples), *Ganzebra* (bishops or "treasurers") and *Rishama*, (the head of the people). The only Rishama is Sheikh Abdullah Najem, who has been living in London for many years. The highest religious figure in Iraq is Ganzebra Sheikh Sattar Jabbar Helou; see Mandaean Society in America, *A Brief Note on the Madaeans: Their History, Religion and Mythology*, [http://mandaeunion.org/History/EN\\_History\\_007.htm](http://mandaeunion.org/History/EN_History_007.htm).

<sup>865</sup> The Sunday Telegraph, *Persecution of a sect*, 22 October 2006, <http://www.news.com.au/dailytelegraph/story/0,22049,20614857-5001031,00.html>.

<sup>866</sup> Society for Threatened People, *Mandäer im Iraq*, p. 5, see above footnote 309.

<sup>867</sup> *Ibidem*, p. 20.

<sup>868</sup> USDOS, *2005 Country Report on Human Rights Practices – Iraq*, see above footnote 333.

<sup>869</sup> Society for Threatened People, *Mandäer im Iraq*, p. 20, see above footnote 309.

<sup>870</sup> Information from the Sabian Mandaean Association of Australia; see Bolender, see above footnote 304.

- On 2 July 2003, an armed assault took place on clergymen Sheikh Karim Selmān Uraibi and his brother Talib.<sup>871</sup>
- On 3 May 2003, extremists attacked and looted the house of Mejbēl Jabbar Helou, the brother of Sheikh Sattar Jabbar Helou. His pregnant wife was severely beaten and suffered a miscarriage. Their son Naseer Mejbēl was kidnapped.<sup>872</sup>

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<sup>871</sup> Society for Threatened People, *Mandäer im Iraq*, p. 18, see above footnote 309.

<sup>872</sup> *Ibid.*

### ***Annex III: Attacks on Former Members of the Ba'ath Party, the Armed Forces and Security/Intelligence Services and Other Persons Affiliated With the Former Regime***

The following incidents have been reported since May 2003:

- 12 February 2007: Gunmen killed a primary school guard in central Kut. The guard was a former member of the Ba'ath party.<sup>873</sup>
- 26 January 2007: Militiamen in Baghdad have kidnapped and killed ten senior officers of the former Iraq Army. Reportedly, they were on their way home following a government meeting held to bring back former army personnel into the Iraqi army.<sup>874</sup>
- 23 January 2007: Gunmen killed a suspected former member of the Ba'ath Party in the Governorate of Babel.<sup>875</sup>
- 17 January 2007: Gunmen shot dead a former member of the Ba'ath Party outside his home in Al-Za'afaraniya District in south-eastern Baghdad.<sup>876</sup>
- 6 January 2007: A former Ba'ath Party member was killed in a drive by shooting in Kifl, a town about 150 km south of Baghdad.<sup>877</sup>
- 6 January 2007: Gunmen killed two former members of the Ba'ath Party in two separate incidents in Najaf.<sup>878</sup>
- 6 January 2007: A former Ba'ath Party member was shot dead in Diwaniyah.<sup>879</sup>
- 3 January 2007: Gunmen killed two former Ba'ath Party officials near the town of Hilla.<sup>880</sup>
- 21 December 2006: Two gunmen shot dead a former member of the Ba'ath party in central Kerbala.<sup>881</sup>
- 21 December 2006: A former member of the Ba'ath Party was killed by gunmen in central Amarah.<sup>882</sup>

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<sup>873</sup> Reuters Alertnet, *Factbox – Security developments in Iraq, Feb 12*, 12 February 2007, <http://www.reuters.com/article/latestCrisis/idUSKHA231334>.

<sup>874</sup> See Azzaman, *Militiamen kidnap and kill 10 former army officers*, 26 January 2007, [http://www.iraqupdates.com/p\\_articles.php?refid=DH-S-26-01-2007&article=13917](http://www.iraqupdates.com/p_articles.php?refid=DH-S-26-01-2007&article=13917)

<sup>875</sup> Borzou Daragahi, *Uncertain helicopter crash reports in Iraq*, Los Angeles Times, 23 January 2007, <http://www.latimes.com/news/nationworld/world/la-ex-iraq23jan24.1.5351278.story?coll=la-headlines-world&track=crosspromo>.

<sup>876</sup> Voices of Iraq, *Iraq-Security Highlights*, 17 January 2007, <http://www.aswataliraq.info/modules.php?op=modload&name=News&file=article&sid=35352&mode=thread&order=0&thold=0>.

<sup>877</sup> Reuters Alertnet, *Factbox – Security developments in Iraq, Jan 6*, 6 January 2007, <http://www.reuters.com/article/latestCrisis/idUSL06738343>.

<sup>878</sup> Gulf News, *130 killed in new wave of violence*, 7 January 2007, [http://www.gulf-daily-news.com/1yr\\_arc\\_Articles.asp?Article=166619&Sn=WORL&IssueID=29293&date=1-7-2007](http://www.gulf-daily-news.com/1yr_arc_Articles.asp?Article=166619&Sn=WORL&IssueID=29293&date=1-7-2007).

<sup>879</sup> Reuters Alertnet, *Factbox – Security developments in Iraq, Jan 6*, see above footnote 877.

<sup>880</sup> *Ibidem*, *Factbox – Security developments in Iraq, Jan 3*, 3 January 2007, <http://www.alertnet.org/thenews/newsdesk/L03128274.htm>.

<sup>881</sup> Voices of Iraq, *Iraq-Security Highlights*, 21 December 2006, <http://gorillasguides.blogspot.com/2006/12/december-22nd-update2-news-in-english.html>.

<sup>882</sup> *Ibid.*

- 18 September 2006: Gunmen killed two former Ba'ath Party members and a former army brigadier in Mosul.<sup>883</sup>
- 18 September 2006: Gunmen killed a former member of the Ba'ath Party in Hilla.<sup>884</sup>
- 14 September 2006: unidentified gunmen killed two Shi'a members of the former Ba'ath Party in the southern city of Al-Amarah.<sup>885</sup>
- 12 September 2006: Gunmen shot dead Colonel Abbas Al-Nuaimi, a former security officer while he was in police custody being transferred from prison to face trial for crimes committed during the rule of Saddam Hussein in Hindiya near Kerbala. Al-Nuaimi was the former security chief in the town and was allegedly involved role in quelling the Shi'ite uprising in 1991.<sup>886</sup>
- 18 August 2006: A former Ba'ath Party member was assassinated in Diwaniyah.<sup>887</sup>
- 20 July 2006: Gunmen assassinated a former official of the Ba'ath Party in Kerbala.<sup>888</sup>
- 10 July 2006: A former high-ranking army officer, ex-staff Maj. Gen. Salih Mohammed Salih, was killed in a shoot-out in Basrah.<sup>889</sup>
- 30 June 2006: Armed men on a motorcycle killed a former member of the Ba'ath Party as he travelled in a vehicle with his wife in Kut.<sup>890</sup>
- 10 May 2006: Gunmen killed the brother of a famous Iraqi playwright, Falah Shaker, whose works thrived under Saddam Hussein's regime. Shaker was an Iraqi writer believed to have written a novel attributed to Saddam.<sup>891</sup>
- 13 April 2006: The Basrah-based construction company "Al-Fayhaa" was raided by armed men wearing Iraqi police uniforms and driving the same type of vehicles used by the Iraqi police. Sunni and Shi'a employees were apparently separated and seven Sunni were summarily executed. Their killing was interpreted by the construction company as a retribution for their company's earlier association with the Ba'ath party.<sup>892</sup>
- 5 January 2006: Unknown gunmen killed a member of the former Ba'ath Party near his house in Kerbala.<sup>893</sup>

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<sup>883</sup> Pakistan News Service, *Iraq oil city shudders as bombing campaign kills 27*, 18 September 2006, <http://www.paktribune.com/news/index.shtml?154513>.

<sup>884</sup> AP, *More Than 40 Killed in Latest Wave of Violence in Iraq*, 18 September 2006, <http://wcbs880.com/pages/84764.php?contentType=4&contentId=207371>.

<sup>885</sup> *Ibidem*, "Iraq War a disaster for Middle East", 14 September 2006, [http://www.aljazeera.com/me.asp?service\\_ID=12468](http://www.aljazeera.com/me.asp?service_ID=12468).

<sup>886</sup> Reuters, *Gunmen kill Saddam-era official in police custody*, 12 September 2006, <http://news.oneindia.in/2006/09/12/gunmen-kill-saddam-era-official-in-police-custody-1158068540.html>.

<sup>887</sup> Reuters Alertnet, *Factbox – Security incidents in Iraq, Aug 18*, 18 August 2006, <http://today.reuters.com/News/CrisesArticle.aspx?storyId=L18816288>.

<sup>888</sup> Ryan Lenz, *U.S. Says Attacks in Iraq Up 40 Percent*, AP, 20 July 2006, <http://www.phillyburbs.com/pb-dyn/news/93-07202006-686526.html>.

<sup>889</sup> AP, *Gunmen ambush bus in Baghdad, killing 7*, 10 July 2006, [http://www.usatoday.com/news/world/iraq/2006-07-10-sunni-Shi'ite\\_x.htm](http://www.usatoday.com/news/world/iraq/2006-07-10-sunni-Shi'ite_x.htm).

<sup>890</sup> UNAMI HRO, *June 2006 Human Rights Report*, p. 4, see above footnote 27.

<sup>891</sup> AP, *Iraqi president calls for an end to violence*, 10 May 2006, [http://www.usatoday.com/news/world/iraq/2006-05-10-iraq-violence\\_x.htm](http://www.usatoday.com/news/world/iraq/2006-05-10-iraq-violence_x.htm).

<sup>892</sup> UNAMI HRO, *April 2006 Human Rights Report*, p. 3, see above footnote 74.

<sup>893</sup> Deutsche Presse Agentur (DPA), *Over 90 Iraqis killed in deadliest day since elections*, 5 January 2006, [http://news.monstersandcritics.com/middleeast/article\\_1073608.php/Over\\_90\\_Iraqis\\_killed\\_in\\_deadliest\\_day\\_since\\_elections](http://news.monstersandcritics.com/middleeast/article_1073608.php/Over_90_Iraqis_killed_in_deadliest_day_since_elections).

- 23 October 2005: A former member of the Ba'ath Party was assassinated by gunmen in Najaf.<sup>894</sup>
- 22 October 2005: A daughter of a former Ba'ath Party member was killed and two others were wounded in an assassination attempt on her father in Diwaniyah.<sup>895</sup>
- 17 February 2005: Haider Kadhim, a former intelligence worker, was shot in the back of the head after six gunmen disguised as ISF talked their way into his home in the Baghdad neighbourhood of Saidiyah.<sup>896</sup>
- 12 February 2005: Taha Hussein Amiri, a prominent judge who handed down death sentences during Saddam's regime, was killed by two gunmen on motorcycles as he was being driven to work in the city of Basrah.<sup>897</sup>
- February 2005: Abdulrazak Karim Al-Douri, a former major in the Iraqi Intelligence Service, and who had worked in the Interior Ministry, was killed together with a co-worker when gunmen surrounded their car and shot them.<sup>898</sup>
- 19 November 2005: Five former members of the Ba'ath Party were killed in a series of attacks in Kerbala.<sup>899</sup>
- 17 November 2005: A former member of the Ba'ath Party was assassinated and his son is wounded by gunmen in Kerbala.<sup>900</sup>
- 26 July 2004: Brigadier Khaled Dawoud, a former Ba'ath Party District Head, and his son were killed in Baghdad. It was likely a revenge killing by Dawoud's victims.<sup>901</sup>
- 8 July 2004: Ali Abbas, the former treasurer of a Regional Committee of the Ba'ath Party, was killed when a bomb hidden in his car exploded outside the Baghdad rope factory that he owned.<sup>902</sup>
- 20 December 2003: Gunmen targeted Damiyah Abbas, a former provincial official of the Ba'ath Party, killing her five-year-old son in front of their home in Najaf. She was believed to have participated in the repression of the 1991 Shi'ite uprising.<sup>903</sup>
- 20 December 2003: Former Ba'ath party official Ali Kassem, suspected of being an informer for the intelligence services, was killed in Najaf.<sup>904</sup>
- 19 December 2003: Gunmen killed former Ba'ath Party official and district mayor of Najaf's Al-Furat neighbourhood, Ali Qassem Al-Tamini, in Najaf.<sup>905</sup>

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<sup>894</sup> Asheville Global Report, *Iraq War timeline Oct. 17–23, 2005*, No. 354, 27 October – 2 November 2005, [http://www.agnews.org/?section=archives&cat\\_id=14&article\\_id=298](http://www.agnews.org/?section=archives&cat_id=14&article_id=298).

<sup>895</sup> *Ibid.*

<sup>896</sup> Allam, see above footnote 511.

<sup>897</sup> *Ibid.*

<sup>898</sup> *Ibid.*

<sup>899</sup> Asheville Global Report, see above footnote 894.

<sup>900</sup> *Ibid.*

<sup>901</sup> Paul Garwood, *Heavy Fighting at Buhriz Kills 15*, AP, 26 July 2004, <http://www.juancole.com/2004/07/heavy-fighting-at-buhriz-kills-15-paul.html>.

<sup>902</sup> Reuters, *Former Baath official killed by bomb*, 8 July 2004, <http://www.abc.net.au/news/newsitems/200407/s1149853.htm>.

<sup>903</sup> CBC News, *Two former Baathists killed in revenge attacks*, 20 December 2003, [http://www.cbc.ca/world/story/2003/12/20/revenge\\_killings031220.html](http://www.cbc.ca/world/story/2003/12/20/revenge_killings031220.html).

<sup>904</sup> *Ibid.*

<sup>905</sup> Christopher Torchia, *Pentagon to send more troops to Iraq*, AP, 21 December 2003, <http://www.seacoastonline.com/2003news/12212003/world/66788.htm>.

- 17 December 2003: An angry mob dragged Ali Al-Zalimi, a former regional chief of the Ba'ath party, from his car and beat him to death in Najaf. He was believed to have helped repress the 1991 Shi'ite uprising.<sup>906</sup>
- October 2003: Kasim Al-Falahi, former Iraqi Ambassador to Lebanon, who headed the Iraqi Intelligence Service in southern Iraq from 1996 to 1998, was abducted by gunmen. His body was found two days later with a single bullet through his forehead.<sup>907</sup>
- October 2003: Six unknown gunmen sprayed the house of Qassem Al-Hantawi, a former brigadier with the Iraqi Intelligence Service, in Baghdad. While Al-Hantawi survived, four former colleagues of his were killed, including Assam Al-Douri, who left his job as an accountant in the Iraqi Intelligence Service 15 years ago and had reportedly even cancelled his membership in the Ba'ath Party.<sup>908</sup>
- October 2003: Mohammed Abdul Nabi Al-Gishi and Muhsen Abdul Wahid Al-Hajama, school principals, teachers and division commanders in the Ba'ath Party, were killed in two different incidents in Basrah. Reportedly, they were responsible for arresting people.<sup>909</sup>
- September 2003: Dr. Abdullah Al-Fadhil was killed by gunmen shot in his car as he was leaving the College of Medicine in Basrah. He was known to have enforced a decree to cut off the ears of army deserters.<sup>910</sup>
- 4 June 2003: Shaikh Ali Sa'adoun, head of the Sa'adoun tribe, was killed by four gunmen. The tribe had maintained close ties with the former Government and some of its members were local officials.<sup>911</sup>
- 17 May 2003: The singer Daoud Qais, known for his odes to former President Saddam Hussein, was shot dead.<sup>912</sup>
- 16 May 2003: A man called Salam had reportedly killed Najm Abud, the son of a Ba'ath Party member suspected of ordering the execution of Salam's brother in Al-Amarah. The family of Najm Abud reportedly retaliated immediately, killing Salam and setting fire to his house.<sup>913</sup>
- 14 May 2003: Karim Hamid Qasem Al-Azawi, a barber, was shot dead by two masked gunmen while at work in Basrah. His family told AI that he might have been killed because he was a member of the Ba'ath Party, despite the fact that he had been imprisoned by the former regime.<sup>914</sup>
- 13 May 2003: An attempt to kill a Ba'ath Party member in the Al-Hartha area of Basrah resulted in clashes between two tribal groups in which at least five people died and three were wounded.<sup>915</sup>
- 10 May 2003: Falah Dulaimi, the assistant dean of the Mustansiriyah University's College of Sciences, was shot by students as he walked to his campus office. He was

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<sup>906</sup> *Ibid.*

<sup>907</sup> Ratnesar, see above footnote 508.

<sup>908</sup> *Ibid.*

<sup>909</sup> Brinkley, see above footnote 510.

<sup>910</sup> *Ibid.*

<sup>911</sup> AI, *Iraq – The need for security*, see above footnote 510.

<sup>912</sup> Wilson, see above footnote 510.

<sup>913</sup> AI, *Iraq – The need for security*, see above footnote 510.

<sup>914</sup> *Ibid.*

<sup>915</sup> *Ibid.*

described by students and teacher as one of the “*Baath Party’s legion of small tyrants*”.<sup>916</sup>

- 5 May 2003: Abd Al-Abbas Na’im, who was Head of the Legal Affairs Department of Basrah’s Teaching Hospital and a high-ranking Ba’ath Party member, was shot dead in his house in Abu Al-Khasib.<sup>917</sup>
- 4 May 2003: Abed Taher Iskandar, a teacher and senior member of the Ba’ath Party, was shot in the head near the Education Department of Al-Jamiat residential area in Basrah, shortly after receiving his salary. The fact that his money was not taken indicates that he was the victim of a revenge killing.<sup>918</sup>

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<sup>916</sup> Wilson, see above footnote 510.

<sup>917</sup> AI, *Iraq – The need for security*, see above footnote 510.

<sup>918</sup> *Ibid.*



#### ***Annex IV: Attacks on Government Officials and Other Persons Associated With the Current Iraqi Government, Administration and Institutions***

The following incidents have been reported since February 2006:

- 6 February 2007: The Governor of Baghdad, Hussein Al-Tahhan, survived an assassination attempt in an attack on his motorcade on the Baghdad-Kut highway en route to the Governorate of Wassit to attend a conference for governors there.<sup>919</sup>
- 1 February 2007: The Governor of Salah Al-Din Governorate, Mohammed Al-Qaisi, survived a suicide bombing attack in a college campus of the Salah Al-Din University. Insurgents targeted Al-Qaisi several times in the past, including a car bomb attack near his convoy six months earlier in Tikrit.<sup>920</sup>
- 2 January 2007: In Baqouba, gunmen killed Diyala Governorate Council member Ali Majeed and three members of his family.<sup>921</sup>
- 4 December 2006: A member of the IIP in Al-Karkh branch, Jawad Ahmad Al-Falahi, was assassinated in Al-Amiriyah by gunmen as he was leaving his house.<sup>922</sup>
- 28 November 2006: Kirkuk Governor. Abdul Rahman Mustafa survived an assassination attempt when a suicide bomber blew himself up near the official's convoy, killing one civilian and wounding at least 12. It was the third assassination attempt on his life.<sup>923</sup>
- 24 November 2006: Sheikh Salih Naji Al-Messudi, a member of the Association of Muslim Scholars, was kidnapped and his body found two days later.<sup>924</sup>
- 20 November 2006: SCIRI members Ali-Flaih Al-Ghrani and Dr. Ali Al-Adhadh, Member of Parliament from United Iraqi Alliance block, were killed in in Jbalah District and in Hilla, respectively.<sup>925</sup>
- 21 November 2006: The Deputy-Health Minister, Hakim Al-Zamili escaped an assassination attempt.<sup>926</sup>
- 20 November 2006: The body of an Iraqi leader from Al-Wifaq Front, Abdel Karim Al-Obaidi was found.<sup>927</sup>
- 19 November 2006: The Deputy-Health Minister, Ammar Al-Saffar, was kidnapped from his house in Al-Adhamiya by 24 gunmen, some of whom were reportedly dressed in Iraqi police uniforms.<sup>928</sup>

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<sup>919</sup> Abdul-Jabbar al-Safarani, *Baghdad governor survives assassination attempt*, Voices of Iraq, 7 February 2007, [http://www.iraquupdates.com/p\\_articles.php?refid=DH-S-07-02-2007&article=14283](http://www.iraquupdates.com/p_articles.php?refid=DH-S-07-02-2007&article=14283).

<sup>920</sup> Xinhua, *Iraqi provincial governor survives suicide attack*, 1 February 2007, [http://news.xinhuanet.com/english/2007-02/01/content\\_5684809.htm](http://news.xinhuanet.com/english/2007-02/01/content_5684809.htm).

<sup>921</sup> Steven R. Hurst, *Iraq: 12,000 Civilians Killed in '06*, AP, 2 January 2007, <http://www.breitbart.com/news/2007/01/02/D8MDDKLG2.html>.

<sup>922</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 16, see above footnote 10.

<sup>923</sup> AP, *Iraqi governor escapes an assassination attempt by a suicide bomber*, 28 November 2006, [http://www.iraquupdates.com/p\\_articles.php/article/12164](http://www.iraquupdates.com/p_articles.php/article/12164); Al Jazeera, *Iraqi governor survives bomb blast*, 18 November 2006, <http://english.aljazeera.net/NR/exeres/E2E10231-2A5B-4305-B1A8-CB55FC69D691.htm>.

<sup>924</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 16, see above footnote 10.

<sup>925</sup> *Ibid.*

<sup>926</sup> *Ibidem*, p. 15.

<sup>927</sup> *Ibidem*, p. 16.

- 13 November 2006: Five employees of the state-owned North Oil Company were ambushed and killed in the northern outskirts of Baghdad as they drove into the capital.<sup>929</sup>
- 15 October 2006: Gunmen assassinated Raad Al-Haiali, a provincial official and a member of the IIP in Mosul.<sup>930</sup>
- 25 September 2006: On 25 September, the Minister of Health, Dr. Ali Al-Shemmari, survived an assassination attempt.<sup>931</sup>
- 16 July 2006: Adil Mohamed Al-Qazaz, the President of the Northern Oil Company, was abducted by gunmen in Baghdad.<sup>932</sup>
- 10 July 2006: A member of Diyala Governorate Council, Adnan Iskandar Al-Mahdawi, was killed and two of his guards were wounded in a drive-by shooting.<sup>933</sup>
- 10 July 2006: Unidentified gunmen assassinated an official in the IIP and two of his guards.<sup>934</sup>
- 1 July 2006: Lawmaker Tayseer Al-Mashhadani of the National Accord Front was kidnapped when travelling from her home in Baqouba with eight bodyguards when gunmen in two vehicles hijacked her convoy in a Shi'ite neighbourhood in Baghdad. She was released nearly two months later on 26 August 2006.<sup>935</sup>
- 26 June 2006: Ten employees of a state-owned agricultural research centre were abducted in Taji.<sup>936</sup>
- 6 June 2006: Gunmen in Baghdad kidnapped the Director General of the State Company for Oil Projects, Muthana Al-Badri in northern Baghdad.<sup>937</sup>
- 6 June 2006: Four Iraqi employees of the state-owned Northern Oil Company were kidnapped in Kirkuk on 6 June 2006.<sup>938</sup>
- 10 May 2006: Gunmen assassinated the leader of the IIP in Al-Zubayr in the Governorate of Basrah.<sup>939</sup>
- 10 May 2006: Gunmen riding in two cars assassinated a Defence Ministry press office employee as he drove to work.<sup>940</sup>

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<sup>928</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 15, see above footnote 10.

<sup>929</sup> Reuters Alertnet, *Factbox – Security developments in Iraq, Nov 13*, 13 November 2006, <http://www.alertnet.org/thenews/newsdesk/IBO356703.htm>.

<sup>930</sup> Kirk Semple, *5 Americans Killed in Iraq, Bringing Month's Toll to 53*, The New York Times, 16 October 2006, <http://travel2.nytimes.com/2006/10/16/world/middleeast/16iraq.html>.

<sup>931</sup> UNAMI HRO, *October 2006 Human Rights Report*, p. 5, see above footnote 66.

<sup>932</sup> Paul von Zielbauer, *Gunmen Seize President of Iraqi Oil Company*, International Herald Tribune, 16 July 2006, <http://www.iht.com/articles/2006/07/16/news/iraq.php>.

<sup>933</sup> AP, *Gunmen ambush bus in Baghdad, killing 7*, 10 July 2006, [http://www.usatoday.com/news/world/iraq/2006-07-10-sunni-Shi'ite\\_x.htm](http://www.usatoday.com/news/world/iraq/2006-07-10-sunni-Shi'ite_x.htm).

<sup>934</sup> UNAMI HRO, *August 2006 Human Rights Report*, p. 5, see above footnote 26.

<sup>935</sup> CNN, *Kidnapped Iraqi lawmaker released*, 26 August 2006, <http://www.cnn.com/2006/WORLD/meast/08/26/iraq.main/index.html>.

<sup>936</sup> Borzou Daragahi, *Peace plan could mean some Iraqi insurgents get amnesty*, Los Angeles Times, 26 June 2006, [http://seattletimes.nwsource.com/html/nationworld/2003086002\\_iraq26.html](http://seattletimes.nwsource.com/html/nationworld/2003086002_iraq26.html).

<sup>937</sup> Institute for the Analysis of Global Security, *Iraq Pipeline Watch*, <http://www.iags.org/iraqpipelinewatch.htm> [accessed November 2006].

<sup>938</sup> Daily Times, *Gunmen kill 3 students, four policemen in Iraq*, 8 June 2006, [http://www.dailytimes.com.pk/default.asp?page=2006%5C06%5C08%5Cstory\\_8-6-2006\\_pg7\\_1](http://www.dailytimes.com.pk/default.asp?page=2006%5C06%5C08%5Cstory_8-6-2006_pg7_1).

<sup>939</sup> AP, *Iraqi president calls for an end to violence*, 10 May 2006, [http://www.usatoday.com/news/world/iraq/2006-05-10-iraq-violence\\_x.htm](http://www.usatoday.com/news/world/iraq/2006-05-10-iraq-violence_x.htm).

<sup>940</sup> *Ibid.*

- 2 May 2006: A suicide car bomber attacked the motorcade of Al-Anbar Governor Maamoun Sami Rasheed, killing three bodyguards.<sup>941</sup>
- 27 April 2006: Meysoun Al-Hashemi, the sister of Iraqi Vice-President Tariq Al-Hashemi was killed in a drive-by shooting in Baghdad. She had been the head of the Women's Affairs Department of the IIP.<sup>942</sup>
- 18 April 2006: Gunmen killed the brother of Saleh Al-Mutlaq, the former chief Sunni Arab representative of the National Assembly's Constitutional Drafting Committee and leader of the Iraqi National Dialogue Front.<sup>943</sup>
- 13 April 2006: Mahmoud Al-Hashemi, brother of Iraqi Vice-President Tariq Al-Hashemi was killed, shot dead while driving in Baghdad.
- 16 February 2006: Hamash Al-Mousawi, member of the City Council of Khan Bani Saad in the Governorate of Diyala, was shot dead in a drive-by shooting.<sup>944</sup>

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<sup>941</sup> Voice of America and agencies, *Iraqi Governor Escapes Roadside Bombing, 3 Bodyguards Dead*, 2 May 2006, <http://www.globalsecurity.org/military/library/news/2006/05/mil-060502-voa04.htm>.

<sup>942</sup> BBC News, *Top Iraq official's sister killed*, 27 April 2006, [http://news.bbc.co.uk/2/hi/middle\\_east/4949376.stm](http://news.bbc.co.uk/2/hi/middle_east/4949376.stm).

<sup>943</sup> Reuters, *Brother of Iraqi leader killed*, 18 April 2006, <http://tvnz.co.nz/view/page/425822/702346>.

<sup>944</sup> CNN, *U.S.: Iraqi death squad members detained*, 16 February 2006, <http://www.cnn.com/2006/WORLD/meast/02/16/iraq.main/index.html>.

## ***Annex V: Attacks on Professors, Teachers and Students***

The following incidents have been reported since April 2006:

- 13 February 2007: Up to 16 people are reported to have been killed and 27 wounded after a suicide bomber detonated explosives in a van near the College of Economic Sciences in Baghdad.<sup>945</sup>
- 1 February 2007: Gunmen broke into the Physical Education College of Diyala in Baqouba and killed the Dean, Walhan Hamed Al-Rubaie.<sup>946</sup>
- 29 January 2007: A law student, Ali Abdul-Mutalib Al-Hashimi, and three professors, Adnan Al-Abid, Abdel Muttaleb Al-Hashemi and Amer Al-Qaissi were abducted from Nahrein University in Baghdad as they were leaving the university in the Khadimiya District. Their bodies were found in Baghdad's central morgue three days later.<sup>947</sup>
- 23 January 2007: Shi'ite professor and economist Diya Al-Meqoter was shot dead in Baghdad's Adhamiya neighbourhood. He was widely known for his programme on Sharqiya television channel during which he interviewed a group of poor people who presented their ideas for starting a small business. He was teaching economics at the Al-Mustansiriya University and also headed the Consumer Association.<sup>948</sup>
- 22 January 2007: Gunmen killed a female teacher on her way to work at a girls' school in the mainly Sunni neighbourhood of Khadra in western Baghdad.<sup>949</sup>
- 17 January 2007: At least 70 people, including students and teachers, were killed and more than 170 others injured as a suicide bomber and a car bomb exploded at the entrance of Al-Mustansiriya University in east Baghdad.<sup>950</sup>
- 21 December 2006: Dr. Muntather Mohammed Al-Hamadani, the Assistant Dean at the Faculty of Law at Al-Mustansiriya University and Dr. Ali Jassam, were assassinated by unknown gunmen in Al-Slaikh area.
- 11 December 2006: Gunmen kidnapped five teachers of one primary school near Al-Dijeel village.<sup>951</sup>
- 5 December 2006: Professor Abdul Hameed Al-Harith, the head of the Psychological and Educational Studies Office in Baghdad University, was killed in central Baghdad on his way to work.<sup>952</sup>

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<sup>945</sup> Al Jazeera, *Bomber strikes near Baghdad college*, 13 February 2007, <http://english.aljazeera.net/NR/exeres/0627A091-AB98-45A0-8A03-28AA4B4F110D.htm>.

<sup>946</sup> Reuters Alertnet, *Factbox – Security developments in Iraq, Feb 1*, 1 February 2007, <http://www.reuters.com/article/topNews/idUSYAT15750720070201>.

<sup>947</sup> AP, *Bodies of three Sunni professors and a student found, three days after their abduction*, 31 January 2007, [http://www.khaleejtimes.com/DisplayArticleNew.asp?xfile=data/focusoniraq/2007/January/focusoniraq\\_January208.xml&section=focusoniraq](http://www.khaleejtimes.com/DisplayArticleNew.asp?xfile=data/focusoniraq/2007/January/focusoniraq_January208.xml&section=focusoniraq).

<sup>948</sup> AP, *Professor and economist who helped the poor is shot dead in Baghdad*, 23 January 2007, <http://www.ihf.com/articles/ap/2007/01/23/africa/ME-GEN-Iraq-Professor-Killed.php>.

<sup>949</sup> CBS / AP, *Deadly Day Claims 100 Iraqis*, 22 January 2007, <http://www.cbsnews.com/stories/2007/01/22/iraq/main2381540.shtml>.

<sup>950</sup> BBC News, *Bombers rock Baghdad university*, see above footnote 574.

<sup>951</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 16, see above footnote 10.

<sup>952</sup> DPA, *Security official, academic killed in Baghdad*, 7 December 2006, [http://news.monstersandcritics.com/middleeast/news/article\\_1230649.php/Security\\_official\\_academic\\_killed\\_in\\_Baghdad](http://news.monstersandcritics.com/middleeast/news/article_1230649.php/Security_official_academic_killed_in_Baghdad).

- 5 December 2006: Dr. Mohammed Haidar Sulaiman, a professor in the Physical Education Faculty of one of Baghdad's universities, was assassinated by unknown gunmen.<sup>953</sup>
- 20 November 2006: Insurgents killed the President of the Scientific Department of Mosul University and the Director of the Registration Department of the College of Education in Kirkuk University.<sup>954</sup>
- 2 November 2006: Gunmen killed Jassim Al-Asadi, the Dean of Baghdad University's School of Administration and Economics.<sup>955</sup>
- November 2006: The body of Dr. Najdat Al-Salihi, a psychology professor at Al-Mustansiriya University in Baghdad, was found after his disappearance three weeks earlier.<sup>956</sup>
- 30 October 2006: Unknown gunmen killed Dr. Essam Al-Rawi, Professor in the Geology Department of the University of Baghdad, head of the Professor's Union and a senior member of the Association of Muslim Scholars as he was leaving his Baghdad home.<sup>957</sup>
- 21 August 2006: A teacher was killed by gunmen in Balad Ruz, about 50 kilometres east of Baqouba.<sup>958</sup>
- 21 June 2006: Gunmen killed the dean of the Abdullah Bin Om Kalthoum School in Al-Zubayr, in Basrah, during the final examinations. He was reportedly killed in front of his students.<sup>959</sup>
- 19/20 June 2006: A group of armed men, allegedly from the Ministry of Interior, attacked the students' dormitory at the University of Kufa during the night. According to information received by UNAMI HRO, the men beat the students severely and shot inside the premises, wounding some of the students and destroying property. Tens of students were reportedly arrested and tortured after the incident.<sup>960</sup>
- 18 June 2006: On 18 June, gunmen killed Modhaer Zayed Al-Dabagh, a lecturer in the Computer College of Mosul University, in front of the Ministry of Interior in Baghdad.<sup>961</sup>
- 16 June 2006: Sheikh Yousif Al-Hussein, Dean of Al-Hassan Al-Basri School, was killed in Basrah.<sup>962</sup>
- 15 June 2006: Qasim Yousif Yacoub, a lecturer at Basrah University, was killed.<sup>963</sup>

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<sup>953</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 16, see above footnote 10.

<sup>954</sup> *Ibid.*

<sup>955</sup> AP, *Baghdad University dean is assassinated*, 2 November 2006, <http://www.msnbc.msn.com/id/15525444/>.

<sup>956</sup> Bryan Bender and Farah Stockman, *Iraq's violent "brain drain" called a threat to future*, The Boston Globe, 30 November 2006, [http://www.boston.com/news/world/articles/2006/11/30/iraqs\\_violent\\_brain\\_drain\\_called\\_a\\_threat\\_to\\_future/](http://www.boston.com/news/world/articles/2006/11/30/iraqs_violent_brain_drain_called_a_threat_to_future/).

<sup>957</sup> Aparisim Ghosh, *Baghdad Bulletin: Death Stalks the Campus*, Time Magazine, 2 November 2006, <http://www.time.com/time/world/article/0,8599,1553793,00.html>.

<sup>958</sup> CNN, *Attacks kill at least 10 Iraqis*, 21 August 2006, <http://edition.cnn.com/2006/WORLD/meast/08/21/iraq.main/>.

<sup>959</sup> UNAMI HRO, *June 2006 Human Rights Report*, p. 6, see above footnote 27.

<sup>960</sup> *Ibid.*

<sup>961</sup> *Ibid.*

<sup>962</sup> *Ibid.*

<sup>963</sup> UNAMI HRO, *June 2006 Human Rights Report*, p. 6, see above footnote 27.

- 10 June 2006: Ahmad Abdul Wadir Abdullah, a Sunni Arab professor at the College of Chemistry in the University of Basrah, was killed.<sup>964</sup>
- 23 May 2006: A high school teacher, Nazar Qadir, was killed in a drive-by shooting on his way to work near Kirkuk city.<sup>965</sup>
- 15 May 2006: Four teachers were reportedly killed en route to their school near the town of Balad Ruz.<sup>966</sup>
- 12 May 2006: A Shi'a professor, Widad Al-Shimri, and her seven-year-old daughter were slain as they drove through Baqouba in the Governorate of Diyala.<sup>967</sup>
- 12 May 2006: A professor of Islamic law, Khalaf Al-Jumaili, was shot dead after assailants stopped his car in Fallujah.<sup>968</sup>
- 2 May 2006: Mohammed Abdul-Raheem Al-Ani, a professor at Al-Mustansiriya University and a doctorate student in the College of Islamic Sciences of Baghdad University as well as a member of the Muslim Scholars Association, was allegedly arrested by members of the Ministry of Interior. His body was found in the Forensic Medicine Morgue in Baghdad.<sup>969</sup>
- May 2006: At least seven university students were assassinated in Mosul.<sup>970</sup>
- 19 April 2006: Gunmen opened fire against staff members at Baqouba University killing three university professors.<sup>971</sup>
- 24 April 2006: Two car bombs exploded in front of Al-Mustansiriya University in Baghdad, causing the death of three persons and injuring 25 others. Another bomb detonated near the Technical Medical Institute in Bab Al-Mouatham in Baghdad, killing three persons.<sup>972</sup>

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<sup>964</sup> *Ibid.*

<sup>965</sup> AP, *Wave of sectarian violence leaves 41 dead across Iraq*, 23 May 2006, <http://www.iht.com/articles/2006/05/23/news/iraq.php>.

<sup>966</sup> CNN, *Mortar attacks wound 4 British soldiers; 4 teachers killed near Baquba*, 15 May 2006, <http://www.cnn.com/2006/WORLD/europe/05/14/sunday/index.html?eref=sitesearch>.

<sup>967</sup> Al Jazeera, *Iraq kidnappings thwarted, US says*, 14 May 2006, <http://english.aljazeera.net/News/archive/archive?ArchiveId=22722>.

<sup>968</sup> *Ibid.*

<sup>969</sup> UNAMI HRO, *June 2006 Human Rights Report*, p. 5, see above footnote 27.

<sup>970</sup> *Ibidem*, p. 6.

<sup>971</sup> *Ibid.*

<sup>972</sup> *Ibid.*



## ***Annex VI: Attacks on Doctors and Other Medical Personnel***

The following incidents have been reported since February 2006:

- 20 January 2007: Salah Mehdi Hamza, a popular children's doctor who had been kidnapped on 16 January in Baghdad, was found dead, even though his family handed over a US \$40,000 ransom and a box full of jewels and gold ornaments. He had already been kidnapped twice. The first time was for three weeks when he was forcibly taken to Fallujah, the Sunni insurgent stronghold, to care for the wounded.<sup>973</sup>
- 15 May 2006: Unknown gunmen assassinated Dr. Adnan Abbas Al-Hashemy after he was leaving his private clinic in Mosul. Reportedly, two other doctors were killed the same week in Mosul.<sup>974</sup>
- 8 May 2006: Unidentified gunmen arrived in two private cars to the Al-Zayzafon pharmacy in Al-Sukar District in Mosul. The men took the pharmacist Fadhel Ezalddin Nidham and executed him in public before setting the pharmacy on fire.<sup>975</sup>
- 9 April 2006: Several armed men gunned down Dr. Darb Mohammed Al-Mousawi, Director of the Ear, Nose and Throat Centre of the University of Baghdad at the door of his clinic in Baghdad's Adhamiya neighbourhood.<sup>976</sup>
- 12 February 2006: Halit Ali was killed after he left home to go to work at the state hospital of Hawija near Kirkuk.<sup>977</sup>
- 11 February 2006: Dr. Khalid Abdullah, who was working in the city hospital of Hawija, west of Kirkuk, was shot dead by masked gunmen who had barged into the hospital.<sup>978</sup>

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<sup>973</sup> Patrick Cockburn, *Children's doctor among latest victims of Iraq kidnap epidemic*, The Independent, 26 January 2007, [http://news.independent.co.uk/world/middle\\_east/article2186519.ece](http://news.independent.co.uk/world/middle_east/article2186519.ece).

<sup>974</sup> UNAMI HRO, *October 2006 Human Rights Report*, p. 5, see above footnote 66.

<sup>975</sup> *Ibidem*, *June 2006 Human Rights Report*, p. 6, see above footnote 27.

<sup>976</sup> *Ibidem*, *April 2006 Human Rights Report*, p. 10, see above footnote 74.

<sup>977</sup> Turks.US, *Doctor and Contractor Killed in Kerkuk Iraq*, 12 February 2006, <http://www.turks.us/article~story~20060212105931442.htm>.

<sup>978</sup> AP, *Kidnapped contractor, doctor killed in Iraq*, 12 February 2006, <http://www.abc.net.au/news/newsitems/200602/s1568007.htm>.

## ***Annex VII: Attacks on Judicial Personnel***

The following incidents were reported since January 2005:

- 10 December 2006: lawyer Nawfel Al-Chalabi was kidnapped in front of the New Baghdad Courthouse.<sup>979</sup>
- 23 November 2006: the Director of Legal Affairs in the Council of Ministers, Ali Muthafar Abdel Wahhab, was shot dead by gunmen in front of his house in Hay Al-Dawoudi in Al-Mansour area in Baghdad.<sup>980</sup>
- 19 November 2006: Judge Muthafer Al-Obaidy, who also worked with the Council of Ministers, was kidnapped by unidentified gunmen from his house in Al-Khadra area in Baghdad.<sup>981</sup>
- 15 November 2006: Judge Naim Al-Akeli, head of the Al-Kharkh Criminal Court in Baghdad was killed by a roadside bomb.<sup>982</sup>
- 2 November 2006: Gunmen killed Tariq Abid Ali, a judge in Baqouba's Criminal Court, along with his son Ziyad.<sup>983</sup>
- On 16 October 2006: Emad Al-Faroon, the brother of the Chief Prosecutor in the current *Anfal* trial, was killed by gunmen in front of his wife, in the neighbourhood of Al-Jamaa in Baghdad. The couple had earlier left their home as it had become unsafe for them and had only returned to collect personal possessions.<sup>984</sup>
- 9 October 2006: Mithat Salih, a public notary in the town of Madaen, was shot dead on his way to work.<sup>985</sup>
- 4 October 2006: Abdel Muttaleb Al-Haidari, a prominent lawyer, was shot dead by unknown assailants inside his house in Al-Amiriyah area in Baghdad.<sup>986</sup>
- 29 September 2006: Kadhim Abdel Hussein, the brother-in-law of Mohammed Oreibi Al-Khalifa, the chief judge in the *Anfal* trial, was shot dead along with his son, while two other relatives were severely wounded. The victims were shot when Kadhim, who had left his home several months earlier due to security risks, went to pick up some possessions.<sup>987</sup>
- 3 September 2006: The body of Abdel Monem Yassin Hussein, an assistant to lawyer Badih Aref Izzat, one of the defence lawyers in the trial of Saddam Hussein, was reportedly found in the Medico-Legal Institute of Baghdad. He had been kidnapped on 29 August 2006.<sup>988</sup>

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<sup>979</sup> UNAMI HRO, *December 2006 Human Rights Report*, p. 15, see above footnote 10.

<sup>980</sup> *Ibid.*

<sup>981</sup> *Ibid.*

<sup>982</sup> *Ibid.*

<sup>983</sup> Reuters Alertnet, *Factbox – Security developments in Iraq*, Nov 2, 2 November 2006, <http://www.reuters.com/article/topNews/idUSL0270233920061103>.

<sup>984</sup> UNAMI HRO, *October 2006 Human Rights Report*, p. 9, see above footnote 66.

<sup>985</sup> *Ibid.*

<sup>986</sup> *Ibid.*

<sup>987</sup> *Ibid.*; BBC News, *Saddam judge relative shot dead*, 29 September 2006, [http://news.bbc.co.uk/2/hi/middle\\_east/5391674.stm](http://news.bbc.co.uk/2/hi/middle_east/5391674.stm).

<sup>988</sup> UNAMI HRO, *October 2006 Human Rights Report*, p. 9, see above footnote 66.



- 1 July – 31 August 2006: According to UNAMI HRO, at least three judges and seven lawyers were killed, another female judge was kidnapped, two others survived assassination attempts while another received death threats and moved to another part of the country.<sup>989</sup>
- 30 August 2006: Gunmen murdered Nadiya Mohammed Hasan, the Director General of the Public Notary in the Ministry of Justice, her driver and two bodyguards in Baghdad.<sup>990</sup>
- 29 July 2006: Salah Abdel-Kader, a lawyer and professor in Baghdad and known for working on cases involving “honour killings” and child custody, was shot dead in his office. It was reported that a note was found near his body saying: “*This is the price to pay for those who do not follow Islamic laws and defend what is dreadful and dirty.*” Reportedly, he had been threatened several times previously.<sup>991</sup>
- 21 June 2006: One of the lawyers defending former President Saddam Hussein, Khamis Al-Obaidi, was abducted by individuals dressed as police officers from his home in Baghdad’s Adhamiya District. He was later found murdered in an area near Sadr City.<sup>992</sup>
- 21 May 2006: Judge Akrem Jumaa Al-Maamori, from Al-Khark court in Baghdad, was killed.<sup>993</sup>
- 12 May 2006: Ahmed Midhat Al-Mahmoud, a lawyer and son of the President of the High Judicial Council, was killed with two of his bodyguards in Baghdad.<sup>994</sup>
- 11 May 2006: A judicial investigator of the CCCI, Firas Mohammed, was killed in Baghdad.<sup>995</sup>
- 9 May 2006: Mohaimen Al-Mahmood, a judge in Al-Adhamiya First Instance Court, was killed in front of his home by unidentified gunmen and Iskandar Al-Jiboury, a judge in the CCCI, was allegedly poisoned along with two of his bodyguards.<sup>996</sup>
- 25 April 2006: The President of the Tribunal of First Instance in Baghdad was killed.<sup>997</sup>
- 5 April 2006: An investigative judge was killed in Baghdad.<sup>998</sup>
- 3 April 2006: Lawyer Matr Kaabi was gunned down by armed men in the centre of Basrah.<sup>999</sup>
- 30 March 2006: Gunmen killed lawyer Maymuna Hamdani in Basrah, riddling her body with nine bullets according to the police. She was a prominent lawyer in the city and the legal advisor for the municipal electricity department.<sup>1000</sup>

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<sup>989</sup> UNAMI HRO, *August 2006 Human Rights Report*, p. 7, see above footnote 26.

<sup>990</sup> *Ibid.*

<sup>991</sup> IRIN, *Iraq: Lawyers killed for defending cases “against Islam”*, 16 August 2006, <http://www.irinnews.org/report.aspx?reportid=60380>.

<sup>992</sup> BBC News, *Saddam defence lawyer shot dead*, 21 June 2006, [http://news.bbc.co.uk/2/hi/middle\\_east/5101162.stm](http://news.bbc.co.uk/2/hi/middle_east/5101162.stm).

<sup>993</sup> UNAMI HRO, *June 2006 Human Rights Report*, p. 5, see above footnote 27.

<sup>994</sup> AP, *Son of top Iraqi judge shot dead*, 15 May 2006, <http://english.aljazeera.net/news/archive/archive?ArchiveId=22745>.

<sup>995</sup> UNAMI HRO, *June 2006 Human Rights Report*, p. 5, see above footnote 27.

<sup>996</sup> *Ibid.*

<sup>997</sup> *Ibidem*, *April 2006 Human Rights Report*, p. 10, see above footnote 74.

<sup>998</sup> *Ibid.*

<sup>999</sup> AP, “*Hostile fire*” downs US helicopter in Iraq, 3 April 2006, <http://www.abc.net.au/news/newsitems/200604/s1606728.htm>.

- 4 December 2005: Judge Midhat Al-Mahmoud, President of the High Judicial Council, survived a suicide bomb attack against his home.<sup>1001</sup>
- 8 November 2005: Gunmen opened fire on a car carrying two lawyers defending Saddam Hussein's half-brother Barzan Ibrahim Al-Tikriti and former Vice President Taha Yassin Ramadan, in the *Dujail* trial. Adel Al-Zubeidi was killed and Thamer Hamoud Al-Khuzaie was wounded in the incident.<sup>1002</sup>
- 20 October 2005: A day after the start of the *Dujail* trial, in which former President Saddam Hussein and seven others stand accused of the killing of 148 Shi'ites, Defence Attorney Saadun Janabi was murdered in Baghdad.<sup>1003</sup>
- 17 August 2005: Jasim Waheeb, an investigative judge at the Appellate Court of Al-Karkh, and his driver were shot to death in Baghdad's Al-Doura neighbourhood.<sup>1004</sup>
- 17 June 2005: A judge and his driver were killed in Mosul City by unknown gunmen.<sup>1005</sup>
- 3 March 2005: Judge Barawiz Mohammed Mahmoud Al-Merani and lawyer, Aryan Mahmoud Al-Merani, both working with the Iraqi High Tribunal tasked to try Saddam Hussein and former members of his government, were killed by gunmen outside their home in Adhamiya. The killings came one day after the court issued referrals for five former regime members for crimes against humanity. It is possible that the killings were related to the Kurdish ethnicity of the victims.<sup>1006</sup>
- 2 March 2005: A criminal court judge involved in human rights cases was shot dead in front of his house. His lawyer brother was also killed.<sup>1007</sup>
- 26 January 2005: Senior judge Qais Hashim Shameri and his driver were killed by gunmen. Jaish Ansar Al-Sunna claimed responsibility in a Web posting, calling the judge "*one of the heads of infidelity and apostasy of the new Iraqi government*".<sup>1008</sup>

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<sup>1000</sup> AP, *Bakers, lawyer among five killed in Iraq attacks*, 30 March 2006, [http://www.khaleejtimes.com/displayArticle.asp?col=&section=focusoniraq&xfile=data/focusoniraq/2006/March/focusoniraq\\_March135.xml](http://www.khaleejtimes.com/displayArticle.asp?col=&section=focusoniraq&xfile=data/focusoniraq/2006/March/focusoniraq_March135.xml).

<sup>1001</sup> *Ibidem*, *Son of top Iraqi judge shot dead*, see above footnote 994.

<sup>1002</sup> BBC News, *Saddam trial lawyer is shot dead*, 8 November 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4417948.stm](http://news.bbc.co.uk/2/hi/middle_east/4417948.stm).

<sup>1003</sup> Kamal Taha, *Saddam lawyers determined to defend him despite threats*, Middle East Online, 2 November 2006, [http://www.iraquupdates.com/p\\_articles.php?refid=DH-S-02-11-2006&article=11507](http://www.iraquupdates.com/p_articles.php?refid=DH-S-02-11-2006&article=11507).

<sup>1004</sup> Arabic News, *Judge killed, Muslim Scholars commision attacked*, 19 August 2005, <http://www.arabicnews.com/ansub/Daily/Day/050819/2005081906.html>.

<sup>1005</sup> *Ibidem*, *Iraqi judge killed in Iraq*, 17 June 2005, <http://www.arabicnews.com/ansub/Daily/Day/050617/2005061702.html>.

<sup>1006</sup> Robert Worth, *Judge killed before Saddam trial*, Agencies, 3 March 2005, <http://www.theage.com.au/news/Iraq/Judge-killed-before-Saddam-trial/2005/03/02/1109700536629.html>; AP, *Judge, lawyer on Iraq war crimes tribunal killed*, 2 March 2005, <http://www.msnbc.msn.com/id/7064658/>.

<sup>1007</sup> *Ibid.*

<sup>1008</sup> AP, *Video shows American hostage; judge killed in clashes*, 26 January 2005, [http://www.usatoday.com/news/world/iraq/2005-01-25-voter-safety\\_x.htm](http://www.usatoday.com/news/world/iraq/2005-01-25-voter-safety_x.htm).

## ***Annex VIII: Attacks on Athletes and Sports Officials***

The following incidents were reported in the media since January 2006:

- 26 January 2007: The body of well-known Shi'ite boxer Hassan Hadi was found in Haifa Street, a Sunni-dominated neighbourhood of Baghdad, after he had been kidnapped some days earlier.<sup>1009</sup>
- December 2006: Iraq's Olympic cycling coach was killed after gunmen kidnapped him from his home.<sup>1010</sup>
- December 2006: The body of Hadib Majhoul, head of the popular Talaba club and a member of the Iraqi Soccer Federation, was found dead after he was seized by gunmen while driving to work.<sup>1011</sup>
- 1 November 2006: Armed men seized Khalid Nejim, the basketball federation chief who also was a coach for the national basketball team, and Issam Khalef, who coached blind athletes, from a youth club on Palestine Street in eastern Baghdad.<sup>1012</sup>
- November 2006: A blind Iraqi athlete and a Paralympics coach were kidnapped, but were released unharmed after sports officials said their abductors determined neither was linked to the Sunni insurgency.<sup>1013</sup>
- 9 October 2006: Hazim Hussein, an Iraqi international soccer referee, was kidnapped by unidentified assailants as he left the Iraqi Federation of Football in Baghdad's north-eastern Shaab Stadium. According to the head of the Iraqi Referee Association, the kidnappers had demanded a US \$200,000 ransom.<sup>1014</sup>
- 6 October 2006: Gunmen killed Naseer Shamil, a former Iraqi national volleyball player, in his shop in Baghdad.<sup>1015</sup>
- 3 September 2006: Ghanim Ghudayer, a popular Iraqi soccer player of Baghdad's Air Force Club and member of Iraq's Olympic team was kidnapped by unknown assailants in the Al-Amil neighbourhood. His whereabouts remain unknown.<sup>1016</sup>
- July 2006: Iraq's national soccer coach, Akram Ahmed Salman, resigned after receiving death threats against him and his family warning him against continued training of the

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<sup>1009</sup> AP, *Iraqi boxer abducted, killed*, 26 January 2007, <http://www.thestar.com/printArticle/175293>.

<sup>1010</sup> *Ibidem*, *Cycling coach latest victim of violence in Iraq*, 21 December 2006, <http://sports.espn.go.com/oly/cycling/news/story?id=2704659&campaign=rss&source=ESPNHeadlines>.

<sup>1011</sup> AP, *Gunmen Kidnap Soccer Official in Baghdad*, 1 December 2006, <http://www.wtop.com/?nid=157&sid=992412>.

<sup>1012</sup> *Ibidem*, *Gunmen kidnap Iraqi coach for blind*, 2 November 2006, <http://www.thestate.com/mld/thestate/news/world/15902505.htm>.

<sup>1013</sup> Kirsten Sparre, *Disabled athletes also targets for kidnappers in Iraq*, Play The Game, 8 November 2006, [http://www.playthegame.org/News/Up%20To%20Date/Disabled\\_athletes\\_also\\_targets\\_for\\_kidnappers\\_in\\_Iraq.aspx](http://www.playthegame.org/News/Up%20To%20Date/Disabled_athletes_also_targets_for_kidnappers_in_Iraq.aspx).

<sup>1014</sup> AP, *Iraqi international soccer referee kidnapped in Baghdad*, 11 October 2006, [http://www.iraqupdates.com/p\\_articles.php?refid=WH-S-16-10-2006&article=11002](http://www.iraqupdates.com/p_articles.php?refid=WH-S-16-10-2006&article=11002).

<sup>1015</sup> *Ibidem*, *Scattered violence leaves 25 dead in Iraq*, 7 October 2006, [http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/20061007/iraq\\_violence\\_061007/20061007?hub=Newsletter](http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/20061007/iraq_violence_061007/20061007?hub=Newsletter).

<sup>1016</sup> *Ibidem*, *Iraqi Olympic Soccer Player Kidnapped*, 4 September 2006, <http://www.foxnews.com/story/0,2933,212041,00.html>.

national team.<sup>1017</sup> He told AFP that rivalry between various sports officials was the reason behind the threats.<sup>1018</sup>

- 15 July 2006: Gunmen stormed a meeting of sports officials and abducted 30 persons, including the head and the deputy head of Iraq's Olympic Committee and the chairmen of the Iraqi Taekwondo and Boxing Federations.<sup>1019</sup> *The Times* reported in October that of the 30 kidnapped, two were bodyguards whose bodies were found dumped on a street. Others were released, although Ahmed Al-Hijjiya, the head of the Olympic Committee, is still missing.<sup>1020</sup>
- 13 July 2006: The coach of Iraq's national wrestling team, Mohammed Karim Abid Sahib, was murdered.<sup>1021</sup>
- 29 May 2006: The coach of Iraq's national tennis team and two players were killed after extremists distributed leaflets warning people in Sunni neighbourhoods in Baghdad not to wear shorts.<sup>1022</sup>
- 24 May 2006: Fifteen members of Iraq's tae kwon do team were kidnapped between Falluja and Ramadi when driving to a training camp in Jordan. The kidnappers reportedly demanded US \$100,000 for their release.<sup>1023</sup>
- 14 May 2006: Mannar Mudhafar, one of the best soccer players on the popular Zawra team, was shot to death in Baghdad.<sup>1024</sup>
- January 2006: Female basketball player Samira Kubaissy was killed after being accused by extremists of un-Islamic behaviour.<sup>1025</sup>
- 25 January 2006: Jasseb Rahma, a former Iraqi wrestling champion, was gunned down in front of his family in Basrah.<sup>1026</sup>

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<sup>1017</sup> The Telegraph, *Victorious Iraqi soccer chief driven into hiding by threats*, 3 August 2006, <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2006/08/03/wirq03.xml>.

<sup>1018</sup> Play The Game, *Athletes and sports officials in Iraq under constant threat of murder or abduction*, 10 August 2006, <http://www.playthegame.org/News/Up To Date/Athletes and sports officials in Iraq under constant threat of murder and abduction.aspx>.

<sup>1019</sup> AP, *Gunmen kidnap Iraq's Olympic chief*, 15 July 2006, [http://www.chinadaily.com.cn/world/2006-07/15/content\\_641696.htm](http://www.chinadaily.com.cn/world/2006-07/15/content_641696.htm).

<sup>1020</sup> Owen Slot, *Iraqi sport in state of terror after gunmen draw blood*, *The Times*, 10 October 2006, [http://www.timesonline.co.uk/tol/sport/more\\_sport/article667015.ece](http://www.timesonline.co.uk/tol/sport/more_sport/article667015.ece).

<sup>1021</sup> Joshua Partlow, *Iraq Given Control of Province*, *The Washington Post*, 14 July 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/07/13/AR2006071301545.html>.

<sup>1022</sup> BBC News, *Iraqis shot "for wearing shorts"*, 26 May 2006, [http://news.bbc.co.uk/2/hi/middle\\_east/5020804.stm](http://news.bbc.co.uk/2/hi/middle_east/5020804.stm).

<sup>1023</sup> *Ibid.*

<sup>1024</sup> IRIN, *Iraq: Athletes targeted for sectarian, religious reasons*, see above footnote 648.

<sup>1025</sup> *Ibid.*

<sup>1026</sup> Middle East Times, *Regional roundups: Former Iraqi wrestling champion shot dead*, 3 March 2006, <http://www.metimes.com/storyview.php?StoryID=20060227-092345-4862r>.

## ***Annex IX: Attacks on Palestinian Refugees in Iraq***

The following provides an overview of attacks on Palestinian refugees in Iraq since September 2006. Please note that – in contrast to the other Annexes, the reports of attacks on Palestinians were gathered by UNHCR from private sources, and to the extent possible verified with the UN or other agencies. As states earlier, this list is not exhaustive.

- 28 February 2007: Reportedly in response to the attack on Al-Doura neighbourhood and the discovery of the badly beaten body of the Palestinian male killed on 26 February (mentioned below), 47 Palestinians fled to the Iraqi-Syrian border crossing of Al-Walid. By month's end, there were 471 Palestinians in Al-Walid.
- 25 February 2007: There were reports that Mehdi Army militiamen attacked the Al-Sihha compound in Baghdad's Al-Doura neighbourhood, raiding apartments, beating and robbing Palestinians. Two Palestinians were reportedly abducted. One was later released claiming he had been badly beaten. The badly beaten body of the second was reportedly found the next day. Photos were shared with UNHCR; however the person in the photos is so badly beaten his face is unrecognizable.
- 22 February 2007: The home of a Palestinian man in Baghdad's Ghazaliya District was reportedly raided by Ministry of Interior Special Forces and he and his family were beaten and robbed. He and six other Iraqis were detained. While the Iraqi detainees were released the next day, the Palestinian man remained in detention in the third brigade camp in Al-Amiriya, having been reportedly subjected to severe physical abuse.
- 16 February 2007: Three Palestinians were arrested in Baladiyat compound. There were reports that their families, as well as the family of a fourth man, who had been detained several months earlier, were subsequently requested to pay a ransom of US \$2,500 for the release of each person by the ISF. Despite the fact that the ransom was paid, the men were not released. The same day, 29 Palestinians arrived at the Iraqi-Syrian border.
- 11 February 2007: A Palestinian male from Baladiyat disappeared while driving his taxi. His body was found four days later. In an unrelated incident, another Palestinian male, from Tobji District, was reportedly abducted from his home by members of the Mehdi Army. He was released three days later after being seriously beaten.
- 10 February 2007: Thirty-two Palestinians arrived at the Iraqi-Syrian border.
- 9 February 2007: A Palestinian male was reportedly stopped and abducted by persons in a black car after leaving his home in Baladiyat.
- 8 February 2007: A Palestinian male was reportedly abducted from the street in Al-Doura. The same day, eight Palestinians arrived at the Iraqi-Syrian border.
- 7 February 2007: A Palestinian man, whose home had been attacked by mortars on 27 January 2007, was reportedly gunned down and killed along with two Iraqi friends by four masked, armed men. Also, 14 Palestinians arrived at the Iraqi-Syrian border.
- 6 February 2007: Fifty-one Palestinians arrived at the Iraqi-Syrian border.
- 4 February 2007: A Palestinian man from Tobji District in Baghdad was reportedly arrested by Special Forces of the Ministry of Interior and released the same day after having been severely beaten.
- 1 February 2007: A Palestinian man (and father of a child killed in the 13 December 2006 attack on Al-Baladiyat), was stopped on his way to work and taken away at an ISF

checkpoint in Yousifiya area. He was released later upon the request of the MNF who found that there were no charges against him. He was reportedly badly beaten while in detention. Reportedly, his family was extorted for US \$6,000 by the ISF to secure his release. Even after his release, the ISF reportedly threatened the family to re-arrest him in order to obtain the money. On 25 February 2007, the family reportedly paid US \$3,500 to an official of the Ministry of Interior and members of the Mehdi Army. In an unrelated incident, another Palestinian man, from Yousifiya was reportedly detained by the ISF.

- 31 January 2007: Two Palestinian males, a man and his nephew, were kidnapped from Al-Doura / Al-Mahdiya District. They were released the same day after claiming they had been beaten by Sunni insurgents. In a separate incident, a Palestinian youth was kidnapped along with an Iraqi Sunni friend. A local Shi'a cleric intervened and was able to free the Palestinian youth, but only after he was forced to watch the execution of his friend.
- 30 January 2007: A Palestinian woman and two Palestinian men from Al-Doura were attacked by four armed gunmen in a vehicle. The three reportedly survived the attack and were taken to hospital.
- 25 January 2007: Two Palestinian brothers from Al-Mansouriya were reportedly killed by militia.
- 24 January 2007: Seventy-three Palestinians reportedly fled to Al-Walid on the Iraqi-Syria border, many of whom had just been released from detention the previous day.
- 23 January 2007: Seventeen Palestinians were rounded up at approximately 5:00 am by ISF in Hay Al-Nidhal neighbourhood in Baghdad. Reportedly, the ISF broke down the doors and windows of the homes in order to gain entrance, taking away the males and leaving the women and children behind. There were reports that some of the women were beaten during this process. Additional reports claim that the building was attacked by gunfire the previous afternoon from unknown gunmen and that the previous night, four persons in civilian dress and driving an unmarked vehicle, presumed by residents to be militia, came to the building to request that the residents sign a document which stated that they would not attack ISF or MNF and that they would not support terrorism. The 17 men were released later in the day and there were allegations that they had been severely beaten in detention. There were reports that another 13 men were briefly detained later that day in Hay Al-Amin area near Baladiyat, but reports were unclear as to whether they were militia or ISF (one source suggested they were militia with group members dressed as police).
- 19 January 2007: A Palestinian woman and her two sons were killed by Sunni militia in Hay Al-Adel. In a separate incident, there was a report of a Shi'ite militia attack in Baghdad Al-Jadida. Residents of Baghdad Al-Jadida received verbal death threats to evacuate the compound and leave Iraq.
- 18 January 2007: The body of a Palestinian man was found in Al-Bataween. In a separate incident, a Palestinian was kidnapped by armed persons and released on 23 January after his family paid a ransom of US \$10,000.
- 14 January 2007: One Palestinian man was killed and another injured in a militia attack on the Palestinian compound in Baghdad Al-Jadida. When the family tried to retrieve victim's body from the Ibn Al-Nafis Hospital after paying a ransom of US \$500, the militia attacked and killed an Iraqi family they mistook for the Palestinians. The

Palestinian family fled the hospital and found another way to retrieve their relative's body. In a separate incident, a Palestinian working as a taxi driver in Al-Za'afaraniyah was kidnapped by militiamen and later found dead.

- 13 January 2007: The body of a Palestinian man was discovered after he had been kidnapped from Al-Karrada neighbourhood several days earlier. Also, the body of another Palestinian man was found in the Baghdad Central Morgue. He had been missing since 11 July 2006. He had previously fled to Baladiyat after being threatened by militia in Al-Hurriya neighbourhood.
- 12 January 2007: Two Palestinian men were separately kidnapped from Al-Za'afaraniyah and Al-Doura neighbourhoods. Their bodies were found two days later.
- 11 January 2007: One Palestinian man was kidnapped from Hay Al-Awal. His whereabouts remain unknown.
- 8 January 2007: A Palestinian from the UAE was kidnapped while visiting relatives in Al-Karrada area in Baghdad. He was released on 15 January 2007 after his family paid US \$30,000 in ransom.
- 7 January 2007: A Palestinian man was killed in Baghdad's Al-Mansour area.
- 1 January 2007: One Palestinian man was reportedly kidnapped by militiamen from Al-Doura. Even though the family paid US \$30,000 ransom, he was later found dead.
- 25 December 2006: The dead body of a Palestinian was found, reportedly bearing numerous marks of torture, after having been kidnapped on 20 December 2006. In a separate incident, two Palestinian men from Ghazaliya District in Baghdad were reportedly kidnapped by Shi'ite militiamen.
- 24 December 2006: A Palestinian man was allegedly detained by the Iraqi 4<sup>th</sup> regiment special forces (*Maghawir Allua Arahba*) at his home in Baladiyat. There has been no information about his whereabouts.
- 15 December 2006: A Palestinian man was kidnapped from Al-Doura neighbourhood and later found killed, his body bearing signs of torture.
- 13 December 2006: Baladiyat compound was attacked with mortars reportedly killing nine persons, including children, and injuring 20.
- 12 December 2006: Three persons were reportedly abducted and killed in Al-Doura; the body of another Palestinian man, previously kidnapped from Al-Mansour, was found dead in Baladiyat.
- 9 December 2006: A Palestinian shopkeeper and two of his employees were reportedly kidnapped from a shop in Al-Sana in Baghdad. Witnesses saw militiamen in sports clothing entering the shop and taking them away. In a separate incident, there was a confirmed report of an attack on Baladiyat. Three shells landed in the compound, injuring 10 persons. No fatalities were reported.
- 8 December 2006: The manager of the Haifa Sports Club, a well known community figure, was reportedly kidnapped from his home, with a ransom demand of US \$100,000. He was later found killed.
- 2 December 2006: Two Palestinian brothers were reportedly kidnapped by militiamen from their shop in Al-Mashtal, near Baladiyat. Their bodies were found on 7 December 2006.
- 1 December 2006: A Palestinian man was reportedly taken from his shop in Baladiyat by militiamen and killed in the street when he resisted. In a separate incident, the bodies of two Palestinians, kidnapped on the same day from Al-Fadl, were found dead.

- 24 November 2006: A well-known Palestinian religious leader was reportedly kidnapped by militia in Al-Doura; his body was found on 27 November 2006 bearing signs of torture.
- 13 November 2006: A Palestinian woman was reportedly killed near Baladiyat by militiamen when she returned to collect personal items from her home, from which the family had previously fled.
- 19 October 2006: The Baladiyat compound was attacked and shelled by approximately 6-8 mortars. Palestinians in the compound said that three to five people were killed and some 20 injured. An attempt to get an ambulance into the compound to take away the injured failed when the ambulance was attacked by militiamen; one report said that the ambulance driver was killed. The Iraqi authorities claimed the ambulance was attacked by the Palestinians. The next day, UNAMI reported that another missile had been launched into Baladiyat compound, but no one was hurt.
- 7 October 2006: Alleged members of the Mehdi Army raided the Al-Hurriya neighbourhood and threatened all persons residing between streets 80 and 90 that they had until 10:00, 8 October, to leave the area or they would be killed. During the raid, the militia forcibly evicted at least one Palestinian family from their home located in a shelter belonging to the Ministry of Labour and Social Affairs, where many Palestinians live. The militiamen took the keys of the home with them. Another Palestinian was allegedly robbed of ten million Iraqi Dinars during the raid.
- 25 September 2006: UNHCR was contacted by representatives of the Palestinian community in Baghdad regarding an alleged incident in which about 12 vehicles, including 5 GMC vehicles appearing to belong to the Iraqi Police, other white GMC cars, two BMWs and another three small cars went to the Al-Doura area of Baghdad. Armed persons believed to belong to Shi'ite militias knocked on the doors of the Palestinian families in the neighborhood and handed over leaflets, threatening that the Palestinians should leave their homes within 72 hours or they would be killed. Some Palestinian families took the threats seriously and left their houses, while others refused to leave. A second round of threats was reportedly issued to the same area on 30 September by loudspeaker, stating that they had until the next evening, 1 October, at 19:00 or they would be burned. Members of the Palestinian community confirmed that a number of families fled their homes.
- 23 September 2006: UNHCR received an unconfirmed report that a 25-year old man was kidnapped from his shop in Al-Jadida neighbourhood in Baghdad by five armed men in civilian clothing. The abductors later contacted the family and demanded a US \$100,000 ransom and for them to leave their home.



## ***Annex X: Selected Bibliography***

*Note:* This selected bibliography contains all sources referred to more than twice in the Guidelines. All Internet links were accessed in February 2007, unless otherwise indicated, except for links to UNHCR's Refworld website ([www.refworld.org](http://www.refworld.org)) which were accessed in July 2007.

### **A**

Al-Qaddo, Dr. Hunain, *Iraq's Shabaks Are Being Oppressed By Kurds*, 28 August 2005, <http://www.aina.org/guesteds/20050828120403.htm>

Allison, Christine, *Yazidis*, The Circle of Ancient Iranian Studies, <http://www.cais-soas.com/CAIS/Religions/iranian/yazidis.htm> [last modified 26 January 2007]

Amnesty International (AI), *Iraq – The need for security*, 4 July 2003, MDE 14/143/2003, [http://web.amnesty.org/library/pdf/MDE141432003ENGLISH/\\$File/MDE1414303.pdf](http://web.amnesty.org/library/pdf/MDE141432003ENGLISH/$File/MDE1414303.pdf)

Associated Press (AP), *Beleaguered Yazidi find peace high in Iraq's northern mountains*, 14 October 2006, <http://www.todayonline.com/articles/148550.asp>

### **B**

Baker III, James A., and Lee H. Hamilton (Co-Chairs) *et al.*, *The Iraq Study Group Report*, December 2006, [http://www.usip.org/isg/iraq\\_study\\_group\\_report/report/1206/iraq\\_study\\_group\\_report.pdf](http://www.usip.org/isg/iraq_study_group_report/report/1206/iraq_study_group_report.pdf)

BBC News, *Iraq chaos threatens ancient faith*, 20 September 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4260170.stm](http://news.bbc.co.uk/2/hi/middle_east/4260170.stm)

Beaumont, Peter, *Hidden victims of a brutal conflict: Iraq's women*, The Observer, 8 October 2006, <http://observer.guardian.co.uk/world/story/0,,1890260,00.html>

Bolender, John, *Worse Off Now Than Under Saddam, The Plight Of Iraq's Mandeans*, Counterpunch, 8/9 January 2005, <http://www.counterpunch.org/bolender01082005.html>

Booth, Jenny, and agencies, *Al-Qaeda threatens jihad over Pope's remarks*, Times Online, 18 September 2006, [http://www.timesonline.co.uk/tol/news/world/middle\\_east/article642645.ece](http://www.timesonline.co.uk/tol/news/world/middle_east/article642645.ece)

Brinkley, Joel, *Revenge killings thin ex-Baathists' ranks*, The New York Times, 1 November 2003, <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2003/11/01/MNGPP2O72B1.DTL>

Brookings Institution, The, *Iraq Index. Tracking Variables of Reconstruction & Security in Post-Saddam Iraq*, 26 February 2007, <http://www3.brookings.edu/fp/saban/iraq/index20070226.pdf>

## C

Cagaptay, Soner, and Daniel Fink, *The Battle for Kirkuk: How to Prevent a New Front in Iraq*, Policy Watch No. 1183, The Washington Institute, 16 January 2007, <http://www.washingtoninstitute.org/templateC05.php?CID=2552>

Coleman, Isobel, *Women, Islam, and the New Iraq*, Foreign Affairs, January/February 2006, <http://www.foreignaffairs.org/20060101faessay85104-p10/isobel-coleman/women-islam-and-the-new-iraq.html>

## D

Dulz, Irene, Siamend Hajo and Eva Savelsberg, *Verfolgt und umworben: Die Yeziden im »neuen Irak«* [in German language], published in: *Kurdische Studien* 4+5, 2004/2005, [http://www.yeziden-colloquium.de/inhalt/wissenschaft/Dulz\\_Savelsberg\\_Hajo\\_Yeziden.pdf](http://www.yeziden-colloquium.de/inhalt/wissenschaft/Dulz_Savelsberg_Hajo_Yeziden.pdf)

## E

Encyclopaedia Britannica, *Yazidi*, <http://concise.britannica.com/ebc/article-9383110/Yazidi> [accessed January 2007]

Encyclopaedia of the Orient, *Ahl-e Haqq*, [http://lexicorient.com/e.o/ahl-e\\_haqq.htm](http://lexicorient.com/e.o/ahl-e_haqq.htm) [accessed January 2007]

Encyclopaedia of the Orient, *Shabak*, <http://lexicorient.com/e.o/shabak.htm> [accessed January 2007]

Encyclopaedia of the Orient, *Yazidism*, <http://lexicorient.com/e.o/uyazidism.htm> [accessed January 2007]

## F

Filkins, Dexter, *Armed groups propel Iraq toward chaos*, The New York Times, 24 May 2006, <http://www.iht.com/articles/2006/05/24/africa/web.0525police.php>

## H

Human Rights Watch (HRW), *Ansar al-Islam in Iraqi Kurdistan*, 5 February 2003, <http://www.hrw.org/backgrounder/mena/ansarbk020503.htm>

## I

Institute for War and Peace Reporting (IWPR), *Ancient Sect Targeted*, Iraqi Crisis Report No. 45, 22 January 2004, [http://www.iwpr.net/?p=icr&s=f&o=168543&apc\\_state=henniicr2004](http://www.iwpr.net/?p=icr&s=f&o=168543&apc_state=henniicr2004)

IWPR, *Baghdad Gays Fear for Their Lives*, Iraq Crisis Report No. 199, 20 October 2006, [http://www.iwpr.net/?p=icr&s=f&o=324756&apc\\_state=heniicrd6201b571b0dd9ebc3b068b94ab0b968](http://www.iwpr.net/?p=icr&s=f&o=324756&apc_state=heniicrd6201b571b0dd9ebc3b068b94ab0b968)

IWPR, *Gypsies Seek Government Protection*, Iraqi Crisis Report No. 70, 24 June 2004, [http://iwpr.net/?p=icr&s=f&o=167679&apc\\_state=heniicr2004](http://iwpr.net/?p=icr&s=f&o=167679&apc_state=heniicr2004)

IWPR, *Iraqi Kurdistan safe haven for fleeing Arabs*, Iraqi Crisis Report No. 198, 13 October 2006, [http://iwpr.net/?p=icr&s=f&o=324561&apc\\_state=henpicr](http://iwpr.net/?p=icr&s=f&o=324561&apc_state=henpicr)

Integrated Regional Information Networks (IRIN), *Iraq: Athletes targeted for sectarian, religious reasons*, 8 June 2006, <http://www.irinnews.org/report.aspx?reportid=26984>

IRIN, *Iraq: Christians live in fear of death squads*, 19 October 2006, <http://www.irinnews.org/report.aspx?reportid=61897>

IRIN, *Iraq: Fighting swords with pens*, 27 November 2006, <http://www.irinnews.org/report.aspx?reportid=61967>

IRIN, *Iraq: Gypsies call for greater rights*, 3 March 2005, <http://www.irinnews.org/report.aspx?reportid=24925>

IRIN, *Iraq: Singing "the devil's music" will get you killed*, 23 November 2006, <http://www.irinnews.org/report.aspx?reportid=61962>

International Crisis Group (ICG), *After Baker-Hamilton: What To Do in Iraq?*, Middle East Report No. 60, 19 December 2006, [http://www.crisisgroup.org/library/documents/middle\\_east\\_north\\_africa/60\\_after\\_baker\\_hamilton\\_what\\_to\\_do\\_in\\_iraq.pdf](http://www.crisisgroup.org/library/documents/middle_east_north_africa/60_after_baker_hamilton_what_to_do_in_iraq.pdf)

## K

Kendal, Elizabeth, *Mandaeans face genocide*, World Evangelical Alliance Religious Liberty News and Analysis, 30 June 2006, [http://www.hrwf.net/html/2006PDF/Iraq\\_2006.pdf](http://www.hrwf.net/html/2006PDF/Iraq_2006.pdf)

Khalidi, Ashraf, and Victor Tanner, *Sectarian Violence: Radical Groups Drive Internal Displacement in Iraq*, The Brookings Institution/University of Bern Project on Internal Displacement, October 2006, [http://www.brookings.edu/fp/projects/idp/20061018\\_DisplacementinIraq\\_Khalidi-Tanner.pdf](http://www.brookings.edu/fp/projects/idp/20061018_DisplacementinIraq_Khalidi-Tanner.pdf)

Kohlmann, Evan F., *State of the Sunni Insurgency in Iraq: 2006*, Global Terror Alert, 29 December 2006, <http://www.globalterroralert.com/pdf/1206/iraqinsurgency1206.pdf>

## L

Library of Congress, The, Congressional Research Service, *The Iraqi Security Forces: The Challenge of Sectarian and Ethnic Influences*, CRS Report for Congress, 18 January 2007, <http://fpc.state.gov/documents/organization/79272.pdf>

## M

Mandaean Human Rights Group, *The Mandaean Crisis in Iraq*, April 2006, [http://mandaeunion.org/HMRG/EN\\_HMRG\\_011.html](http://mandaeunion.org/HMRG/EN_HMRG_011.html)

Mite, Valentinas, *Iraq: Old Sabaeen-Mandean Community Is Proud of Its Ancient Faith*, RFE/RL, 14 July 2004, <http://www.rferl.org/featuresarticle/2004/07/97177af0-16bc-46ae-99b9-7c3779e31e3c.html>

## P

Parker, Ned, and Ali Hamdani, *How violence is forging a brutal divide in Baghdad*, The Times, 14 December 2006, <http://www.timesonline.co.uk/tol/news/world/iraq/article753899.ece>

Perito, Robert, *Reforming the Iraqi Interior Ministry, Police, and Facilities Protection Service*, USIP, USIPeace Briefing, February 2007, [http://www.usip.org/pubs/usipeace\\_briefings/2007/0207\\_iraqi\\_interior\\_ministry.html](http://www.usip.org/pubs/usipeace_briefings/2007/0207_iraqi_interior_ministry.html)

## R

Raghavan, Sudarsan, *Another Freedom Cut Short*, The Washington Post, 6 October 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/10/05/AR2006100501825.html>

Ratnesar, Romesh, *Vengeance Has its Day*, Time Magazine, 22 November 2003, <http://www.time.com/time/magazine/article/0,9171,548790,00.html>

Reporters sans frontières (RSF), *Iraq – Annual Report 2007*, 1 February 2007, [http://www.rsf.org/country-43.php3?id\\_mot=616&Valider=OK](http://www.rsf.org/country-43.php3?id_mot=616&Valider=OK)

Ridolfo, Kathleen, *Iraq: New Kurdish Administration Comes Under Scrutiny*, RFE/RL, 12 May 2006, <http://www.rferl.org/featuresarticle/2006/5/4B58E7A7-5456-4D67-A1F1-B5DF2E2AD5B4.html>

## S

Savelsberg, Eva, and Siamend Hajo, *Gutachten zur Situation der Jeziden im Irak* [in German language], Europäisches Zentrum für Kurdische Studien, October 2005, [http://www.yeziden-colloquium.de/inhalt/gesellschaft/recht/Savelsberg\\_Hajo\\_Gutachten.pdf](http://www.yeziden-colloquium.de/inhalt/gesellschaft/recht/Savelsberg_Hajo_Gutachten.pdf)

Society for Threatened People, *Mandäer im Iraq: Seit Jahrhunderten verfolgt – heute akut in ihrer Existenz bedroht* [in German language], Update October 2006, [http://www.gfbv.de/reedit/openObjects/openObjects/show\\_file.php?type=inhaltsDok&property=download&id=648](http://www.gfbv.de/reedit/openObjects/openObjects/show_file.php?type=inhaltsDok&property=download&id=648)

Society for Threatened People, *Mandaeans in Iraq, After centuries of persecution – Today their very survival is threatened*, March 2006, [http://www.gfbv.de/reedit/openObjects/openObjects/show\\_file.php?type=inhaltsDok&property=download&id=694](http://www.gfbv.de/reedit/openObjects/openObjects/show_file.php?type=inhaltsDok&property=download&id=694)

Senanayake, Sumedha, *Iraq: Cracking Down On Al-Sadr No Easy Task*, RFE/RL, 26 January 2006, <http://www.rferl.org/featuresarticle/2007/01/6816daab-ebad-400e-a71a-bc852515f8b7.html>

Senanayake, Sumedha, *Iraq: Ethnic Tensions Increasing In Oil-Rich City*, RFE/RL, 2 November 2006, <http://www.rferl.org/featuresarticle/2006/11/304874c7-d3ff-471c-bfa3-087b0618c459.html>

Senanayake, Sumedha, *Iraq: Growing Numbers Flee Sectarian Violence*, RFE/RL, 26 January 2007, <http://rfe.rferl.org/featuresarticle/2007/01/022dcf6f-769e-4f17-b689-bd0b0bb7fa87.html>

## T

Tavernise, Sabrina, *District by District, Shiites Make Baghdad Their Own*, The New York Times, 22 December 2006, <http://www.nytimes.com/2006/12/23/world/middleeast/23shiites.html?ex=1324530000&en=127a0eb6a78cc578&ei=5088&partner=rssnyt&emc=rss>

Tavernise, Sabrina, *Shi'ite Fighters Are Arrested, Iraq Says*, The New York Times, 18 January 2007, <http://www.nytimes.com/2007/01/18/world/middleeast/18mahdi.html>

## U

United Kingdom Foreign & Commonwealth Office (FCO), *Travel Advise by Country – Iraq*, <http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029390590&a=KCountryAdvice&aid=1013618386640>

United Nations Assistance Mission in Iraq, Human Rights Office (UNAMI HRO), *Human Rights Report, 1 November – 31 December 2006*, <http://www.uniraq.org/FileLib/misc/HR Report Nov Dec 2006 EN.pdf>

UNAMI HRO, *Human Rights Report, 1 September – 31 October 2006*, <http://www.uniraq.org/documents/HR Report Sep Oct 2006 EN.pdf>

UNAMI HRO, *Human Rights Report, 1 July – 31 August 2006*, <http://www.uniraq.org/documents/HR Report July August 2006 EN.pdf>

UNAMI HRO, *Human Rights Report, 1 May – 30 June 2006*, <http://www.uniraq.org/documents/HR Report May Jun 2006 EN.pdf>

UNAMI HRO, *Human Rights Report, 1 March – 30 April 2006*, <http://www.uniraq.org/documents/HR Report Mar Apr 06 EN.PDF>

UNAMI HRO, *Human Rights Report, 1 January – 28 February 2006*, <http://www.uniraq.org/documents/HR Report Jan Feb 06 EN.PDF>

UNAMI HRO, *Human Rights Report, 1 November – 31 December 2005*, <http://www.uniraq.org/FileLib/misc/HR Report Nov Dec 2006 EN.pdf>

United Nations High Commissioner for Refugees (UNHCR), *Country of Origin Information Iraq*, October 2005, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=435637914>

UNHCR, *Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, HCR/GIP/02/01, 7 May 2002, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3d36f1c64>

UNHCR, *Guidelines on International Protection No. 2: "Membership of a Particular Social Group" Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, 7 May 2002, HCR/GIP/02/02, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3d36f23f4>

UNHCR, *Guidelines on International Protection No. 4: "Internal Flight or Relocation Alternative" Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, HCR/GIP/03/04, 23 July 2003, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3f2791a44>

UNHCR, *Guidelines on International Protection No. 5: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, 4 September 2003, HCR/GIP/03/05, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3f5857684>

UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum-Seekers*, October 2005, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=4354e3594>

UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*, HCR/IP/4/Eng/Rev.1, UNHCR 1979, Re-edited, Geneva, January 1992, available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b3314>

UNHCR, *UNHCR Return Advisory and Position on International Protection Needs of Iraqis Outside Iraq*, 18 December 2006 (Corr. April 2007), available in UNHCR's Refworld at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=46371aa72>

United States Department of Defense, *Measuring Stability and Security in Iraq*, Report to Congress in accordance with the Department of Defense Appropriations Act 2007 (Section 9010, Public Law 109-289), November 2006, <http://www.defenselink.mil/pubs/pdfs/9010Quarterly-Report-20061216.pdf>

United States Department of State (USDOS), Bureau of Consular Affairs, *Travel Warning – Iraq*, [http://travel.state.gov/travel/cis\\_pa\\_tw/tw/tw\\_921.html](http://travel.state.gov/travel/cis_pa_tw/tw/tw_921.html)

USDOS, Bureau of Democracy, Human Rights and Labor, *International Religious Freedom Report 2006 – Iraq*, 15 September 2006, <http://www.state.gov/g/drl/rls/irf/2006/71422.htm>

USDOS, Bureau of Democracy, Human Rights and Labor, *2005 Country Report on Human Rights Practices – Iraq*, 8 March 2006, <http://www.state.gov/g/drl/rls/hrrpt/2005/61689.htm>

## V

Von Zielbauer, Paul, *Iraqi Journalists Add Laws to List of Dangers*, The New York Times, 29 November 2006, <http://www.ihf.com/articles/2006/09/29/africa/web.0926journophp>

## W

Wilson, Scott, *Iraqis Killing Former Baath Party Members*, The Washington Post, 20 May 2003, <http://www.washingtonpost.com/ac2/wp-dyn/A12583-2003May19>

**23 JANUARY 2020**

**ORDER**

# **Exhibit 05**

**APPLICATION OF THE CONVENTION ON THE PREVENTION  
AND PUNISHMENT OF THE CRIME OF GENOCIDE**

**(THE GAMBIA v. MYANMAR)**

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**APPLICATION DE LA CONVENTION POUR LA PRÉVENTION  
ET LA RÉPRESSION DU CRIME DE GÉNOCIDE**

**(GAMBIE c. MYANMAR)**

**23 JANVIER 2020**

**ORDONNANCE**



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**INTERNATIONAL COURT OF JUSTICE**

**YEAR 2020**

**2020  
23 January  
General List  
No. 178**

**23 January 2020**

**APPLICATION OF THE CONVENTION ON THE PREVENTION  
AND PUNISHMENT OF THE CRIME OF GENOCIDE**

**(THE GAMBIA *v.* MYANMAR)**

**REQUEST FOR THE INDICATION OF PROVISIONAL MEASURES**

**ORDER**

*Present: President YUSUF; Vice-President XUE; Judges TOMKA, ABRAHAM, BENNOUNA, CANÇADO TRINDADE, DONOGHUE, GAJA, SEBUTINDE, BHANDARI, ROBINSON, CRAWFORD, GEVORGIAN, SALAM, IWASAWA; Judges ad hoc PILLAY, KRESS; Registrar GAUTIER.*

The International Court of Justice,

Composed as above,

After deliberation,

Having regard to Articles 41 and 48 of the Statute of the Court and Articles 73, 74 and 75 of the Rules of Court,

*Makes the following Order:*

1. On 11 November 2019, the Republic of The Gambia (hereinafter “The Gambia”) filed in the Registry of the Court an Application instituting proceedings against the Republic of the Union of Myanmar (hereinafter “Myanmar”) concerning alleged violations of the Convention on the Prevention and Punishment of the Crime of Genocide (hereinafter the “Genocide Convention” or the “Convention”).

2. At the end of its Application, The Gambia

“respectfully requests the Court to adjudge and declare that Myanmar:

- has breached and continues to breach its obligations under the Genocide Convention, in particular the obligations provided under Articles I, III (a), III (b), III (c), III (d), III (e), IV, V and VI;
- must cease forthwith any such ongoing internationally wrongful act and fully respect its obligations under the Genocide Convention, in particular the obligations provided under Articles I, III (a), III (b), III (c), III (d), III (e), IV, V and VI;
- must ensure that persons committing genocide are punished by a competent tribunal, including before an international penal tribunal, as required by Articles I and VI;
- must perform the obligations of reparation in the interest of the victims of genocidal acts who are members of the Rohingya group, including but not limited to allowing the safe and dignified return of forcibly displaced Rohingya and respect for their full citizenship and human rights and protection against discrimination, persecution, and other related acts, consistent with the obligation to prevent genocide under Article I; and
- must offer assurances and guarantees of non-repetition of violations of the Genocide Convention, in particular the obligations provided under Articles I, III (a), III (b), III (c), III (d), III (e), IV, V and VI.”

3. In its Application, The Gambia seeks to found the Court’s jurisdiction on Article 36, paragraph 1, of the Statute of the Court and on Article IX of the Genocide Convention.

4. The Application contained a Request for the indication of provisional measures submitted with reference to Article 41 of the Statute and to Articles 73, 74 and 75 of the Rules of Court.

5. At the end of its Request, The Gambia asked the Court to indicate the following provisional measures:

- “(a) Myanmar shall immediately, in pursuance of its undertaking in the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, take all measures within its power to prevent all acts that amount to or contribute to the crime of genocide, including taking all measures within its power to prevent the following acts from being committed against [any] member of the Rohingya group: extrajudicial killings or physical abuse; rape or other forms of sexual violence; burning of homes or villages; destruction of lands and livestock, deprivation of food and other necessities of life, or any other deliberate infliction of conditions of life calculated to bring about the physical destruction of the Rohingya group in whole or in part;
- (b) Myanmar shall, in particular, ensure that any military, paramilitary or irregular armed units which may be directed or supported by it, as well as any organizations and persons which may be subject to its control, direction or influence, do not commit any act of genocide, of conspiracy to commit genocide, or direct and public incitement to commit genocide, or of complicity in genocide, against the Rohingya group, including: extrajudicial killing or physical abuse; rape or other forms of sexual violence; burning of homes or villages; destruction of lands and livestock, deprivation of food and other necessities of life, or any other deliberate infliction of conditions of life calculated to bring about the physical destruction of the Rohingya group in whole or in part;
- (c) Myanmar shall not destroy or render inaccessible any evidence related to the events described in the Application, including without limitation by destroying or rendering inaccessible the remains of any member of the Rohingya group who is a victim of alleged genocidal acts, or altering the physical locations where such acts are alleged to have occurred in such a manner as to render the evidence of such acts, if any, inaccessible;
- (d) Myanmar and The Gambia shall not take any action and shall assure that no action is taken which may aggravate or extend the existing dispute that is the subject of this Application, or render it more difficult of resolution; and
- (e) Myanmar and The Gambia shall each provide a report to the Court on all measures taken to give effect to this Order for provisional measures, no later than four months from its issuance.”

6. The Registrar immediately communicated to the Government of Myanmar the Application containing the Request for the indication of provisional measures, in accordance with Article 40, paragraph 2, of the Statute of the Court, and Article 73, paragraph 2, of the Rules of Court. He also notified the Secretary-General of the United Nations of the filing by The Gambia of the Application and the Request for the indication of provisional measures.

7. Pending the notification provided for by Article 40, paragraph 3, of the Statute, the Registrar informed all States entitled to appear before the Court of the filing of the Application and the Request for the indication of provisional measures by a letter dated 11 November 2019.

8. Since the Court included upon the Bench no judge of the nationality of either Party, each Party proceeded to exercise the right conferred upon it by Article 31 of the Statute to choose a judge *ad hoc* to sit in the case. The Gambia chose Ms Navanethem Pillay and Myanmar Mr. Claus Kress.

9. By letters dated 12 November 2019, the Registrar informed the Parties that, pursuant to Article 74, paragraph 3, of its Rules, the Court had fixed 10, 11 and 12 December 2019 as the dates for the oral proceedings on the Request for the indication of provisional measures.

10. By a letter dated 9 December 2019, a copy of which was immediately communicated to Myanmar, The Gambia submitted to the Court the text of the following additional provisional measure requested from the Court:

“The Gambia requests that Myanmar be ordered to grant access to, and cooperate with, all United Nations fact-finding bodies that are engaged in investigating alleged genocidal acts against the Rohingya, including the conditions to which the Rohingya are subjected.”

11. At the public hearings, oral observations on the Request for the indication of provisional measures were presented by:

*On behalf of The Gambia:* H.E. Mr. Abubacarr Marie Tambadou,  
Mr. Payam Akhavan,  
Mr. Andrew Loewenstein,  
Ms Tafadzwa Pasipanodya,  
Mr. Arsalan Suleman,  
Mr. Pierre d’Argent,  
Mr. Paul Reichler,  
Mr. Philippe Sands.

*On behalf of Myanmar:* H.E. Ms Aung San Suu Kyi,  
Mr. William Schabas,  
Mr. Christopher Staker,  
Ms Phoebe Okowa.

12. At the end of its second round of oral observations, The Gambia asked the Court to indicate the following provisional measures:

“(a) Myanmar shall immediately, in pursuance of its undertaking in the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, take all measures within its power to prevent all acts that amount to or contribute to the crime of genocide, including taking all measures within its power to prevent the following acts from being committed against any member of the Rohingya group: extrajudicial killings or physical abuse; rape or other forms of sexual

violence; burning of homes or villages; destruction of lands and livestock, deprivation of food and other necessities of life, or any other deliberate infliction of conditions of life calculated to bring about the physical destruction of the Rohingya group in whole or in part;

- (b) Myanmar shall, in particular, ensure that any military, paramilitary or irregular armed units which may be directed or supported by it, as well as any organizations and persons which may be subject to its control, direction or influence, do not commit any act of genocide, of conspiracy to commit genocide, or direct and public incitement to commit genocide, or of complicity in genocide, against the Rohingya group, including: extrajudicial killing or physical abuse; rape or other forms of sexual violence; burning of homes or villages; destruction of lands and livestock, deprivation of food and other necessities of life, or any other deliberate infliction of conditions of life calculated to bring about the physical destruction of the Rohingya group in whole or in part;
- (c) Myanmar shall not destroy or render inaccessible any evidence related to the events described in the Application, including without limitation by destroying or rendering inaccessible the remains of any member of the Rohingya group who is a victim of alleged genocidal acts, or altering the physical locations where such acts are alleged to have occurred in such a manner as to render the evidence of such acts, if any, inaccessible;
- (d) Myanmar and The Gambia shall not take any action and shall assure that no action is taken which may aggravate or extend the existing dispute that is the subject of this Application, or render it more difficult of resolution;
- (e) Myanmar and The Gambia shall each provide a report to the Court on all measures taken to give effect to this Order for provisional measures, no later than four months from its issuance; and
- (f) Myanmar shall grant access to, and cooperate with, all United Nations fact-finding bodies that are engaged in investigating alleged genocidal acts against the Rohingya, including the conditions to which the Rohingya are subjected.”

13. At the end of its second round of oral observations, Myanmar requested the Court:

- “(1) to remove the case from its List;
- (2) in the alternative, to reject the request for the indication of provisional measures submitted by The Gambia.”

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14. In its Application, The Gambia seeks protection for “all members of the Rohingya group who are in the territory of Myanmar, as members of a protected group under the Genocide Convention”. According to a 2016 Report of the United Nations High Commissioner for Human Rights, Rohingya Muslims “self-identify as a distinct ethnic group with their own language and culture, and claim a longstanding connection to Rakhine State”; however, “[s]uccessive Governments [of Myanmar] have rejected these claims, and the Rohingya were not included in the list of recognized ethnic groups. Most Rohingya are stateless” (United Nations, Situation of human rights of Rohingya Muslims and other minorities in Myanmar, doc. A/HRC/32/18, 29 June 2016, para. 3).

15. The Court’s references in this Order to the “Rohingya” should be understood as references to the group that self-identifies as the Rohingya group and that claims a longstanding connection to Rakhine State, which forms part of the Union of Myanmar.

## **I. PRIMA FACIE JURISDICTION**

### **1. General introduction**

16. The Court may indicate provisional measures only if the provisions relied on by the Applicant appear, *prima facie*, to afford a basis on which its jurisdiction could be founded, but need not satisfy itself in a definitive manner that it has jurisdiction as regards the merits of the case (see, *inter alia*, *Alleged Violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights (Islamic Republic of Iran v. United States of America)*, *Provisional Measures*, *Order of 3 October 2018*, *I.C.J. Reports 2018 (II)*, p. 630, para. 24).

17. In the present case, The Gambia seeks to found the jurisdiction of the Court on Article 36, paragraph 1, of the Statute of the Court and on Article IX of the Genocide Convention (see paragraph 3 above). The Court must therefore first determine whether those provisions *prima facie* confer upon it jurisdiction to rule on the merits of the case, enabling it — if the other necessary conditions are fulfilled — to indicate provisional measures.

18. Article IX of Genocide Convention provides:

“Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.”

19. The Gambia and Myanmar are parties to the Genocide Convention. Myanmar deposited its instrument of ratification on 14 March 1956, without entering a reservation to Article IX, but making reservations to Articles VI and VIII. The Gambia acceded to the Convention on 29 December 1978, without entering any reservation.

## **2. Existence of a dispute relating to the interpretation, application or fulfilment of the Genocide Convention**

20. Article IX of the Genocide Convention makes the Court's jurisdiction conditional on the existence of a dispute relating to the interpretation, application or fulfilment of the Convention. A dispute between States exists where they hold clearly opposite views concerning the question of the performance or non-performance of certain international obligations (see *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation)*, *Provisional Measures, Order of 19 April 2017*, *I.C.J. Reports 2017*, p. 115, para. 22, citing *Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, First Phase, Advisory Opinion*, *I.C.J. Reports 1950*, p. 74). The claim of one party must be "positively opposed" by the other (*South West Africa (Ethiopia v. South Africa; Liberia v. South Africa)*, *Preliminary Objections, Judgment*, *I.C.J. Reports 1962*, p. 328). The Court cannot limit itself to noting that one of the parties maintains that a dispute exists, and the other denies it (cf. *Oil Platforms (Islamic Republic of Iran v. United States of America)*, *Preliminary Objection, Judgment*, *I.C.J. Reports 1996 (II)*, p. 810, para. 16). Since The Gambia has invoked as a basis of the Court's jurisdiction the compromissory clause in an international convention, the Court must ascertain whether the acts complained of by the Applicant are capable of falling within the provisions of that instrument and whether, as a consequence, the dispute is one which the Court has jurisdiction *ratione materiae* to entertain (*Immunities and Criminal Proceedings (Equatorial Guinea v. France)*, *Provisional Measures, Order of 7 December 2016*, *I.C.J. Reports 2016 (II)*, p. 1159, para. 47). The Court also recalls that, "[i]n principle, the date for determining the existence of a dispute is the date on which the application is submitted to the Court" (see, for example, *Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. India)*, *Jurisdiction and Admissibility, Judgment*, *I.C.J. Reports 2016 (I)*, p. 271, para. 39).

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21. The Gambia contends that a dispute exists with Myanmar relating to the interpretation and application of the Genocide Convention and the fulfilment by Myanmar of its obligations "to prevent genocide and to desist from its own acts of genocide". Specifically, The Gambia asserts that in October 2016 the Myanmar military and other Myanmar security forces began widespread and systematic "clearance operations" against the Rohingya group, during the course of which they committed mass murder, rape and other forms of sexual violence, and engaged in the systematic destruction by fire of Rohingya villages, often with inhabitants locked inside burning houses, with the intent to destroy the Rohingya as a group, in whole or in part. The Gambia alleges that, from August 2017 onwards, such genocidal acts continued with Myanmar's resumption of "clearance operations" on a more massive and wider geographical scale.

22. The Gambia maintains that, prior to filing its Application, it made clear to Myanmar that the latter's actions constituted a violation of its obligations under the Genocide Convention, but that Myanmar "has rejected and opposed any suggestion that it has violated the Genocide Convention". In this connection, The Gambia argues that it has made several statements



in multilateral settings whereby it clearly addressed the situation of the Rohingya in Rakhine State, including allegations of breaches by Myanmar of the Genocide Convention, and expressed its readiness to take this issue to the Court. The Gambia adds that Myanmar was aware that the Independent International Fact-Finding Mission on Myanmar established by the Human Rights Council of the United Nations (hereinafter the “Fact-Finding Mission”) welcomed the efforts of States, in particular Bangladesh and The Gambia, and the Organisation of Islamic Cooperation (hereinafter the “OIC”) “to encourage and pursue a case against Myanmar before the International Court of Justice under the Convention on the Prevention and Punishment of the Crime of Genocide” (United Nations, Report of the Independent International Fact-Finding Mission on Myanmar, doc. A/HRC/42/50, 8 August 2019, para. 107). According to The Gambia, Myanmar completely rejected the Fact-Finding Mission reports and the conclusions contained therein. Finally, The Gambia emphasizes that its claims against Myanmar regarding breaches by the latter of its obligations under the Genocide Convention were specifically communicated to Myanmar by a Note Verbale sent on 11 October 2019, to which Myanmar did not respond.

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23. Myanmar contends that the Court does not have jurisdiction under Article IX of the Genocide Convention. It first argues that there is no dispute between the Parties in view of the fact that the proceedings before the Court were instituted by The Gambia, not on its own behalf, but rather as a “proxy” and “on behalf of” the OIC. It further argues that no such dispute existed at the time of the filing of the Application. In this regard, Myanmar asserts that the allegations contained in the OIC documents and statements regarding the situation of the Rohingya mentioned by The Gambia could not give rise to a dispute between the Parties as they did not amount to allegations of violations of the Genocide Convention made by The Gambia against Myanmar. It also contends that the Court cannot infer the existence of a dispute between the Parties from The Gambia’s Note Verbale of 11 October 2019 and the absence of any response by Myanmar before the filing of the Application on 11 November 2019. In Myanmar’s opinion, the Note Verbale in question did not call for a response as it did not formulate specific allegations of violations of the Convention, and, in any event, such a response could not be expected within a month.

24. Myanmar concludes that, in the absence of a dispute, the Court’s lack of jurisdiction is manifest and the case should be removed from the General List.

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25. With regard to Myanmar’s contention that, in bringing before the Court its claims based on alleged violations of the Genocide Convention, The Gambia acted as a “proxy” for the OIC in circumvention of Article 34 of the Statute, the Court notes that the Applicant instituted proceedings

in its own name, and that it maintains that it has a dispute with Myanmar regarding its own rights under the Convention. In the view of the Court, the fact that The Gambia may have sought and obtained the support of other States or international organizations in its endeavour to seise the Court does not preclude the existence between the Parties of a dispute relating to the Genocide Convention.

26. Turning to the question whether there was a dispute between the Parties at the time of the filing of the Application, the Court recalls that, for the purposes of deciding this issue, it takes into account in particular any statements or documents exchanged between the Parties (see *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*, Judgment, I.C.J. Reports 2012 (II), pp. 443-445, paras. 50-55), as well as any exchanges made in multilateral settings (see *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation)*, Preliminary Objections, Judgment, I.C.J. Reports 2011 (I), p. 94, para. 51 and p. 95, para. 53). In so doing, it pays special attention to “the author of the statement or document, their intended or actual addressee, and their content” (*ibid.*, p. 100, para. 63). The existence of a dispute is a matter for objective determination by the Court; it is a matter of substance, and not a question of form or procedure (*Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. India)*, Jurisdiction and Admissibility, Judgment, I.C.J. Reports 2016 (I), p. 270, paras. 35-36).

27. The Court notes that, on 8 August 2019, the Fact-Finding Mission published a report which affirmed its previous conclusion “that Myanmar incurs State responsibility under the prohibition against genocide” and welcomed the efforts of The Gambia, Bangladesh and the OIC to pursue a case against Myanmar before the Court under the Genocide Convention (United Nations, Report of the Independent International Fact-Finding Mission on Myanmar, doc. A/HRC/42/50, 8 August 2019, paras. 18 and 107). On 26 September 2019, The Gambia stated during the general debate of the seventy-fourth session of the General Assembly of the United Nations that it was ready to lead concerted efforts to take the Rohingya issue to the International Court of Justice (United Nations, *Official Records of the General Assembly*, doc. A/74/PV.8, 26 September 2019, p. 31). Myanmar addressed the General Assembly two days later, characterizing the Fact-Finding Mission reports as “biased and flawed, based not on facts but on narratives” (United Nations, *Official Records of the General Assembly*, doc. A/74/PV.12, 28 September 2019, p. 24). In the Court’s view, these statements made by the Parties before the United Nations General Assembly suggest the existence of a divergence of views concerning the events which allegedly took place in Rakhine State in relation to the Rohingya. In this regard, the Court recalls that

“a disagreement on a point of law or fact, a conflict of legal views or interests, or the positive opposition of the claim of one party by the other need not necessarily be stated *expressis verbis* . . . the position or the attitude of a party can be established by inference, whatever the professed view of that party” (*Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)*, Preliminary Objections, Judgment, I.C.J. Reports 1998, p. 315, para. 89).

28. In addition, the Court takes into account The Gambia's Note Verbale of 11 October 2019, in which The Gambia, referring to the reports of the Fact-Finding Mission, wrote that it "underst[ood] Myanmar to be in ongoing breach of [its] obligations under the [Genocide] Convention and under customary international law" and "insist[ed] that Myanmar take all necessary actions to comply with these obligations". The Court observes that this Note Verbale specifically referred to the reports of the Fact-Finding Mission and indicated The Gambia's opposition to the views of Myanmar, in particular as regards the latter's denial of its responsibility under the Convention. In light of the gravity of the allegations made therein, the Court considers that the lack of response may be another indication of the existence of a dispute between the Parties. As the Court has previously held, "the existence of a dispute may be inferred from the failure of a State to respond to a claim in circumstances where a response is called for" (*Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. India)*, *Jurisdiction and Admissibility, Judgment*, I.C.J. Reports 2016 (I), p. 271, para. 37).

29. As to whether the acts complained of by the Applicant are capable of falling within the provisions of the Genocide Convention, the Court recalls that The Gambia contends that Myanmar's military and security forces and persons or entities acting on its instructions or under its direction and control have been responsible, *inter alia*, for killings, rape and other forms of sexual violence, torture, beatings, cruel treatment, and for the destruction or denial of access to food, shelter and other essentials of life, all with the intent to destroy the Rohingya group, in whole or in part. In The Gambia's view, these acts are all attributable to Myanmar, which it considers to be responsible for committing genocide. The Gambia contends that Myanmar has also violated other obligations under the Genocide Convention, "including by attempting to commit genocide; conspiring to commit genocide; inciting genocide; complicity in genocide; and failing to prevent and punish genocide". The Court notes that Myanmar, for its part, denied that it has committed any of the violations of the Genocide Convention alleged by The Gambia, arguing in particular the absence of any genocidal intent.

30. For the purposes of the present proceedings, the Court is not required to ascertain whether any violations of Myanmar's obligations under the Genocide Convention have occurred. Such a finding, which notably depends on the assessment of the existence of an intent to destroy, in whole or in part, the group of the Rohingya as such, could be made by the Court only at the stage of the examination of the merits of the present case. What the Court is required to do at the stage of making an order on provisional measures is to establish whether the acts complained of by The Gambia are capable of falling within the provisions of the Genocide Convention. In the Court's view, at least some of the acts alleged by The Gambia are capable of falling within the provisions of the Convention.

31. The Court finds therefore that the above-mentioned elements are sufficient at this stage to establish *prima facie* the existence of a dispute between the Parties relating to the interpretation, application or fulfilment of the Genocide Convention.

### **3. The reservation of Myanmar to Article VIII of the Convention**

32. Myanmar further submits that The Gambia cannot validly seise the Court as a result of Myanmar's reservation to Article VIII of the Genocide Convention, which specifically deals with the right of any of the Contracting Parties to the Convention to seise any competent organ of the United Nations. According to the Respondent, this provision applies to the Court, being a competent organ of the United Nations. In its view, only this provision enables States parties not specially affected to bring a claim before the Court for alleged breaches of the Convention by another State party. Myanmar therefore submits that the valid seisin of the Court by The Gambia, on the basis of Article VIII, is a necessary precondition to the exercise of the Court's jurisdiction under Article IX of the Genocide Convention. In light of its reservation to Article VIII, Myanmar concludes that the Court should not assume jurisdiction in the present case.

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33. The Gambia submits that Myanmar's argument based on its reservation to Article VIII of the Genocide Convention should be rejected as it would amount to depriving Article IX of any substance. In particular, the Applicant contends that the Respondent has not explained how its argument could be reconciled with Myanmar's consent to Article IX and to the Court's jurisdiction.

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34. The Court recalls that Myanmar has made a reservation to Article VIII of the Genocide Convention, which reads as follows: "With reference to article VIII, the Union of Burma makes the reservation that the said article shall not apply to the Union."

Article VIII of the Genocide Convention provides:

"Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III."

35. The Court considers that, although the terms "competent organs of the United Nations" under Article VIII are broad and may be interpreted as encompassing the Court within their scope of application, other terms used in Article VIII suggest a different interpretation. In particular, the Court notes that this provision only addresses in general terms the possibility for any Contracting Party to "call upon" the competent organs of the United Nations to take "action" which is "appropriate" for the prevention and suppression of acts of genocide. It does not refer to the submission of disputes between Contracting Parties to the Genocide Convention to the Court for

adjudication. This is a matter specifically addressed in Article IX of the Convention, to which Myanmar has not entered any reservation. Article VIII and Article IX of the Convention can therefore be said to have distinct areas of application. It is only Article IX of the Convention which is relevant to the seisin of the Court in the present case (cf. *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro)), Provisional Measures, Order of 8 April 1993, I.C.J. Reports 1993*, p. 23, para. 47).

36. In view of the above, Myanmar's reservation to Article VIII of the Genocide Convention does not appear to deprive The Gambia of the possibility to seise the Court of a dispute with Myanmar under Article IX of the Convention.

#### **4. Conclusion as to prima facie jurisdiction**

37. In light of the foregoing, the Court concludes that, prima facie, it has jurisdiction pursuant to Article IX of the Genocide Convention to deal with the case.

38. Given the above conclusion, the Court considers that it cannot accede to Myanmar's request that the case be removed from the General List for manifest lack of jurisdiction.

### **II. QUESTION OF THE STANDING OF THE GAMBIA**

39. Myanmar accepts that, because of the *erga omnes partes* character of some obligations under the Convention, The Gambia has an interest in Myanmar's compliance with such obligations. It disputes, however, that The Gambia has the capacity to bring a case before the Court in relation to Myanmar's alleged breaches of the Genocide Convention without being specially affected by such alleged violations. Myanmar argues that "it is the right of an injured State to decide if, and eventually how, to invoke the responsibility of another State, and that the right of non-injured States to invoke such responsibility is subsidiary". The Respondent submits that Bangladesh, as the State being specially affected by the events forming the subject-matter of the Application, would be the State entitled to invoke the responsibility of Myanmar, but that Bangladesh is prevented from doing so in light of its declaration made with regard to Article IX of the Genocide Convention.

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40. The Gambia contends that, since the obligations under the Genocide Convention are obligations *erga omnes partes*, any State party to the Genocide Convention is entitled to invoke the responsibility of another State party for the breach of its obligations, without having to prove a special interest. The Gambia argues that the fact of being party to a treaty imposing obligations *erga omnes partes* suffices to establish its legal interest and legal standing before the Court. In this regard, it refers to the case concerning *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*, in which the Court recognized the capacity of Belgium to bring a

claim before the Court in relation to alleged breaches of *erga omnes partes* obligations by Senegal under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter the “Convention against Torture”), without determining whether Belgium had been specially affected by those breaches. The Gambia also submits that if a special interest were required with respect to alleged breaches of obligations *erga omnes partes*, in many cases no State would be in a position to make a claim against the perpetrator of the wrongful act.

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41. The Court recalls that in its Advisory Opinion on *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*, it observed that

“[i]n such a convention the contracting States do not have any interests of their own; they merely have, one and all, a common interest, namely, the accomplishment of those high purposes which are the *raison d’être* of the convention. Consequently, in a convention of this type one cannot speak of individual advantages or disadvantages to States, or of the maintenance of a perfect contractual balance between rights and duties. The high ideals which inspired the Convention provide, by virtue of the common will of the parties, the foundation and measure of all its provisions.” (*I.C.J. Reports 1951*, p. 23.)

In view of their shared values, all the States parties to the Genocide Convention have a common interest to ensure that acts of genocide are prevented and that, if they occur, their authors do not enjoy impunity. That common interest implies that the obligations in question are owed by any State party to all the other States parties to the Convention. In its Judgment in the case concerning *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*, the Court observed that the relevant provisions in the Convention against Torture were “similar” to those in the Genocide Convention. The Court held that these provisions generated “obligations [which] may be defined as ‘obligations *erga omnes partes*’ in the sense that each State party has an interest in compliance with them in any given case” (*Judgment, I.C.J. Reports 2012 (II)*, p. 449, para. 68). It follows that any State party to the Genocide Convention, and not only a specially affected State, may invoke the responsibility of another State party with a view to ascertaining the alleged failure to comply with its obligations *erga omnes partes*, and to bring that failure to an end.

42. The Court concludes that The Gambia has *prima facie* standing to submit to it the dispute with Myanmar on the basis of alleged violations of obligations under the Genocide Convention.

### **III. THE RIGHTS WHOSE PROTECTION IS SOUGHT AND THE LINK BETWEEN SUCH RIGHTS AND THE MEASURES REQUESTED**

43. The power of the Court to indicate provisional measures under Article 41 of the Statute has as its object the preservation of the respective rights claimed by the parties in a case, pending its decision on the merits thereof. It follows that the Court must be concerned to preserve by such

measures the rights which may subsequently be adjudged by it to belong to either party. Therefore, the Court may exercise this power only if it is satisfied that the rights asserted by the party requesting such measures are at least plausible (see, for example, *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. United Arab Emirates), Provisional Measures, Order of 23 July 2018, I.C.J. Reports 2018 (II)*, pp. 421-422, para. 43).

44. At this stage of the proceedings, however, the Court is not called upon to determine definitively whether the rights which The Gambia wishes to see protected exist; it need only decide whether the rights claimed by The Gambia on the merits, and for which it is seeking protection, are plausible. Moreover, a link must exist between the rights whose protection is sought and the provisional measures being requested (*ibid.*, para. 44).

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45. In its Application, The Gambia states that it seeks to assert the rights of “all members of the Rohingya group who are in the territory of Myanmar, as members of a protected group under the Genocide Convention”, including the “rights of the Rohingya group to exist as a group”, to be protected from acts of genocide, conspiracy to commit genocide, direct and public incitement to commit genocide, attempt to commit genocide and complicity in genocide, in accordance with Article III of the Convention. The Gambia adds that it “also seeks to protect the *erga omnes partes* rights it has under the Convention, which mirror the *erga omnes* obligations of the Convention with which it is entitled to seek compliance”.

46. The Gambia contends that, for the purposes of the indication of provisional measures, the rights it asserts in the present case are plausible, and that their protection coincides with the very object and purpose of the Convention. The Gambia affirms that, based on the evidence and material placed before the Court, the acts of which it complains are capable of being characterized at least plausibly as genocidal. The Applicant maintains that the evidence of the specific genocidal intent (*dolus specialis*) can be deduced from the pattern of conduct against the Rohingya in Myanmar and refers, in this regard, to the inference of such intent drawn by the Fact-Finding Mission in its reports. In The Gambia’s view, the Court should not be required, before granting provisional measures, to ascertain whether the existence of a genocidal intent is the only plausible inference to be drawn in the given circumstances from the material put before it, a requirement which would amount to making a determination on the merits. In this regard, the fact that some of the alleged acts may also be characterized as crimes other than genocide would not be inconsistent with and should not exclude the plausible inference of the existence of the said genocidal intent.

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47. Myanmar does not specifically address the question whether, for the purposes of the indication of provisional measures, the rights asserted by The Gambia are at least plausible. The Respondent rather contends that the Court should indicate provisional measures only if the claims put forward by The Gambia, based on the facts alleged in its Application, are plausible. Myanmar argues that, for that purpose, a “plausible claim” under the Genocide Convention must include evidence of the required specific genocidal intent. For Myanmar, “it is this subjective intent that is the critical element distinguishing genocide from other violations of international law such as crimes against humanity and war crimes”. Myanmar maintains that the Court should take into account the exceptional gravity of the alleged violations in assessing whether the required level of plausibility is met. It submits that the Court should therefore determine whether it is plausible that the existence of a genocidal intent is the only inference that can be drawn from the acts alleged and the evidence submitted by the Applicant. In this respect, the Respondent explains that if the information and the materials invoked in support of the Application may provide evidence indicating alternative inferences that can be drawn from the alleged conduct, other than an inference of a genocidal intent, the Court should conclude that the claims are not plausible.

48. On that basis, Myanmar states that, in the present case, the Applicant has not provided sufficient and reliable evidence to establish that the acts complained of were plausibly committed with the required specific genocidal intent. The Respondent argues that alternative inferences, other than a genocidal intent to destroy, in whole or in part, the Rohingya group as such, may be drawn from the alleged conduct of Myanmar vis-à-vis the Rohingya.

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49. The Court observes that, in accordance with Article I of the Convention, all States parties thereto have undertaken “to prevent and to punish” the crime of genocide. Article II provides that

“genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.”



50. Pursuant to Article III of the Genocide Convention, the commission of the following acts, other than genocide itself, are also prohibited by the Convention: conspiracy to commit genocide (Article III, para. (b)), direct and public incitement to commit genocide (Article III, para. (c)), attempt to commit genocide (Article III, para. (d)) and complicity in genocide (Article III, para. (e)).

51. The obligation to prevent and punish genocide set out in Article I of the Convention is supplemented by the distinct obligations which appear in the subsequent articles, especially those in Articles V and VI requiring the enactment of the necessary legislation to give effect to the provisions of the Convention, as well as the prosecution of persons charged with such acts. In so far as these provisions concerning the duty to punish also have a deterrent and therefore a preventive effect or purpose, they too meet the obligation to prevent genocide (*Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, I.C.J. Reports 2007 (I), p. 109, para. 159 and p. 219, para. 426).

52. The Court further observes that the provisions of the Convention are intended to protect the members of a national, ethnical, racial or religious group from acts of genocide or any other punishable acts enumerated in Article III. The Court also considers that there is a correlation between the rights of members of groups protected under the Genocide Convention, the obligations incumbent on States parties thereto, and the right of any State party to seek compliance therewith by another State party (cf. *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. United Arab Emirates)*, Provisional Measures, Order of 23 July 2018, I.C.J. Reports 2018 (II), p. 426, para. 51). In the Court's view, the Rohingya in Myanmar appear to constitute a protected group within the meaning of Article II of the Genocide Convention.

53. In the present case, the Court notes that, at the hearings, Myanmar, referring to what it characterizes as "clearance operations" carried out in Rakhine State in 2017, stated that

"it cannot be ruled out that disproportionate force was used by members of the Defence Services in some cases in disregard of international humanitarian law, or that they did not distinguish clearly enough between [Arakan Rohingya Salvation Army] fighters and civilians",

and that

"[t]here may also have been failures to prevent civilians from looting or destroying property after fighting or in abandoned villages".

54. The Court also notes that the United Nations General Assembly, in its resolution 73/264 adopted on 22 December 2018, expressed

"grave concern at the findings of the independent international fact-finding mission on Myanmar that there [was] sufficient information to warrant investigation and prosecution so that a competent court may determine liability for genocide in relation

to the situation in Rakhine State, that crimes against humanity and war crimes have been committed in Kachin, Rakhine and Shan States, including murder, imprisonment, enforced disappearance, torture, rape, sexual slavery and other forms of sexual violence, persecution and enslavement, that children were subjected to and witnessed serious human rights violations, including killing, maiming and sexual violence, that there are reasonable grounds to conclude that serious crimes under international law have been committed that warrant criminal investigation and prosecution and that the military has consistently failed to respect international human rights law and international humanitarian law”.

By the same resolution, the General Assembly condemned

“all violations and abuses of human rights in Myanmar, as set out in the report of the fact-finding mission, including the widespread, systematic and gross human rights violations and abuses committed in Rakhine State, including the presence of elements of extermination and deportation and the systematic oppression and discrimination that the fact-finding mission concluded may amount to persecution and to the crime of apartheid”.

It also

“strongly condemn[ed] the grossly disproportionate response of the military and the security forces, deplore[d] the serious deterioration of the security, human rights and humanitarian situation and the exodus of more than 723,000 Rohingya Muslims and other minorities to Bangladesh and the subsequent depopulation of northern Rakhine State, and call[ed] upon the Myanmar authorities to ensure that those responsible for violations of international law, including human rights violations and abuses, are held accountable and removed from positions of power” (United Nations, doc. A/RES/73/264, 22 December 2018, paras. 1-2).

55. In this connection, the Court recalls that the Fact-Finding Mission, to which the General Assembly refers in its above-mentioned resolution, stated, in its report of 12 September 2018, that it had “reasonable grounds to conclude that serious crimes under international law ha[d] been committed that warrant[ed] criminal investigation and prosecution”, including the crime of genocide, against the Rohingya in Myanmar (United Nations, Report of the Independent International Fact-Finding Mission on Myanmar, doc. A/HRC/39/64, 12 September 2018, paras. 83 and 84-87). The Court notes that, regarding the acts perpetrated against the Rohingya in Rakhine State, the Fact-Finding Mission, in its 2018 detailed findings, observed that

“[t]he actions of those who orchestrated the attacks on the Rohingya read as a veritable check-list: the systematic stripping of human rights, the dehumanizing narratives and rhetoric, the methodical planning, mass killing, mass displacement, mass fear, overwhelming levels of brutality, combined with the physical destruction of the home of the targeted population, in every sense and on every level” (United Nations, Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar, doc. A/HRC/39/CRP.2, 17 September 2018, para. 1440).

The Fact-Finding Mission concluded that “on reasonable grounds . . . the factors allowing the inference of genocidal intent [were] present” (United Nations, Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar, doc. A/HRC/39/CRP.2, 17 September 2018, para. 1441). The Fact-Finding Mission reiterated its conclusions, based on further investigations, in its report of 8 August 2019 (United Nations, Report of the Independent International Fact-Finding Mission on Myanmar, doc. A/HRC/42/50, 8 August 2019, para. 18). The Court further notes that the Fact-Finding Mission, in its 2018 detailed findings, also asserted, based on its overall assessment of the situation in Myanmar since 2011, and particularly in Rakhine State, that the extreme levels of violence perpetrated against the Rohingya in 2016 and 2017 resulted from the “systemic oppression and persecution of the Rohingya”, including the denial of their legal status, identity and citizenship, and followed the instigation of hatred against the Rohingya on ethnic, racial or religious grounds (United Nations, Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar, doc. A/HRC/39/CRP.2, 17 September 2018, paras. 458-748). The Court also recalls that following the events which occurred in Rakhine State in 2016 and 2017, hundreds of thousands of Rohingya have fled to Bangladesh.

56. In view of the function of provisional measures, which is to protect the respective rights of either party pending its final decision, the Court does not consider that the exceptional gravity of the allegations is a decisive factor warranting, as argued by Myanmar, the determination, at the present stage of the proceedings, of the existence of a genocidal intent. In the Court’s view, all the facts and circumstances mentioned above (see paragraphs 53-55) are sufficient to conclude that the rights claimed by The Gambia and for which it is seeking protection — namely the right of the Rohingya group in Myanmar and of its members to be protected from acts of genocide and related prohibited acts mentioned in Article III, and the right of The Gambia to seek compliance by Myanmar with its obligations not to commit, and to prevent and punish genocide in accordance with the Convention — are plausible.

\* \*

57. The Court now turns to the issue of the link between the rights claimed and the provisional measures requested.

\* \*

58. The Gambia submits that the provisional measures it requests (see paragraph 12 above) are directly linked to the rights which form the subject-matter of the dispute. In particular, the Applicant asserts that the first two provisional measures have been requested to ensure Myanmar’s compliance with its obligation to prevent genocide and to uphold the rights of The Gambia to protect the Rohingya group against total or partial destruction, and that the four other provisional measures requested are aimed at protecting the integrity of the proceedings before the Court and The Gambia’s right to have its claim fairly adjudicated.

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59. Myanmar does not dispute the link of the provisional measures requested with the rights under the Genocide Convention for which protection is sought by the Applicant, except with regard to the fifth and sixth provisional measures requested. The Respondent claims that these last two measures would go beyond the specific purpose of preserving the respective rights of the Parties pending a final decision by the Court. Furthermore, with regard to the sixth provisional measure, Myanmar argues that the indication of such a measure would circumvent Myanmar's reservation to Article VIII of the Genocide Convention.

\* \*

60. The Court has already found (see paragraph 56 above) that the rights asserted by The Gambia under the Genocide Convention are plausible.

61. The Court considers that, by their very nature, the first three provisional measures sought by The Gambia (see paragraph 12 above) are aimed at preserving the rights it asserts on the basis of the Genocide Convention in the present case, namely the right of the Rohingya group in Myanmar and of its members to be protected from acts of genocide and other acts mentioned in Article III, and the right of The Gambia to have Myanmar comply with its obligations under the Convention to prevent and punish acts identified and prohibited under Articles II and III of the Convention, including by ensuring the preservation of evidence. As to the fourth and fifth provisional measures requested by The Gambia, the question of their link with the rights for which The Gambia seeks protection does not arise, in so far as such measures would be directed at preventing any action which may aggravate or extend the existing dispute or render it more difficult to resolve, and at providing information on the compliance by the Parties with any specific provisional measure indicated by the Court.

62. As to the sixth provisional measure requested by The Gambia, the Court does not consider that its indication is necessary in the circumstances of the case.

63. The Court concludes, therefore, that a link exists between the rights claimed and some of the provisional measures being requested by The Gambia.

#### **IV. RISK OF IRREPARABLE PREJUDICE AND URGENCY**

64. The Court, pursuant to Article 41 of its Statute, has the power to indicate provisional measures when irreparable prejudice could be caused to rights which are the subject of judicial proceedings or when the alleged disregard of such rights may entail irreparable consequences (*Alleged Violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights (Islamic Republic of Iran v. United States of America)*, *Provisional Measures, Order of 3 October 2018*, *I.C.J. Reports 2018 (II)*, p. 645, para. 77).

65. However, the power of the Court to indicate provisional measures will be exercised only if there is urgency, in the sense that there is a real and imminent risk that irreparable prejudice will be caused before the Court gives its final decision. The condition of urgency is met when the acts

susceptible of causing irreparable prejudice can “occur at any moment” before the Court makes a final decision on the case. The Court must therefore consider whether such a risk exists at this stage of the proceedings (*Alleged Violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights (Islamic Republic of Iran v. United States of America)*, *Provisional Measures, Order of 3 October 2018*, *I.C.J. Reports 2018 (II)*, pp. 645-646, para. 78).

66. The Court is not called upon, for the purposes of its decision on the Request for the indication of provisional measures, to establish the existence of breaches of the Genocide Convention, but to determine whether the circumstances require the indication of provisional measures for the protection of rights under this instrument. It cannot at this stage make definitive findings of fact, and the right of each Party to submit arguments in respect of the merits remains unaffected by the Court’s decision on the Request for the indication of provisional measures.

\* \*

67. The Gambia contends that there is a risk of irreparable prejudice to the rights of the Rohingya and to its own rights under the Genocide Convention, as well as urgency. According to The Gambia, not only have the Rohingya been subjected to genocidal acts in the recent past, but there is a grave danger of further such acts because the Government of Myanmar continues to harbour genocidal intent and to commit crimes against members of the Rohingya group. The Gambia thus argues that the Rohingya remaining in Myanmar face grave threats to their existence, placing them in urgent need of protection.

\*

68. Myanmar denies that there exists a real and imminent risk of irreparable prejudice in the present case. Myanmar first asserts that it is currently engaged in repatriation initiatives for the return of displaced Rohingya presently in Bangladesh, with the support of international actors, whose support would not be forthcoming if there was an imminent or ongoing risk of genocide. Myanmar also argues that it is engaged in a range of initiatives aimed at bringing stability to Rakhine State, protecting those who are there or who will return there, and holding accountable those responsible for past violence — actions which are inconsistent with it allegedly harbouring genocidal intent. Finally, Myanmar stresses the challenges it is facing, *inter alia*, in ending an ongoing “internal armed conflict” with the Arakan Army in Rakhine State. It submits that the indication of provisional measures by the Court might reignite the 2016-2017 “internal armed conflict” with the Arakan Rohingya Salvation Army, and undermine its current efforts towards reconciliation.

\* \*

69. The Court recalls that, as underlined in General Assembly resolution 96 (I) of 11 December 1946,

“[g]enocide is a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings; such denial of the right of existence shocks the conscience of mankind, results in great losses to humanity in the form of cultural and other contributions represented by these human groups, and is contrary to moral law and to the spirit and aims of the United Nations”.

The Court has observed, in particular, that the Genocide Convention “was manifestly adopted for a purely humanitarian and civilizing purpose”, since “its object on the one hand is to safeguard the very existence of certain human groups and on the other to confirm and endorse the most elementary principles of morality” (*Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, Advisory Opinion, I.C.J. Reports 1951*, p. 23).

70. In view of the fundamental values sought to be protected by the Genocide Convention, the Court considers that the rights in question in these proceedings, in particular the right of the Rohingya group in Myanmar and of its members to be protected from killings and other acts threatening their existence as a group, are of such a nature that prejudice to them is capable of causing irreparable harm.

71. The Court notes that the reports of the Fact-Finding Mission (see paragraph 55 above) have indicated that, since October 2016, the Rohingya in Myanmar have been subjected to acts which are capable of affecting their right of existence as a protected group under the Genocide Convention, such as mass killings, widespread rape and other forms of sexual violence, as well as beatings, the destruction of villages and homes, denial of access to food, shelter and other essentials of life. As indicated in resolution 74/246 adopted by the General Assembly on 27 December 2019, this has caused almost 744,000 Rohingya to flee their homes and take refuge in neighbouring Bangladesh (United Nations, doc. A/RES/74/246, 27 December 2019, preambular para. 25). According to the 2019 detailed findings of the Fact-Finding Mission, approximately 600,000 Rohingya remained in Rakhine State as of September 2019 (United Nations, Detailed findings of the Independent International Fact-Finding Mission on Myanmar, doc. A/HRC/42/CRP.5, 16 September 2019, paras. 4, 57, 107, 120, 158 and 212).

72. The Court is of the opinion that the Rohingya in Myanmar remain extremely vulnerable. In this respect, the Court notes that in its resolution 74/246 of 27 December 2019, the General Assembly reiterated

“its grave concern that, in spite of the fact that Rohingya Muslims lived in Myanmar for generations prior to the independence of Myanmar, they were made stateless by the enactment of the 1982 Citizenship Law and were eventually disenfranchised, in 2015, from the electoral process” (United Nations, doc. A/RES/74/246, 27 December 2019, preambular para. 14).

The Court further takes note of the detailed findings of the Fact-Finding Mission on Myanmar submitted to the Human Rights Council in September 2019, which refer to the risk of violations of the Genocide Convention, and in which it is “conclude[d] on reasonable grounds that the Rohingya people remain at serious risk of genocide under the terms of the Genocide Convention” (United Nations, Detailed findings of the Independent International Fact-Finding Mission on Myanmar, doc. A/HRC/42/CRP.5, 16 September 2019, para. 242; see also paras. 58, 240 and 667).

73. The Court takes note of the statement of Myanmar during the oral proceedings that it is currently engaged in repatriation initiatives to facilitate the return of Rohingya refugees present in Bangladesh and that it intends to promote ethnic reconciliation, peace and stability in Rakhine State, and to make its military accountable for violations of international humanitarian and human rights law. In the view of the Court, however, these steps do not appear sufficient in themselves to remove the possibility that acts causing irreparable prejudice to the rights invoked by The Gambia for the protection of the Rohingya in Myanmar could occur. In particular, the Court notes that Myanmar has not presented to the Court concrete measures aimed specifically at recognizing and ensuring the right of the Rohingya to exist as a protected group under the Genocide Convention. Moreover, the Court cannot ignore that the General Assembly has, as recently as on 27 December 2019, expressed its regret that “the situation has not improved in Rakhine State to create the conditions necessary for refugees and other forcibly displaced persons to return to their places of origin voluntarily, safely and with dignity” (United Nations, doc. A/RES/74/246, 27 December 2019, preambular para. 20). At the same time the General Assembly reiterated

“its deep distress at reports that unarmed individuals in Rakhine State have been and continue to be subjected to the excessive use of force and violations of human rights and international humanitarian law by the military and security and armed forces, including extrajudicial, summary or arbitrary killings, systematic rape and other forms of sexual and gender-based violence, arbitrary detention, enforced disappearance and government seizure of Rohingya lands from which Rohingya Muslims were evicted and their homes destroyed” (*ibid.*, preambular para. 16).

74. Finally, the Court observes that, irrespective of the situation that the Myanmar Government is facing in Rakhine State, including the fact that there may be an ongoing internal conflict between armed groups and the Myanmar military and that security measures are in place, Myanmar remains under the obligations incumbent upon it as a State party to the Genocide Convention. The Court recalls that, in accordance with the terms of Article I of the Convention, States parties expressly confirmed their willingness to consider genocide as a crime under international law which they must prevent and punish independently of the context “of peace” or “of war” in which it takes place (*Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections, Judgment, I.C.J. Reports 1996 (II)*, p. 615, para. 31). The context invoked by Myanmar does not stand in the way of the Court’s assessment of the existence of a real and imminent risk of irreparable prejudice to the rights protected under the Convention.

75. In light of the considerations set out above, the Court finds that there is a real and imminent risk of irreparable prejudice to the rights invoked by The Gambia, as specified by the Court (see paragraph 56 above).

## V. CONCLUSION AND MEASURES TO BE ADOPTED

76. From all of the above considerations, the Court concludes that the conditions required by its Statute for it to indicate provisional measures are met. It is therefore necessary, pending its final decision, for the Court to indicate certain measures in order to protect the rights claimed by The Gambia, as identified above (see paragraph 56).

77. The Court recalls that it has the power, under its Statute, when a request for provisional measures has been made, to indicate measures that are, in whole or in part, other than those requested. Article 75, paragraph 2, of the Rules of Court specifically refers to this power of the Court. The Court has already exercised this power in the past (see, for example, *Alleged Violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights (Islamic Republic of Iran v. United States of America)*, *Provisional Measures, Order of 3 October 2018*, I.C.J. Reports 2018 (II), p. 651, para. 96).

78. In the present case, having considered the terms of the provisional measures requested by The Gambia and the circumstances of the case, the Court finds that the measures to be indicated need not be identical to those requested.

79. Bearing in mind Myanmar's duty to comply with its obligations under the Genocide Convention, the Court considers that, with regard to the situation described above, Myanmar must, in accordance with its obligations under the Convention, in relation to the members of the Rohingya group in its territory, take all measures within its power to prevent the commission of all acts within the scope of Article II of the Convention, in particular: (a) killing members of the group; (b) causing serious bodily or mental harm to the members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; and (d) imposing measures intended to prevent births within the group.

80. Myanmar must also, in relation to the members of the Rohingya group in its territory, ensure that its military, as well as any irregular armed units which may be directed or supported by it and any organizations and persons which may be subject to its control, direction or influence, do not commit acts of genocide, or of conspiracy to commit genocide, of direct and public incitement to commit genocide, of attempt to commit genocide, or of complicity in genocide.

81. The Court is also of the view that Myanmar must take effective measures to prevent the destruction and ensure the preservation of any evidence related to allegations of acts within the scope of Article II of the Genocide Convention.

82. Regarding the provisional measure requested by The Gambia that each Party shall provide a report to the Court on all measures taken to give effect to its Order, the Court recalls that it has the power, reflected in Article 78 of the Rules of Court, to request the parties to provide information on any matter connected with the implementation of any provisional measures it has indicated. In view of the specific provisional measures it has decided to indicate, the Court considers that Myanmar must submit a report to the Court on all measures taken to give effect to



this Order within four months, as from the date of this Order, and thereafter every six months, until a final decision on the case is rendered by the Court. Every report so provided shall then be communicated to The Gambia which shall be given the opportunity to submit to the Court its comments thereon.

83. The Gambia has further requested the Court to indicate measures aimed at ensuring the non-aggravation of the dispute with Myanmar. In this respect, the Court recalls that when it is indicating provisional measures for the purpose of preserving specific rights, it also possesses the power to indicate additional provisional measures with a view to preventing the aggravation or extension of the dispute whenever it considers that the circumstances so require (see *Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the Temple of Preah Vihear (Cambodia v. Thailand) (Cambodia v. Thailand), Provisional Measures, Order of 18 July 2011, I.C.J. Reports 2011 (II)*, pp. 551-552, para. 59). However, in the circumstances of the present case, and in view of the specific provisional measures it has decided to take, the Court does not deem it necessary to indicate an additional measure relating to the non-aggravation of the dispute between the Parties.

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\* \*

84. The Court reaffirms that its “orders on provisional measures under Article 41 [of the Statute] have binding effect” (*LaGrand (Germany v. United States of America), Judgment, I.C.J. Reports 2001*, p. 506, para. 109) and thus create international legal obligations for any party to whom the provisional measures are addressed.

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\* \*

85. The Court further reaffirms that the decision given in the present proceedings in no way prejudices the question of the jurisdiction of the Court to deal with the merits of the case or any questions relating to the admissibility of the Application or to the merits themselves. It leaves unaffected the right of the Governments of The Gambia and Myanmar to submit arguments and evidence in respect of those questions.

\*

\* \*

86. For these reasons,

THE COURT,

*Indicates* the following provisional measures:

(1) Unanimously,

The Republic of the Union of Myanmar shall, in accordance with its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide, in relation to the members of the Rohingya group in its territory, take all measures within its power to prevent the commission of all acts within the scope of Article II of this Convention, in particular:

- (a) killing members of the group;
- (b) causing serious bodily or mental harm to the members of the group;
- (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; and
- (d) imposing measures intended to prevent births within the group;

(2) Unanimously,

The Republic of the Union of Myanmar shall, in relation to the members of the Rohingya group in its territory, ensure that its military, as well as any irregular armed units which may be directed or supported by it and any organizations and persons which may be subject to its control, direction or influence, do not commit any acts described in point (1) above, or of conspiracy to commit genocide, of direct and public incitement to commit genocide, of attempt to commit genocide, or of complicity in genocide;

(3) Unanimously,

The Republic of the Union of Myanmar shall take effective measures to prevent the destruction and ensure the preservation of evidence related to allegations of acts within the scope of Article II of the Convention on the Prevention and Punishment of the Crime of Genocide;

(4) Unanimously,

The Republic of the Union of Myanmar shall submit a report to the Court on all measures taken to give effect to this Order within four months, as from the date of this Order, and thereafter every six months, until a final decision on the case is rendered by the Court.

Done in English and in French, the English text being authoritative, at the Peace Palace, The Hague, this twenty-third day of January, two thousand and twenty, in three copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of the Republic of The Gambia and the Government of the Republic of the Union of Myanmar, respectively.

*(Signed)* Abdulqawi Ahmed YUSUF,  
President.

*(Signed)* Philippe GAUTIER,  
Registrar.

Vice-President XUE appends a separate opinion to the Order of the Court;  
Judge CANÇADO TRINDADE appends a separate opinion to the Order of the Court;  
Judge *ad hoc* KRESS appends a declaration to the Order of the Court.

*(Initialed)* A.A.Y.

*(Initialed)* Ph.G.

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Truth and  
Reconciliation  
Commission of Canada

## Exhibit 06

# **Truth and Reconciliation Commission of Canada: Calls to Action**







Truth and  
Reconciliation  
Commission of Canada

# **Truth and Reconciliation Commission of Canada: Calls to Action**



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**2015**

Truth and Reconciliation Commission of Canada, 2012

1500-360 Main Street

Winnipeg, Manitoba

R3C 3Z3

Telephone: (204) 984-5885

Toll Free: 1-888-872-5554 (1-888-TRC-5554)

Fax: (204) 984-5915

E-mail: [info@trc.ca](mailto:info@trc.ca)

Website: [www.trc.ca](http://www.trc.ca)

# Calls to Action

In order to redress the legacy of residential schools and advance the process of Canadian reconciliation, the Truth and Reconciliation Commission makes the following calls to action.

## Legacy

### CHILD WELFARE

1. We call upon the federal, provincial, territorial, and Aboriginal governments to commit to reducing the number of Aboriginal children in care by:
  - i. Monitoring and assessing neglect investigations.
  - ii. Providing adequate resources to enable Aboriginal communities and child-welfare organizations to keep Aboriginal families together where it is safe to do so, and to keep children in culturally appropriate environments, regardless of where they reside.
  - iii. Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the history and impacts of residential schools.
  - iv. Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the potential for Aboriginal communities and families to provide more appropriate solutions to family healing.
  - v. Requiring that all child-welfare decision makers consider the impact of the residential school experience on children and their caregivers.
2. We call upon the federal government, in collaboration with the provinces and territories, to prepare and

publish annual reports on the number of Aboriginal children (First Nations, Inuit, and Métis) who are in care, compared with non-Aboriginal children, as well as the reasons for apprehension, the total spending on preventive and care services by child-welfare agencies, and the effectiveness of various interventions.

3. We call upon all levels of government to fully implement Jordan's Principle.
4. We call upon the federal government to enact Aboriginal child-welfare legislation that establishes national standards for Aboriginal child apprehension and custody cases and includes principles that:
  - i. Affirm the right of Aboriginal governments to establish and maintain their own child-welfare agencies.
  - ii. Require all child-welfare agencies and courts to take the residential school legacy into account in their decision making.
  - iii. Establish, as an important priority, a requirement that placements of Aboriginal children into temporary and permanent care be culturally appropriate.
5. We call upon the federal, provincial, territorial, and Aboriginal governments to develop culturally appropriate parenting programs for Aboriginal families.

### EDUCATION

6. We call upon the Government of Canada to repeal Section 43 of the *Criminal Code of Canada*.
7. We call upon the federal government to develop with Aboriginal groups a joint strategy to eliminate



educational and employment gaps between Aboriginal and non-Aboriginal Canadians.

8. We call upon the federal government to eliminate the discrepancy in federal education funding for First Nations children being educated on reserves and those First Nations children being educated off reserves.
9. We call upon the federal government to prepare and publish annual reports comparing funding for the education of First Nations children on and off reserves, as well as educational and income attainments of Aboriginal peoples in Canada compared with non-Aboriginal people.
10. We call on the federal government to draft new Aboriginal education legislation with the full participation and informed consent of Aboriginal peoples. The new legislation would include a commitment to sufficient funding and would incorporate the following principles:
  - i. Providing sufficient funding to close identified educational achievement gaps within one generation.
  - ii. Improving education attainment levels and success rates.
  - iii. Developing culturally appropriate curricula.
  - iv. Protecting the right to Aboriginal languages, including the teaching of Aboriginal languages as credit courses.
  - v. Enabling parental and community responsibility, control, and accountability, similar to what parents enjoy in public school systems.
  - vi. Enabling parents to fully participate in the education of their children.
  - vii. Respecting and honouring Treaty relationships.
11. We call upon the federal government to provide adequate funding to end the backlog of First Nations students seeking a post-secondary education.
12. We call upon the federal, provincial, territorial, and Aboriginal governments to develop culturally appropriate early childhood education programs for Aboriginal families.

#### **LANGUAGE AND CULTURE**

13. We call upon the federal government to acknowledge that Aboriginal rights include Aboriginal language rights.

14. We call upon the federal government to enact an Aboriginal Languages Act that incorporates the following principles:
  - i. Aboriginal languages are a fundamental and valued element of Canadian culture and society, and there is an urgency to preserve them.
  - ii. Aboriginal language rights are reinforced by the Treaties.
  - iii. The federal government has a responsibility to provide sufficient funds for Aboriginal-language revitalization and preservation.
  - iv. The preservation, revitalization, and strengthening of Aboriginal languages and cultures are best managed by Aboriginal people and communities.
  - v. Funding for Aboriginal language initiatives must reflect the diversity of Aboriginal languages.
15. We call upon the federal government to appoint, in consultation with Aboriginal groups, an Aboriginal Languages Commissioner. The commissioner should help promote Aboriginal languages and report on the adequacy of federal funding of Aboriginal-languages initiatives.
16. We call upon post-secondary institutions to create university and college degree and diploma programs in Aboriginal languages.
17. We call upon all levels of government to enable residential school Survivors and their families to reclaim names changed by the residential school system by waiving administrative costs for a period of five years for the name-change process and the revision of official identity documents, such as birth certificates, passports, driver's licenses, health cards, status cards, and social insurance numbers.

#### **HEALTH**

18. We call upon the federal, provincial, territorial, and Aboriginal governments to acknowledge that the current state of Aboriginal health in Canada is a direct result of previous Canadian government policies, including residential schools, and to recognize and implement the health-care rights of Aboriginal people as identified in international law, constitutional law, and under the Treaties.
19. We call upon the federal government, in consultation with Aboriginal peoples, to establish measurable goals to identify and close the gaps in health outcomes

between Aboriginal and non-Aboriginal communities, and to publish annual progress reports and assess long-term trends. Such efforts would focus on indicators such as: infant mortality, maternal health, suicide, mental health, addictions, life expectancy, birth rates, infant and child health issues, chronic diseases, illness and injury incidence, and the availability of appropriate health services.

20. In order to address the jurisdictional disputes concerning Aboriginal people who do not reside on reserves, we call upon the federal government to recognize, respect, and address the distinct health needs of the Métis, Inuit, and off-reserve Aboriginal peoples.
21. We call upon the federal government to provide sustainable funding for existing and new Aboriginal healing centres to address the physical, mental, emotional, and spiritual harms caused by residential schools, and to ensure that the funding of healing centres in Nunavut and the Northwest Territories is a priority.
22. We call upon those who can effect change within the Canadian health-care system to recognize the value of Aboriginal healing practices and use them in the treatment of Aboriginal patients in collaboration with Aboriginal healers and Elders where requested by Aboriginal patients.
23. We call upon all levels of government to:
  - i. Increase the number of Aboriginal professionals working in the health-care field.
  - ii. Ensure the retention of Aboriginal health-care providers in Aboriginal communities.
  - iii. Provide cultural competency training for all health-care professionals.
24. We call upon medical and nursing schools in Canada to require all students to take a course dealing with Aboriginal health issues, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, and Indigenous teachings and practices. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

## JUSTICE

25. We call upon the federal government to establish a written policy that reaffirms the independence of the

Royal Canadian Mounted Police to investigate crimes in which the government has its own interest as a potential or real party in civil litigation.

26. We call upon the federal, provincial, and territorial governments to review and amend their respective statutes of limitations to ensure that they conform to the principle that governments and other entities cannot rely on limitation defences to defend legal actions of historical abuse brought by Aboriginal people.
27. We call upon the Federation of Law Societies of Canada to ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.
28. We call upon law schools in Canada to require all law students to take a course in Aboriginal people and the law, which includes the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.
29. We call upon the parties and, in particular, the federal government, to work collaboratively with plaintiffs not included in the Indian Residential Schools Settlement Agreement to have disputed legal issues determined expeditiously on an agreed set of facts.
30. We call upon federal, provincial, and territorial governments to commit to eliminating the overrepresentation of Aboriginal people in custody over the next decade, and to issue detailed annual reports that monitor and evaluate progress in doing so.
31. We call upon the federal, provincial, and territorial governments to provide sufficient and stable funding to implement and evaluate community sanctions that will provide realistic alternatives to imprisonment for Aboriginal offenders and respond to the underlying causes of offending.
32. We call upon the federal government to amend the Criminal Code to allow trial judges, upon giving reasons, to depart from mandatory minimum sentences and restrictions on the use of conditional sentences.

33. We call upon the federal, provincial, and territorial governments to recognize as a high priority the need to address and prevent Fetal Alcohol Spectrum Disorder (FASD), and to develop, in collaboration with Aboriginal people, FASD preventive programs that can be delivered in a culturally appropriate manner.
34. We call upon the governments of Canada, the provinces, and territories to undertake reforms to the criminal justice system to better address the needs of offenders with Fetal Alcohol Spectrum Disorder (FASD), including:
  - i. Providing increased community resources and powers for courts to ensure that FASD is properly diagnosed, and that appropriate community supports are in place for those with FASD.
  - ii. Enacting statutory exemptions from mandatory minimum sentences of imprisonment for offenders affected by FASD.
  - iii. Providing community, correctional, and parole resources to maximize the ability of people with FASD to live in the community.
  - iv. Adopting appropriate evaluation mechanisms to measure the effectiveness of such programs and ensure community safety.
35. We call upon the federal government to eliminate barriers to the creation of additional Aboriginal healing lodges within the federal correctional system.
36. We call upon the federal, provincial, and territorial governments to work with Aboriginal communities to provide culturally relevant services to inmates on issues such as substance abuse, family and domestic violence, and overcoming the experience of having been sexually abused.
37. We call upon the federal government to provide more supports for Aboriginal programming in halfway houses and parole services.
38. We call upon the federal, provincial, territorial, and Aboriginal governments to commit to eliminating the overrepresentation of Aboriginal youth in custody over the next decade.
39. We call upon the federal government to develop a national plan to collect and publish data on the criminal victimization of Aboriginal people, including data related to homicide and family violence victimization.
40. We call on all levels of government, in collaboration with Aboriginal people, to create adequately funded and accessible Aboriginal-specific victim programs and services with appropriate evaluation mechanisms.
41. We call upon the federal government, in consultation with Aboriginal organizations, to appoint a public inquiry into the causes of, and remedies for, the disproportionate victimization of Aboriginal women and girls. The inquiry's mandate would include:
  - i. Investigation into missing and murdered Aboriginal women and girls.
  - ii. Links to the intergenerational legacy of residential schools.
42. We call upon the federal, provincial, and territorial governments to commit to the recognition and implementation of Aboriginal justice systems in a manner consistent with the Treaty and Aboriginal rights of Aboriginal peoples, the *Constitution Act, 1982*, and the *United Nations Declaration on the Rights of Indigenous Peoples*, endorsed by Canada in November 2012.

## Reconciliation

### CANADIAN GOVERNMENTS AND THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLE

43. We call upon federal, provincial, territorial, and municipal governments to fully adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples* as the framework for reconciliation.
44. We call upon the Government of Canada to develop a national action plan, strategies, and other concrete measures to achieve the goals of the *United Nations Declaration on the Rights of Indigenous Peoples*.

### ROYAL PROCLAMATION AND COVENANT OF RECONCILIATION

45. We call upon the Government of Canada, on behalf of all Canadians, to jointly develop with Aboriginal peoples a Royal Proclamation of Reconciliation to be issued by the Crown. The proclamation would build on the Royal Proclamation of 1763 and the Treaty of Niagara of 1764, and reaffirm the nation-to-nation relationship between Aboriginal peoples and the Crown. The proclamation would include, but not be limited to, the following commitments:

- i. Repudiate concepts used to justify European sovereignty over Indigenous lands and peoples such as the Doctrine of Discovery and *terra nullius*.
  - ii. Adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples* as the framework for reconciliation.
  - iii. Renew or establish Treaty relationships based on principles of mutual recognition, mutual respect, and shared responsibility for maintaining those relationships into the future.
  - iv. Reconcile Aboriginal and Crown constitutional and legal orders to ensure that Aboriginal peoples are full partners in Confederation, including the recognition and integration of Indigenous laws and legal traditions in negotiation and implementation processes involving Treaties, land claims, and other constructive agreements.
46. We call upon the parties to the Indian Residential Schools Settlement Agreement to develop and sign a Covenant of Reconciliation that would identify principles for working collaboratively to advance reconciliation in Canadian society, and that would include, but not be limited to:
- i. Reaffirmation of the parties' commitment to reconciliation.
  - ii. Repudiation of concepts used to justify European sovereignty over Indigenous lands and peoples, such as the Doctrine of Discovery and *terra nullius*, and the reformation of laws, governance structures, and policies within their respective institutions that continue to rely on such concepts.
  - iii. Full adoption and implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* as the framework for reconciliation.
  - iv. Support for the renewal or establishment of Treaty relationships based on principles of mutual recognition, mutual respect, and shared responsibility for maintaining those relationships into the future.
  - v. Enabling those excluded from the Settlement Agreement to sign onto the Covenant of Reconciliation.
  - vi. Enabling additional parties to sign onto the Covenant of Reconciliation.

47. We call upon federal, provincial, territorial, and municipal governments to repudiate concepts used to justify European sovereignty over Indigenous peoples and lands, such as the Doctrine of Discovery and *terra nullius*, and to reform those laws, government policies, and litigation strategies that continue to rely on such concepts.

#### **SETTLEMENT AGREEMENT PARTIES AND THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES**

48. We call upon the church parties to the Settlement Agreement, and all other faith groups and interfaith social justice groups in Canada who have not already done so, to formally adopt and comply with the principles, norms, and standards of the *United Nations Declaration on the Rights of Indigenous Peoples* as a framework for reconciliation. This would include, but not be limited to, the following commitments:
- i. Ensuring that their institutions, policies, programs, and practices comply with the *United Nations Declaration on the Rights of Indigenous Peoples*.
  - ii. Respecting Indigenous peoples' right to self-determination in spiritual matters, including the right to practise, develop, and teach their own spiritual and religious traditions, customs, and ceremonies, consistent with Article 12:1 of the *United Nations Declaration on the Rights of Indigenous Peoples*.
  - iii. Engaging in ongoing public dialogue and actions to support the *United Nations Declaration on the Rights of Indigenous Peoples*.
  - iv. Issuing a statement no later than March 31, 2016, from all religious denominations and faith groups, as to how they will implement the *United Nations Declaration on the Rights of Indigenous Peoples*.
49. We call upon all religious denominations and faith groups who have not already done so to repudiate concepts used to justify European sovereignty over Indigenous lands and peoples, such as the Doctrine of Discovery and *terra nullius*.

#### **EQUITY FOR ABORIGINAL PEOPLE IN THE LEGAL SYSTEM**

50. In keeping with the *United Nations Declaration on the Rights of Indigenous Peoples*, we call upon the federal government, in collaboration with Aboriginal organizations, to fund the establishment of Indigenous law institutes for the development, use, and

understanding of Indigenous laws and access to justice in accordance with the unique cultures of Aboriginal peoples in Canada.

51. We call upon the Government of Canada, as an obligation of its fiduciary responsibility, to develop a policy of transparency by publishing legal opinions it develops and upon which it acts or intends to act, in regard to the scope and extent of Aboriginal and Treaty rights.
52. We call upon the Government of Canada, provincial and territorial governments, and the courts to adopt the following legal principles:
  - i. Aboriginal title claims are accepted once the Aboriginal claimant has established occupation over a particular territory at a particular point in time.
  - ii. Once Aboriginal title has been established, the burden of proving any limitation on any rights arising from the existence of that title shifts to the party asserting such a limitation.

#### **NATIONAL COUNCIL FOR RECONCILIATION**

53. We call upon the Parliament of Canada, in consultation and collaboration with Aboriginal peoples, to enact legislation to establish a National Council for Reconciliation. The legislation would establish the council as an independent, national, oversight body with membership jointly appointed by the Government of Canada and national Aboriginal organizations, and consisting of Aboriginal and non-Aboriginal members. Its mandate would include, but not be limited to, the following:
  - i. Monitor, evaluate, and report annually to Parliament and the people of Canada on the Government of Canada's post-apology progress on reconciliation to ensure that government accountability for reconciling the relationship between Aboriginal peoples and the Crown is maintained in the coming years.
  - ii. Monitor, evaluate, and report to Parliament and the people of Canada on reconciliation progress across all levels and sectors of Canadian society, including the implementation of the Truth and Reconciliation Commission of Canada's Calls to Action.
  - iii. Develop and implement a multi-year National Action Plan for Reconciliation, which includes research and policy development, public education programs, and resources.

- iv. Promote public dialogue, public/private partnerships, and public initiatives for reconciliation.

54. We call upon the Government of Canada to provide multi-year funding for the National Council for Reconciliation to ensure that it has the financial, human, and technical resources required to conduct its work, including the endowment of a National Reconciliation Trust to advance the cause of reconciliation.
55. We call upon all levels of government to provide annual reports or any current data requested by the National Council for Reconciliation so that it can report on the progress towards reconciliation. The reports or data would include, but not be limited to:
  - i. The number of Aboriginal children—including Métis and Inuit children—in care, compared with non-Aboriginal children, the reasons for apprehension, and the total spending on preventive and care services by child-welfare agencies.
  - ii. Comparative funding for the education of First Nations children on and off reserves.
  - iii. The educational and income attainments of Aboriginal peoples in Canada compared with non-Aboriginal people.
  - iv. Progress on closing the gaps between Aboriginal and non-Aboriginal communities in a number of health indicators such as: infant mortality, maternal health, suicide, mental health, addictions, life expectancy, birth rates, infant and child health issues, chronic diseases, illness and injury incidence, and the availability of appropriate health services.
  - v. Progress on eliminating the overrepresentation of Aboriginal children in youth custody over the next decade.
  - vi. Progress on reducing the rate of criminal victimization of Aboriginal people, including data related to homicide and family violence victimization and other crimes.
  - vii. Progress on reducing the overrepresentation of Aboriginal people in the justice and correctional systems.
56. We call upon the prime minister of Canada to formally respond to the report of the National Council for Reconciliation by issuing an annual "State of Aboriginal Peoples" report, which would outline the government's plans for advancing the cause of reconciliation.

## PROFESSIONAL DEVELOPMENT AND TRAINING FOR PUBLIC SERVANTS

57. We call upon federal, provincial, territorial, and municipal governments to provide education to public servants on the history of Aboriginal peoples, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

## CHURCH APOLOGIES AND RECONCILIATION

58. We call upon the Pope to issue an apology to Survivors, their families, and communities for the Roman Catholic Church's role in the spiritual, cultural, emotional, physical, and sexual abuse of First Nations, Inuit, and Métis children in Catholic-run residential schools. We call for that apology to be similar to the 2010 apology issued to Irish victims of abuse and to occur within one year of the issuing of this Report and to be delivered by the Pope in Canada.
59. We call upon church parties to the Settlement Agreement to develop ongoing education strategies to ensure that their respective congregations learn about their church's role in colonization, the history and legacy of residential schools, and why apologies to former residential school students, their families, and communities were necessary.
60. We call upon leaders of the church parties to the Settlement Agreement and all other faiths, in collaboration with Indigenous spiritual leaders, Survivors, schools of theology, seminaries, and other religious training centres, to develop and teach curriculum for all student clergy, and all clergy and staff who work in Aboriginal communities, on the need to respect Indigenous spirituality in its own right, the history and legacy of residential schools and the roles of the church parties in that system, the history and legacy of religious conflict in Aboriginal families and communities, and the responsibility that churches have to mitigate such conflicts and prevent spiritual violence.
61. We call upon church parties to the Settlement Agreement, in collaboration with Survivors and representatives of Aboriginal organizations, to establish permanent funding to Aboriginal people for:
- i. Community-controlled healing and reconciliation projects.

- ii. Community-controlled culture- and language-revitalization projects.
- iii. Community-controlled education and relationship-building projects.
- iv. Regional dialogues for Indigenous spiritual leaders and youth to discuss Indigenous spirituality, self-determination, and reconciliation.

## EDUCATION FOR RECONCILIATION

62. We call upon the federal, provincial, and territorial governments, in consultation and collaboration with Survivors, Aboriginal peoples, and educators, to:
- i. Make age-appropriate curriculum on residential schools, Treaties, and Aboriginal peoples' historical and contemporary contributions to Canada a mandatory education requirement for Kindergarten to Grade Twelve students.
  - ii. Provide the necessary funding to post-secondary institutions to educate teachers on how to integrate Indigenous knowledge and teaching methods into classrooms.
  - iii. Provide the necessary funding to Aboriginal schools to utilize Indigenous knowledge and teaching methods in classrooms.
  - iv. Establish senior-level positions in government at the assistant deputy minister level or higher dedicated to Aboriginal content in education.
63. We call upon the Council of Ministers of Education, Canada to maintain an annual commitment to Aboriginal education issues, including:
- i. Developing and implementing Kindergarten to Grade Twelve curriculum and learning resources on Aboriginal peoples in Canadian history, and the history and legacy of residential schools.
  - ii. Sharing information and best practices on teaching curriculum related to residential schools and Aboriginal history.
  - iii. Building student capacity for intercultural understanding, empathy, and mutual respect.
  - iv. Identifying teacher-training needs relating to the above.
64. We call upon all levels of government that provide public funds to denominational schools to require such schools to provide an education on comparative religious studies, which must include a segment on

Aboriginal spiritual beliefs and practices developed in collaboration with Aboriginal Elders.

65. We call upon the federal government, through the Social Sciences and Humanities Research Council, and in collaboration with Aboriginal peoples, post-secondary institutions and educators, and the National Centre for Truth and Reconciliation and its partner institutions, to establish a national research program with multi-year funding to advance understanding of reconciliation.

## YOUTH PROGRAMS

66. We call upon the federal government to establish multi-year funding for community-based youth organizations to deliver programs on reconciliation, and establish a national network to share information and best practices.

## MUSEUMS AND ARCHIVES

67. We call upon the federal government to provide funding to the Canadian Museums Association to undertake, in collaboration with Aboriginal peoples, a national review of museum policies and best practices to determine the level of compliance with the *United Nations Declaration on the Rights of Indigenous Peoples* and to make recommendations.
68. We call upon the federal government, in collaboration with Aboriginal peoples, and the Canadian Museums Association to mark the 150th anniversary of Canadian Confederation in 2017 by establishing a dedicated national funding program for commemoration projects on the theme of reconciliation.
69. We call upon Library and Archives Canada to:
  - i. Fully adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples* and the *United Nations Joint-Orontlicher Principles*, as related to Aboriginal peoples' inalienable right to know the truth about what happened and why, with regard to human rights violations committed against them in the residential schools.
  - ii. Ensure that its record holdings related to residential schools are accessible to the public.
  - iii. Commit more resources to its public education materials and programming on residential schools.
70. We call upon the federal government to provide funding to the Canadian Association of Archivists to undertake, in collaboration with Aboriginal peoples, a national review of archival policies and best practices to:

- i. Determine the level of compliance with the *United Nations Declaration on the Rights of Indigenous Peoples* and the *United Nations Joint-Orontlicher Principles*, as related to Aboriginal peoples' inalienable right to know the truth about what happened and why, with regard to human rights violations committed against them in the residential schools.
- ii. Produce a report with recommendations for full implementation of these international mechanisms as a reconciliation framework for Canadian archives.

## MISSING CHILDREN AND BURIAL INFORMATION

71. We call upon all chief coroners and provincial vital statistics agencies that have not provided to the Truth and Reconciliation Commission of Canada their records on the deaths of Aboriginal children in the care of residential school authorities to make these documents available to the National Centre for Truth and Reconciliation.
72. We call upon the federal government to allocate sufficient resources to the National Centre for Truth and Reconciliation to allow it to develop and maintain the National Residential School Student Death Register established by the Truth and Reconciliation Commission of Canada.
73. We call upon the federal government to work with churches, Aboriginal communities, and former residential school students to establish and maintain an online registry of residential school cemeteries, including, where possible, plot maps showing the location of deceased residential school children.
74. We call upon the federal government to work with the churches and Aboriginal community leaders to inform the families of children who died at residential schools of the child's burial location, and to respond to families' wishes for appropriate commemoration ceremonies and markers, and reburial in home communities where requested.
75. We call upon the federal government to work with provincial, territorial, and municipal governments, churches, Aboriginal communities, former residential school students, and current landowners to develop and implement strategies and procedures for the ongoing identification, documentation, maintenance, commemoration, and protection of residential school cemeteries or other sites at which residential school children were buried. This is to include the provision of

appropriate memorial ceremonies and commemorative markers to honour the deceased children.

76. We call upon the parties engaged in the work of documenting, maintaining, commemorating, and protecting residential school cemeteries to adopt strategies in accordance with the following principles:
- i. The Aboriginal community most affected shall lead the development of such strategies.
  - ii. Information shall be sought from residential school Survivors and other Knowledge Keepers in the development of such strategies.
  - iii. Aboriginal protocols shall be respected before any potentially invasive technical inspection and investigation of a cemetery site.

#### **NATIONAL CENTRE FOR TRUTH AND RECONCILIATION**

77. We call upon provincial, territorial, municipal, and community archives to work collaboratively with the National Centre for Truth and Reconciliation to identify and collect copies of all records relevant to the history and legacy of the residential school system, and to provide these to the National Centre for Truth and Reconciliation.
78. We call upon the Government of Canada to commit to making a funding contribution of \$10 million over seven years to the National Centre for Truth and Reconciliation, plus an additional amount to assist communities to research and produce histories of their own residential school experience and their involvement in truth, healing, and reconciliation.

#### **COMMEMORATION**

79. We call upon the federal government, in collaboration with Survivors, Aboriginal organizations, and the arts community, to develop a reconciliation framework for Canadian heritage and commemoration. This would include, but not be limited to:
- i. Amending the Historic Sites and Monuments Act to include First Nations, Inuit, and Métis representation on the Historic Sites and Monuments Board of Canada and its Secretariat.
  - ii. Revising the policies, criteria, and practices of the National Program of Historical Commemoration to integrate Indigenous history, heritage values, and memory practices into Canada's national heritage and history.

- iii. Developing and implementing a national heritage plan and strategy for commemorating residential school sites, the history and legacy of residential schools, and the contributions of Aboriginal peoples to Canada's history.

80. We call upon the federal government, in collaboration with Aboriginal peoples, to establish, as a statutory holiday, a National Day for Truth and Reconciliation to honour Survivors, their families, and communities, and ensure that public commemoration of the history and legacy of residential schools remains a vital component of the reconciliation process.
81. We call upon the federal government, in collaboration with Survivors and their organizations, and other parties to the Settlement Agreement, to commission and install a publicly accessible, highly visible, Residential Schools National Monument in the city of Ottawa to honour Survivors and all the children who were lost to their families and communities.
82. We call upon provincial and territorial governments, in collaboration with Survivors and their organizations, and other parties to the Settlement Agreement, to commission and install a publicly accessible, highly visible, Residential Schools Monument in each capital city to honour Survivors and all the children who were lost to their families and communities.
83. We call upon the Canada Council for the Arts to establish, as a funding priority, a strategy for Indigenous and non-Indigenous artists to undertake collaborative projects and produce works that contribute to the reconciliation process.

#### **MEDIA AND RECONCILIATION**

84. We call upon the federal government to restore and increase funding to the CBC/Radio-Canada, to enable Canada's national public broadcaster to support reconciliation, and be properly reflective of the diverse cultures, languages, and perspectives of Aboriginal peoples, including, but not limited to:
- i. Increasing Aboriginal programming, including Aboriginal-language speakers.
  - ii. Increasing equitable access for Aboriginal peoples to jobs, leadership positions, and professional development opportunities within the organization.
  - iii. Continuing to provide dedicated news coverage and online public information resources on issues of concern to Aboriginal peoples and all Canadians,



including the history and legacy of residential schools and the reconciliation process.

85. We call upon the Aboriginal Peoples Television Network, as an independent non-profit broadcaster with programming by, for, and about Aboriginal peoples, to support reconciliation, including but not limited to:
  - i. Continuing to provide leadership in programming and organizational culture that reflects the diverse cultures, languages, and perspectives of Aboriginal peoples.
  - ii. Continuing to develop media initiatives that inform and educate the Canadian public, and connect Aboriginal and non-Aboriginal Canadians.
86. We call upon Canadian journalism programs and media schools to require education for all students on the history of Aboriginal peoples, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations.

#### **SPORTS AND RECONCILIATION**

87. We call upon all levels of government, in collaboration with Aboriginal peoples, sports halls of fame, and other relevant organizations, to provide public education that tells the national story of Aboriginal athletes in history.
88. We call upon all levels of government to take action to ensure long-term Aboriginal athlete development and growth, and continued support for the North American Indigenous Games, including funding to host the games and for provincial and territorial team preparation and travel.
89. We call upon the federal government to amend the Physical Activity and Sport Act to support reconciliation by ensuring that policies to promote physical activity as a fundamental element of health and well-being, reduce barriers to sports participation, increase the pursuit of excellence in sport, and build capacity in the Canadian sport system, are inclusive of Aboriginal peoples.
90. We call upon the federal government to ensure that national sports policies, programs, and initiatives are inclusive of Aboriginal peoples, including, but not limited to, establishing:
  - i. In collaboration with provincial and territorial governments, stable funding for, and access to, community sports programs that reflect the diverse

cultures and traditional sporting activities of Aboriginal peoples.

- ii. An elite athlete development program for Aboriginal athletes.
  - iii. Programs for coaches, trainers, and sports officials that are culturally relevant for Aboriginal peoples.
  - iv. Anti-racism awareness and training programs.
91. We call upon the officials and host countries of international sporting events such as the Olympics, Pan Am, and Commonwealth games to ensure that Indigenous peoples' territorial protocols are respected, and local Indigenous communities are engaged in all aspects of planning and participating in such events.

#### **BUSINESS AND RECONCILIATION**

92. We call upon the corporate sector in Canada to adopt the *United Nations Declaration on the Rights of Indigenous Peoples* as a reconciliation framework and to apply its principles, norms, and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources. This would include, but not be limited to, the following:
  - i. Commit to meaningful consultation, building respectful relationships, and obtaining the free, prior, and informed consent of Indigenous peoples before proceeding with economic development projects.
  - ii. Ensure that Aboriginal peoples have equitable access to jobs, training, and education opportunities in the corporate sector, and that Aboriginal communities gain long-term sustainable benefits from economic development projects.
  - iii. Provide education for management and staff on the history of Aboriginal peoples, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills based training in intercultural competency, conflict resolution, human rights, and anti-racism.

#### **NEWCOMERS TO CANADA**

93. We call upon the federal government, in collaboration with the national Aboriginal organizations, to revise the information kit for newcomers to Canada and its citizenship test to reflect a more inclusive history of the diverse Aboriginal peoples of Canada, including

information about the Treaties and the history of residential schools.

94. We call upon the Government of Canada to replace the Oath of Citizenship with the following:

I swear (or affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, Queen of Canada, Her Heirs and Successors, and that I will faithfully observe the laws of Canada including Treaties with Indigenous Peoples, and fulfill my duties as a Canadian citizen.

## Truth and Reconciliation Commission of Canada

1500-360 Main Street

Winnipeg, Manitoba

R3C 3Z3

Telephone: (204) 984-5885

Toll Free: 1-888-872-5554 (1-888-TRC-5554)

Fax: (204) 984-5915

E-mail: [info@trc.ca](mailto:info@trc.ca)

Website: [www.trc.ca](http://www.trc.ca)