

# Iraq: Country Case Study Report

## How Law and Regulation Support Disaster Risk Reduction

United Nations Development Programme

June 2014



IFRC-UNDP Series on Legal Frameworks  
to support disaster risk reduction

 International Federation  
of Red Cross and Red Crescent Societies



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### About this report

This report was commissioned by UNDP and prepared by Salman Humayun and Ilham Rasheed Al Abyadh. It is one of a series of case studies UNDP is undertaking with the IFRC as part of a global research project to learn about how law and regulation supports disaster risk reduction. For more information about the project and various case studies as they become available, please visit:

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The IFRC's Disaster Law Programme seeks to reduce human vulnerability by promoting effective legal frameworks for disaster risk reduction and legal preparedness for disasters. It works in three main areas: collaboration with National Red Cross and Red Crescent Societies and other partners to offer technical assistance to governments on disaster law issues; building the capacity of National Societies and other stakeholders on disaster law; and dissemination, advocacy and research. E-mail: [disaster.law@ifrc.org](mailto:disaster.law@ifrc.org).

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Cover photograph: [Girl collecting water, UNDP Iraq Country Office](#)

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## Executive Summary

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Over the last few decades, the people of Iraq have suffered the consequences of economic stagnation and reduced access to essential services as a result of war, sanctions and conflict. Following the fall of Saddam Hussein and the Ba'ath Party in 2003, Iraq has emerged as a fledgling democracy. Iraq's population tripled between 1970 and 2007, growing from 10 to 30 million. 71 percent of the population is located in urban areas, with the majority of these living in cramped, slum-like conditions.

Iraq is exposed to multiple forms of natural and human induced hazards. The country is increasingly susceptible to natural hazards including drought, floods, epidemics, sandstorms, desertification, marshland ecosystem degradation, soil salination of fertile lands and earthquakes. This susceptibility to natural hazards is coupled with the impact of war, which has exposed the population to multiple human induced hazards including depleted uranium, sulphur dioxide released from sulphur stockpiles, military scrap yards, unexploded ordnance and land mines, fire, surface water contamination from damaged oil pipelines, and land contamination and hazardous waste from industry and military sources. Acute poverty, displacement and the continuing effects of conflict have exacerbated the vulnerability of the Iraqi people to these hazards. War and post-war conflicts have crippled many essential services needed to reduce risks, manage hazards and respond to disasters.

Within this context, a historically weak institutional framework for disaster risk reduction has further undermined the capacity of communities and individuals to manage disaster risks. The government of Iraq has traditionally responded in a reactive manner to disasters associated with flooding, earthquakes, drought, conflict and industrial accidents. Measures introduced before the regime change in 2003 that govern disaster risk management include: the Emergency Use Law 1961, the Civil Defence Law 1978, the Social Care Law 1980, and the Public Health Law 1981. The institutional capacity of the state to effectively manage disaster risk was inhibited during the post-war transition. Moreover it appears that the absence of a national platform to coordinate the efforts of institutions at all levels of government poses serious limitations for existing institutional and legislative systems for DRR.

DRR-related functions are performed by a number of institutions at federal, governorate and local levels including: the Directorate of Civil Defence, Governorate Emergency Cells (GECs), the Directorate General of Health, and the Ministry of Displaced and Migrants (MODM). The mandate of the National Operations Centre (NOC), which was originally established under the Prime Minister's Office (PMO) to respond to acts of violence, is being extended to include response to natural disasters. Crisis Action Cells (CAC) were established in November 2006 with the authority to coordinate with all line Ministries to provide national-level crisis management.

Appreciating the necessity to improve disaster risk reduction capacity, the present Government of Iraq (GoI) has committed to revising its institutional and legal systems for DRR. The government has set up a National Committee for Disaster Risk Reduction under the chairmanship of the Minister for Science and Technology with representatives of relevant national ministries and public bodies. The Committee has drafted a National Disaster Risk Reduction Law, which has been endorsed by the Minister and submitted to the Cabinet for its approval. The Committee also plans to propose a national policy on disaster risk reduction and to establish mandates for the institutional systems which will govern it.

## List of Abbreviations

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CAC	Crisis Action Cell
CBDRM	Community Based Disaster Risk Management
CSO	Civil Society Organization
GEC	Governorate Emergency Cells
GOI	Government of Iraq
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Person
IFRC	The International Federation of Red Cross and Red Crescent Societies
IRCS	Iraqi Red Crescent Society
KRG	Kurdistan Regional Government
MODM	Ministry of Displaced and Migrants
MOEnv	Ministry of Environment
MOH	Ministry of Health
MOI	Ministry of Interior
MOST	Ministry of Science and Technology
MOWR	Ministry of Water Resources
NOC	National Operations Center
OCHA	Office for the Coordination of Humanitarian Affairs
PMO	Prime Minister's Office
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNOPS	United Nations Office for Project Service



# 1. Introduction

1.1. Law & DRR Project Background

1.2. Geography & Disaster Risk Profile of Iraq

1.3. Governmental & Law Making Structure



# 1. Introduction, Background & Project Objectives

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## 1.1. Law & DRR Project Background

In January 2005, a UN conference of over 4,000 representatives of governments, NGOs, the Red Cross and Red Crescent, UN agencies, academic institutes and the private sector adopted the Hyogo Framework for Action<sup>1</sup>, which contained a set of commitments and priorities for action to reduce disaster risks. The first of these was to ‘ensure that disaster risk reduction is a national and a local priority with a strong institutional basis for implementation,’ notably through ‘policy, legislative and institutional frameworks for disaster risk reduction.’

Since 2005, a significant amount of legislation has been adopted in various parts of the world aimed at strengthening disaster risk reduction, yet important gaps still remain, particularly with regard to follow-through at community level. This was confirmed in a number of reports prepared around the time of the mid-term review of the Hyogo Framework for Action<sup>2</sup>, and subsequently, including country case studies by the United Nations Development Programme (UNDP) and the International Federation of Red Cross and Red Crescent Societies (IFRC)<sup>3</sup>. Communities were found not to be well enough informed, engaged and resourced to take an active part in reducing risks, and it was noted that rules to deter risky behaviours (particularly in construction and land use) often go unenforced. While legislation is certainly not the only way to address some of the issues, it can be an important part of the puzzle.

In 2011, the state parties to the Geneva Conventions took up this issue at the International Conference of the Red Cross and Red Crescent. Their resolution encouraged states, with support from their National Red Cross and Red Crescent Societies, IFRC, the UNDP, and other relevant partners to review the existing legislative frameworks in light of the key gap areas identified in the IFRC report to the Conference, and to assess whether they adequately:

- make disaster risk reduction (DRR) a priority for community-level action;
- promote disaster risk mapping at the community level;
- promote communities’ access to information about DRR;
- promote the involvement of communities, RCRC National Societies, other civil society and the private sector in DRR activities at the community level;
- allocate adequate funding for DRR activities at the community level;
- ensure that development planning adequately takes into account local variability in hazard profiles, exposure, vulnerability and cost-benefit analysis;

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<sup>1</sup> ‘Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters (Extract from the Final Report of the World Conference on Disaster Reduction)’, World Conference on Disaster Reduction. 18-22 January 2005, Kobe, Hyogo, Japan (Kobe, Hyogo, Japan: International Strategy for Disaster Reduction, United Nations, 2005).

<sup>2</sup> UNDP, A Global Review: UNDP Support to Institutional and Legislative Systems for Disaster Risk Management, 2007; Global Network of Civil Society Networks for Disaster Risk Reduction, “Clouds but Little Rain” Views from the Frontline: A Local Perspective of Progress Towards Implementation of the Hyogo Framework for Action, 2009; IFRC Hyogo Framework for Action: Red Cross and Red Crescent Mid-Term Review, October 2010; UNISDR, Hyogo Framework for Action: Mid-Term Review 2010- 2011; Global Network of Civil Society Networks for Disaster Risk Reduction, If We Do Not Join Hands.

<sup>3</sup> See, for example, *Ethiopia: Country Case Study Report – How Law and Regulation Supports Disaster Risk Reduction*, IFRC, 15 May 2013, *Nicaragua: Country Case Study Report – How Law and Regulation Supports Disaster Risk Reduction*, IFRC, 15 May 2013, *Mexico Country Case Study Report - How Law and Regulation Supports Disaster Risk Reduction*, UNDP, January 2014 and *Kyrgyzstan Country Case Study Report - How Law and Regulation Supports Disaster Risk Reduction*, UNDP, January 2014. Analysis of legislation related to disaster risk reduction in Brazil, IFRC, 1 January 2012; Analysis of legislation related to disaster risk reduction in the Dominican Republic, IFRC, 1 January 2012: <http://www.ifrc.org/research-tools-and-publications/disaster-law-publications/>

- ensure full implementation of building codes, land use regulations and other legal incentives;
- and promote strong accountability for results in reducing disaster risks at the community level.

The purpose of the country case studies as a whole is to assist UNDP and IFRC in compiling a Global Synthesis Report on DRR and legislation. The data will also be used to inform the parallel development of a Checklist for Lawmakers. The synthesis study will be available as a tool for states and international actors, including UNDP and the Red Cross and Red Crescent Movement, by providing comparative data and examples of good legislative practices and their implementation. It will also be used to develop other tools as the basis for advocacy and capacity building in DRR. The purpose of the present Country Case Study is to provide country level information and analysis for this global project, but also to provide insights into law and disaster risk reduction in Iraq.

In this context, DRR is defined according to the United Nations Office for Disaster Risk (UNISDR) terminology: “The concept and practice of reducing disaster risks through systematic efforts to analyse and manage the causal factors of disasters, including through reduced exposures to hazards, lessened vulnerability of people and property, wise management of land and environment, and improved preparedness for adverse events.”<sup>4</sup>

## 1.2. Geography and Disaster Risk Profile of Iraq

With a geographic area of 435,052 km, Iraq is bordered to the north by Turkey, to the east by Iran, to the south by Saudi Arabia and the Persian Gulf, and to the west by Syria and Jordan. The country is divided into four major physiographic zones: desert plateau, which covers approximately 40 percent of the territory; the north-eastern highlands, which cover approximately 20 percent of the total area; the uplands region covering about 10 percent; with the remaining 30 percent consisting of an alluvial plain formed by the combined deltas of the Tigris and Euphrates Rivers.

The climate varies throughout the country. The northern mountainous region along the Iranian and Turkish borders experiences cold harsh winters with heavy snows that melt in early spring, and which can cause extensive flooding in central and southern Iraq<sup>5</sup>. Precipitation is unevenly distributed, ranging from under 100mm to about 1,000mm/year. The area surrounding the capital, Baghdad, is relatively dry in contrast to the south of the country, which is characterized by high humidity. Only 13 percent of the total land area of Iraq is arable.

The water control projects of the previous regime drained much of the marsh areas east of An Nasiriyah by drying up or diverting feeder streams and rivers. This has resulted in the displacement of a once sizable indigenous population of Marsh Arabs. The destruction of this ecosystem also poses serious threats to the area's wildlife. It has led to air and water pollution, soil salination, erosion, and desertification, and jeopardises important ecosystem services including potable water supplies and the economic development of the Tigris and Euphrates river catchment areas.

The population of Iraq is 29.6 million (July 2007). The average population density is estimated at 61/km<sup>2</sup>, ranging from 9/km<sup>2</sup> in the Anbar governorate in the western desert to more than 1,490/km<sup>2</sup> in the Baghdad governorate. In 1990 the average population growth rate was estimated at 3.6 percent; however this rate has since declined to 2.76 percent in 2003 due to emigration, a higher mortality rate and a lower fertility rate<sup>6</sup>. There has been a recent influx of refugees from Syria which places additional pressures on the country's governance and administrative capacity to cope with disaster risk.

### Natural Hazards

Due to its diverse topography, Iraq is exposed to multiple natural hazards. Floods and epidemics pose the greatest risks in the country, followed by earthquakes and drought. Between 1988 and 2007, 76 percent of all natural hazard-induced disasters in Iraq were associated with hydrological, meteorological or climatological events. These disasters accounted for approximately 45 percent of deaths and 80 percent of economic losses from disasters in the country.

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<sup>4</sup> 2009 UNISDR Terminology on Disaster Risk Reduction, Geneva, 2009.

<sup>5</sup> UNEP. 2007. UNEP in Iraq: Post-Conflict Assessment, Clean-up and Reconstruction. United Nations Environment Programme. Nairobi. Kenya.

<sup>6</sup> World Food Programme. 2008. Comprehensive Food Security and Vulnerability Analysis In Iraq. United Nations World Food Programme. Iraq.

The following table summarises the impact of ten major disasters in Iraq since 1991. Due to the limited scope of the study, economic losses due to armed conflict after 2003 have not been included.

**Natural Disasters (1900 to 2013)<sup>7</sup>**

Type of Disaster	Year	No of Total Affected
Flood	1967	260,000
Flood	1968	150,000
Drought	1969	500,000
Flood	2004	8,000
Flood	2006	41,890
Flood	2006	18,020
Epidemic	2007	4,696
Epidemic	2008	892
Flood	2009	3,000
Flood	2011	2,001

Changing weather patterns are likely to lead to more extreme weather events and an increase in the number and magnitude of weather-related disasters. Between 2007 and 2009, drought affected large areas of the country including the governorates of Kirkuk, Makhmour, Koya, Chamchamal, and Rania<sup>8</sup>. The after-effects of war exacerbated by 12 years of economic sanctions, have adversely impacted the food security situation in Iraq. In 2010 Iraq experienced its worst drought in decades. According to experts, the current rate of decline may result in a famine-induced humanitarian crisis in Iraq. Heavy rains in northern Iraq in early February 2006 caused rivers to overflow, leading to extensive flooding. The flooding was worsened by the natural melting of ice in the mountainous north of the country. More than 7,000 families were displaced in the worst affected governorates; Erbil, Sallahaddin, Kirkuk, Dyiala and Missan<sup>9</sup>.

Iraq is located in a seismically active zone on the north-eastern border of the Arabian Plate. Though not directly located in a dense cluster of recent earthquake epicentres, the country has a medium to high exposure to seismic hazards. The Wasit province is particularly exposed to seismic risk and is predicted to experience severe and frequent earthquakes in the coming years.

<sup>7</sup> "EM-DAT: The OFDA/CRED International Disaster Database (www.em-dat.net)

<sup>8</sup> Raphaeli, Dr. Nimrod, "Water Crisis in Iraq: The Growing Danger of Desertification," The Middle East Media Institute, 7/23/09

<sup>9</sup> IFRC Appeal. Iraq: Floods; Appeal no. MDRIQ001

## Human Induced Hazards

Iraq has several thousand contaminated sites as a result of the poor management of hazardous materials generated from industrial activities, military operations and post-conflict damage. The mismanagement of materials from some industrial centres has led to increased exposure to radiation and an elevated risk of poisoning, birth defects and cancer. Many of these sites containing substantial quantities of hazardous waste are derelict, unsecured and open to public access and looting. Previously sound sites have been extensively damaged by looting and in the process chemicals stored on site have been spilled, thereby creating hazardous waste and causing land contamination<sup>10</sup>. The public health risk from direct contact with hazardous chemicals and wastes left on such sites is particularly high. There is also significant human health risk from exposure to contaminated land and surface water as the reclamation of contaminated land has left hazardous wastes exposed which require appropriate management including proper treatment and/or disposal. According to UN estimates, contaminated sites cover an area of approximately 1,730 sq. km and affect 1.6 million people throughout the country. These sites are concentrated in the northern part of the country.

Landmines, abandoned munitions and military equipment, unexploded ordnance and other explosive remnants of war (ERW) also pose a serious threat to the people of Iraq. The population of southern Iraq is particularly exposed to widely scattered unexploded ordnance (UXOs)<sup>11</sup>.

### 1.3. Governmental and Law Making Structure

The country's political history has largely shaped the institutional and legislative framework for Disaster Risk Reduction in. The Iraqi Temporary Constitution of 1970, enacted by the Revolutionary Command Council (RCC), remained in effect until 2003. Based on this constitution, legislative authority was initially held by the RCC, headed by Saddam Hussein and senior members of the Baath Party. The majority of resolutions issued by the RCC were designed to keep power centralized. When the Parliament was established in 1980 the RCC retained much of its control as it was the only legislative authority whose orders and resolutions could not be contested by the Parliament.

Following the regime change in Iraq in 2003, the Coalition Provisional Authority (CPA) and the Iraqi Governing Council were established to reform the legal system. The CPA drafted and enforced the Temporary Administrative Law (TAL) in 2004 to serve as a transitional constitution. A number of executive orders were issued under the TAL, most of which were aimed at ensuring a smooth transition. A new constitution was approved by referendum on 15th October 2005 and entered into force in 2006. It sets out the powers of the legislative, executive and judicial branches of government as well as the jurisdictional authority of key federal and regional government authorities.

The 2005 Constitution establishes a federal parliamentary system of government. It provides for an asymmetric system of federalism according to which Iraq's existing provinces may choose to form separate regions, or merge with one another to form a single region, with each being allowed to negotiate a specific relationship with the federal government<sup>12</sup>. Administratively Iraq is divided into 18 governorates, with each governorate further subdivided into districts known as qadhs<sup>13</sup>. Iraqi Kurdistan<sup>14</sup>, which is governed by the Kurdistan Regional Government (KRG), is recognized in the Constitution as an autonomous region within the Federal Republic of Iraq<sup>15</sup>. The governorates of

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<sup>10</sup> UNEP. 2007. UNEP in Iraq: Post-Conflict Assessment, Clean-up and Reconstruction. United Nations Environment Programme. Nairobi. Kenya

<sup>11</sup> UN Inter-Agency Information and Analysis Unit. April 2012. Landmines and Unexploded Ordnances Factsheet in Iraq

<sup>12</sup> Article 119, Constitution of Iraq 2005

<sup>13</sup> Administrative Divisions of Iraq: Iraq currently has 18 provinces or governorates, which include following:

Dohuk, Nineveh, Arbil, Kirkuk, Sulaymaniyah, Saladin, Al Anbar, Baghdad, Diyala, Karbala, Babil, Wasit, Najaf, Al-Qādisiyyah, Maysan, Muthanna, Dhi Qar, and Basra. Each Governorate is divided into districts (qadha) which are further divided into sub-districts. At the moment there are a total of 111 districts.

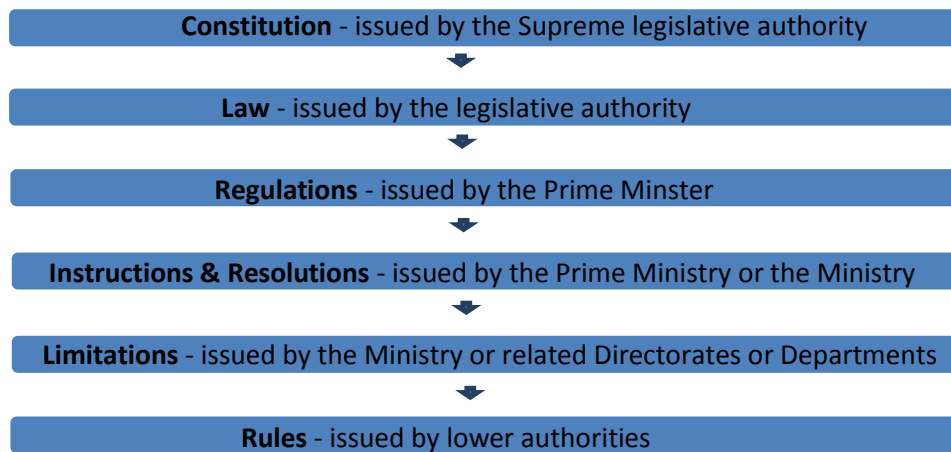
<sup>14</sup> Since 1970, three of the northern governorates (Dahuk, Sulaymaniyah and Erbil) have been officially designated as a Kurdish autonomous region, with a separate elected legislature. This region came under UN and coalition protection after the 1990-1991 Gulf War, to prevent the then Iraqi regime led by Saddam Hussain from taking military action against the Kurds.

<sup>15</sup> Article 117(1): This Constitution, upon coming into force, shall recognize the region of Kurdistan, along with its existing authorities, as a federal region. Constitution of Iraq 2005. Kurdistan Regional Government (KRG) includes the three administrative governorates of Arbil, Duhok, and Sulaymaniyah.

Arbil, Duhok, Sulaymaniyah are presided over by the Prime Minister of KRG. The status of Kirkuk province is currently under review<sup>16</sup>.

The legislative framework in Iraq is hierarchical in nature, meaning that in the case of a conflict between lower and higher forms of legislation, the higher law holds primacy. This principle applies to all legislation issued before and after 2003, i.e. the legislation of the previous regime is valid as long as it doesn't contradict the new Constitution of 2005. This has resulted in the partial invalidation of many laws. Within the hierarchical structure of the Iraqi legal system, the executive functions of institutions are usually set out in superior laws with the finer details regarding implementation outlined in rules issued by the authorities themselves.

The legislative hierarchy in Iraq can be summarized as follows:



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<sup>16</sup> Article 140 of the constitution provides holding of a referendum to determine the status of Kirkuk not later than December 31, 2007 however it was delayed and is yet to be held. Anthony H. Cordesman and Arleigh A. Burke. 2011. *Iraq in Transition: Governance, Politics, Economics, and Petroleum*. CSIS. Washington, DC



## 2: Methodology

2.1. Study Objectives

2.2. Framework of Analysis

2.3 Methodology

## 2. Methodology

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### 2.1. Study Objectives

The present study, which aims to assist ongoing efforts to improve DRR legal and institutional arrangements in Iraq, examines key strengths and gaps in the existing institutional and legislative systems framework for DRR. As well as providing a review of the existing legal framework, the research will also provide insights and forward-looking recommendations on law and disaster risk reduction in Iraq; contribute to a UNDP-IFRC Global Synthesis Report on DRR Law; and inform the policy and law making process for DRR in Iraq.

### 2.2. Framework of Analysis

The parameters of analysis for reviewing the existing DRR-related legal and institutional arrangements in Iraq were guided by the comprehensive disaster risk management framework as outlined in the International Strategy for Disaster Reduction (ISDR) and the priority areas provided in the Hyogo Framework for Action (HFA 2005-15). In particular it aims to establish whether the DRR framework is capable of generating an adequate response at all levels of governance in Iraq. These parameters provided the basis for the subsequent evaluation of various legal instruments, mandates of different agencies and effectiveness of a draft National Disaster Risk Reduction Law.

### 2.3. Methodology

The research consisted of a desk review substantiated by research conducted in-country. The desk review included an evaluation of existing legal and institutional arrangements relating to disaster management, a review of the draft National Disaster Risk Reduction Law and an examination of the implementation of disaster related laws. The review of local legal and institutional arrangements was examined in light of international best practice for states and international development partners in DRR. Where possible, inferences drawn from the desk review were corroborated by interviews with key stakeholders at national, governorate and district levels. However, the field research component of the study was severely limited by difficulties in gaining access to local communities due to the prevailing security situation in the country.



## 3: Legal & Institutional Framework for Disaster Risk Reduction

3.1. Constitutional Development and Disaster Risk Reduction

3.2. Current DRR Specific Legislation

3.3. Sector and Thematic Laws



## 3. Legal and Institutional Framework for Disaster Risk Reduction

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An effective legal and institutional framework for disaster risk reduction governs the planning, implementation and monitoring of disaster risk management processes, ensures coordination among all stakeholders, and integrates DRR efforts into development policies and programmes in order to reduce the vulnerability of the population to disaster risks. The existing legal and institutional framework in Iraq has limited scope for DRR. A number of factors have contributed to this weakness including fewer natural disasters in recent times, protracted war, localised conflict and political instability.

### 3.1 Constitutional Development and Disaster Risk Reduction

The existing legislative framework for DRR includes a legacy of legal instruments enacted during successive phases of constitutional development. Prior to 2003, legislative authority was jointly held by the Revolutionary Command Council (RCC) and the Parliament. During the transitional period this power was transferred to the General Assembly. Under the 2005 Constitution, legislative authority is assigned to the Council of Representatives (CoR). Regulations on specific matters are issued by the Prime Minister. Instructions and resolutions under a particular law can be issued by the Prime Minister or a relevant Ministry. A significant amount of new legislation has been introduced during the transition phase, and more recently under the ambit of the 2005 Constitution. As DRR is a crosscutting theme, this body of law contains a number of laws, regulations and resolutions which designate the mandates of a diverse set of institutions at federal, governorate and local levels and the roles and responsibilities of officials as they relate to disaster preparedness and response.

Regional governments must request support from the federal government and the federal CoR to declare a state of emergency or war. A state of emergency may be declared by the CoR following a joint request from the President of the Republic and the Prime Minister and is subject to a two-thirds majority of the CoR members. The state of emergency is declared for an initial period of thirty days, which can be extended upon approval. The Prime Minister is designated with special powers under the Constitution to enable him to manage the affairs of the country during a state of war or emergency. The Prime Minister then presents the measures to be taken during the emergency period and the outcomes of these measures to the CoR within 15 days from the end of the period<sup>17</sup>.

These requirements are restrictive as it may be difficult to obtain the necessary consensus for a joint submission from the President and the Prime Minister due to political divisions within the government. It is recommended that the President and/or the Prime Minister be given the right to independently submit such a request in order to make the process of declaring a disaster more efficient. Furthermore, there should be a distinction between a state of emergency caused by natural hazards and one caused by war.

The special law to regulate Prime Ministerial powers in cases of emergencies and wars has yet to be issued by the CoR. The CoR has also failed to reach agreement over a new law regulating the main powers of the Prime Minister. The special law on the Prime Minister's Powers during a state of emergency should be the next step following the approval of the law on the main powers, or be addressed within this law.

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<sup>17</sup> Article (61) / Para. Ninth of the Iraqi Constitution.

## DRR in the Pre-2003 Governance Framework

A number of DRR related laws were enacted before 2003 and remain in force today. These include the Emergency Use Law 1961, the Civil Defence Law 1978 and the Social Care Law 1980. The Emergency Use Law 1961 was enacted to respond to disasters, calamities and accidents. The Civil Defence Law, introduced in 1978, established the Civil Defence in Iraq. Its purview was later extended under multiple resolutions. Other laws enacted prior to 2003 that have a bearing on DRR include the Cities Land Use Law 1965, the Public Health Law 1981, Rangelands and their Protection Law 1965, Maintenance of Networks of Irrigation and Drainage Law 1995, Regulation of Landfills Law 1986 (updated in 2009 as Law No 29), Protection from Ionic Radiation Law 1980, and the Preservation of Water Resources Law 2001.

## DRR in the Post 2003 Governance Framework

There are no specific provisions on DRR in the Constitution of Iraq. However it does ascribe certain disaster related responsibilities to the federal government. Article 33 (2) obliges the state to protect and preserve the environment and its biological diversity<sup>18</sup>. Subsections 3, 5 and 7 of Article 114 assign powers to the federal government for the formulation of policies on public health, environmental policy and water resources policy<sup>19</sup>.

The administrative framework for governorates, districts and local government is organised according to the Province Law 2008<sup>20</sup>. The law empowers governors of respective provinces to undertake specific measures in cases of disaster including the establishment of Governorate Emergency Cells (GECs) to address humanitarian emergencies in accordance with a “Master Plan” for response functions<sup>21</sup>. GECs are currently operational in nine of 18 governorates. They are linked to a Protection Assurance Committee which offers legal assistance to returnees and is supported by the Danish Refugee Council and UNHCR. Depending on the scale of the disaster, the governor may request the support of the Federal Ministry of the Interior. In the case of a disaster which is beyond the control of the administration of the governorate, a higher coordination committee can be convened under the Prime Minister to manage the affairs of the particular province facing the emergency situation. The governors of other governorates are also members of this Committee<sup>22</sup>. This law is not applied in the provinces of Kirkuk and KRG due to their special political statuses. KRG is recognized in the Constitution as an autonomous region within the Federal Republic of Iraq. It is made up of the governorates of Arbil, Duhok, Sulaymaniyah which are presided over by the Prime Minister of KRG. In cases of emergency the governors of these governorates exercise similar powers to those of other provinces, however in the case of large scale emergency situations they seek support from the KRG Ministry of Interior<sup>23</sup>.

### Formation of Higher Coordination Committees

## 3.2 Current DRR Specific Legislation

### Emergency Use Law 1961

The Emergency Use Law 1961<sup>24</sup> is the earliest effort to make provisions for responding to disasters in Iraq. The hazards covered by this law include floods, fires, excessive snowfall, earthquakes and pest attacks. Article 1 grants special powers to the administrative heads of governorates to mount a rapid response to crisis situations including the

<sup>18</sup> Article 33 (2): The State shall undertake the protection and preservation of the environment and its biological diversity.

<sup>19</sup> Article 114: The following competencies shall be shared between the federal authorities and regional authorities.

(3). To formulate environmental policy to ensure the protection of the environment from pollution and to preserve its cleanliness, in cooperation with the regions and governorates that are not organized in a region.

(5). To formulate public health policy, in cooperation with the regions and governorates that are not organized in a region.

(7). To formulate and regulate the internal water resources policy in a way that guarantees their just distribution, and this shall be regulated by a law.

Constitution of Iraq 2005

<sup>20</sup> Province Law No 21 of 2008. The Law is not extended to the Governorate of Kirkuk and KRG Governorates of Dahuk, Sulaymaniyah and Erbil.

<sup>21</sup> Article 31, Province Law No. 21. 2008

<sup>22</sup> Article 45, Province Law No.21 2008

<sup>23</sup> Interview with Mr. Karazan Bakhsh, Province Council / Chief of Staff Sulaymaniyah and Mr. Ali Rawoof, Chief of the Emergency and Succor Committee/Province Center Commissioner Sulaymaniyah at Sulaymaniyah on December 23, 2012.

<sup>24</sup> Law No. 37 of 1961

request for support to declare a state of emergency, measures to respond to emergency situations and the establishment of committees to assess damages<sup>25</sup>. Article 2 refers to the mechanisms for convening government agencies for support and the coordination of available transport, buildings and other resources<sup>26</sup>. These measures are to be taken in consultation with the Federal Ministry of the Interior<sup>27</sup>.

The definition of disaster provided in the Emergency Use Law 1961 is limited in scope. The use of the term “sudden or unexpected accidents” is too general and excludes important aspects of disaster risk. Similarly the classifications of emergency situations under the provisions of this law fail to cover the whole spectrum of natural and manmade hazards. The law also does not provide for any specific measure aimed at reducing risk or mitigating hazards.

### Civil Defence Law 1978

**Article 123,  
Civil Defence  
Law 1978:**

The Civil Defence Law 1978<sup>28</sup> is fundamental to DRR in Iraq because of its mandate, prescribed functions and delegation of responsibility to the lowest administrative levels. The law established the Civil Defence Department under the Federal Ministry of the Interior with a mandate to provide key response and relief services in the event of an emergency. These services include early warning, rescue, evacuation, medical services, fire-fighting, shelter provision, livestock safety and industrial security. In the absence of an established district or local-level civil defence team, the mandated responsibilities are to be performed by the local police department.<sup>29</sup> The law also provides for the special allocation of funds for civil defence activities and projects.

A number of resolutions have been issued under the Civil Defence Law by the Federal Ministry of the Interior. Resolutions issued under Article 2 deal mainly with the creation and organisation of civil defence formations at the governorate, district and local levels. Resolutions issued under Article 4 relate to the establishment of and public participation in committees, and the provision of guidelines and instructions for supporting and strengthening civil defence.

#### **Resolutions issued under Article 2 of the Civil Defence Law 1978:**

*Resolution No. 13, 1992: The Public Service of Training on Civil Defence Activities:* This resolution provides for post war and emergency training of civil defence formations. It also outlines the roles and duties to be performed by relevant ministries, departments and civic bodies in support of civil defence. The resolution includes organisations such as students unions, as well as youth and women’s associations in disaster response training and preparedness activities<sup>30</sup>.

*Resolution No. 1, 1999: Creation of the Supreme Leading Body of Civil Defence Activities:* This resolution establishes the Supreme Leading Body to oversee and guide civil defence activities. The body is composed of a Supreme Committee at the federal level and sub-committees at each governorate level.

#### **Resolutions Issued under Article 4 of the Civil Defence Law 1978:**

*Resolution No. 12, 1992: Civil Defence Teams Service in Residential Areas:* This resolution provides for the training of civil defence teams in residential areas. The resolution aims to prepare students, youth, and women’s groups to play an effective role in the event of an emergency situation. The resolution creates two types of committees: one at the federal level and another at each governorate level. The committees are composed of a Director of Civil Defence; Director Generals from the Ministries of Education, Municipalities, the Interior, and the Red Crescent Society; and

<sup>25</sup> Article 1, Emergency Use Law No 37 of 1961

<sup>26</sup> Article 2, Emergency Use Law No 37 of 1961

<sup>27</sup> Article 3, Emergency Use Law No 37 of 1961

<sup>28</sup> Law No. 64 of 1978

<sup>29</sup> Article 11 (1)2, Civil Defence Law 1978

<sup>30</sup> Article 1-2, Resolution No. (13) 1992 under Civil Defence Law 1978

Presidents of Iraqi Students Unions, the Union of Iraqi Youth, and Women's Unions. The committees at the governorate level have a similar composition with governorate level officials and representatives<sup>31</sup>.

*Resolution No. 14, 1992: Civil Defence Facility Service:* The resolution provides for the establishment of civil defence facilities. It entrusts the Ministry of Planning with funding for the creation and management of facilities to carry out civil defence-related activities. The planning, coordination and implementation of these activities are assigned to the Civil Defence Supreme Committee at the federal level and Civil Defence Committees at the governorate level. The stipulated activities include the allocation of specific areas for conducting civil defence activities and the maintenance of these facilities at all levels from federal to municipality<sup>32</sup>.

The Civil Defence Law provides a wide-ranging framework for the preparation and management of emergency situations. However there are weaknesses in a number of areas, particularly with regard to definitional limitations. The law is relief and response oriented, and makes only partial reference to preparedness. Moreover the Constitution of 2005 rendered a number of its provisions obsolete. The resolutions issued under the law provide a number of pertinent provisions which are relevant for preparedness and which can be used to strengthen community based disaster risk reduction. These include the allocation of funds for civil defence activities at local and municipal levels, the training of civil defence teams in residential areas and the maintenance of facilities for emergency response.

### 3.3 Sector and Thematic Laws

Because of its cross-cutting nature, public policy and institutions in a broad range of sectors have a direct and indirect influence on DRR. These include laws and regulations on the environment, health, land-use and planning, building codes and infrastructure.

#### Social Care Law 1980

The Social Care Law<sup>33</sup> places an obligation on the State of Iraq to provide support and care to selected citizens. The law requires the state to provide assistance and support to victims in the event of an emergency<sup>34</sup>. Responsibility for the implementation of this law is held by the Ministry of Labour and Social Welfare, the Department of Social Care and the Chief of the State Department for Social Care. As stipulated under this law, the relief/succour funds maintained by the federal government are administered by the State Department of Social Care<sup>35</sup>. However the law does not provide details of the support to be provided. The scope of the Social Care Law in relation to disaster response is complementary to the Civil Defence Law, however the two laws do not cross reference each other.

There are no rules regulating the payment of compensation to disaster victims. The Governor of Wasit Province explained that although the Provincial Council is authorised to pay compensation of up to 500,000 ID (US\$430) to disaster victims, in most cases the Council had insufficient resources to cover all victims because there was no specific allocation in the Provincial budget for such purposes. In one instance the Council used alternative funds to pay for the funeral expenses of flood victims.

#### Public Health Law 1981

The Public Health Law<sup>36</sup> defines the functions and roles to be performed in the event of an epidemic. The key responsibility under this law resides with the Federal Ministry of Health. The prescribed actions under this law include: restriction of movement, closure of public and private buildings, quarantine measures in respect to livestock and goods, control of buildings, transportation, and compensation payments to affected citizens<sup>37</sup>. A number of

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<sup>31</sup> The resolution is no longer in operation as the Unions of Students, Youth and Women are no longer in existence.

<sup>32</sup> Interviews with representatives of Ministry of Planning, Civil Defence Department and Baghdad Municipality. December 2012.

<sup>33</sup> Law No 126 of 1980

<sup>34</sup> Article 2(1), Social Care Law No. 126 of 1980

<sup>35</sup> Article 105, Social Care Law No. 126 of 1980

<sup>36</sup> Law No 89 of 1981

<sup>37</sup> Article 46 (3), Public Health Law 1981

provisions in this law designate authority for implementation to the governorates/region and district level authorities. The extent to which this instrument can be effective at the governorate/region and municipal levels is unclear.

### Ministry of Transportation and Communication Law 1994

The Ministry of Transportation and Communication Law 1994<sup>38</sup> established the Ministry of Transportation and Communication which was bifurcated in 2003 into the Ministry of Transportation and the Ministry of Communication. Both federal ministries are still governed under the original law. The Ministry of Transportation is mandated to respond to emergencies and to conduct relief activities. It is also authorized to acquire vehicles during states of emergency. Under the provisions of the Transportation Law 1983, public authorities are authorised to use all public and private means of transport available during disasters<sup>39</sup>. The Federal Ministry of Communication is mandated under this law to provide basic telecommunications services. The law mandates the Ministry to monitor climate and weather through its constituent Department for Meteorology and Earthquake Observation<sup>40</sup>.

### Financial Management Law 2004

#### Annual Contingency Fund

The Financial Management Law<sup>41</sup> (Law no. 95 supplemented by law no. 100) was issued by the Coalition Provisional Authority in 2004. The law regulates the preparation, adoption, recording, management, execution and reporting of the federal budget of Iraq, as well as related issues including public borrowing, guarantees, internal control, accounting and auditing. The law sets out the allocation of finance for a contingency reserve fund<sup>42</sup>. In 2006 this allocation was increased by the CoR from five to ten percent of the non-interest expenditures of the federal budget. This allocation of funds to respond to disasters is critical and demonstrates the Government of Iraq's commitment to strengthening its legislative and institutional systems for DRR.

In the Suliamnyia Province of KRG, the Council's budget comes from the federal government through the Kurdistan Regional Government. Within the Council's budget there is a specific allocation for emergencies. The use of these funds for compensation or social support to disaster victims or for the treatment of disaster damages is granted to the Council under the Law on Provinces<sup>43</sup>. If the amount is not sufficient to cover all of the expenses, the Council can request additional funds from the KRG. Based on a PMO resolution<sup>44</sup>, the Council established the Emergency and Succour Committee. The Committee is chaired by the Province Centre Commissioner and is comprised of representatives from the Provincial Civil Defence Departments, the Iraqi Red Crescent Organization, the Department of Health, the Ministry of Environment and members of national and international NGOs. Membership of the Committee is reviewed by the Council every 6 months.

### Environment Protection Act 2009

The Environment Protection Act 2009<sup>45</sup> governs the protection and improvement of the environment through the removal and treatment of existing hazards and the preservation of public health, natural resources, biodiversity, cultural and natural heritage, and the achievement of international and regional cooperation<sup>46</sup>. The Council of Environmental Protection and Improvement, established under the Environment Protection Act, has an important role in the formulation of the National Plan for Disaster Risk Reduction (National Plan) and the contingency plans of ministries. Although the environment protection legislation does not specifically address disaster risk reduction, it provides for the consideration of environmental aspects of disaster risk in environmental impact assessments.

<sup>38</sup> Law No. 7 of 1994

<sup>39</sup> Article 17 & 29 Transportation Law No. (80) of 1983

<sup>40</sup> Article 1 & 6 Ministry of Transportation and Communication Law No. 7 of 1994

<sup>41</sup> Law No. 95 & Law No. 100 of 2004 and Law No. 25 of 2006.

<sup>42</sup> Section 7(2) d, Financial Management Law 2004

<sup>43</sup> Article (7) of the law on provinces

<sup>44</sup> The participants didn't provide details on the number and date of this resolution and usually such resolutions may come in a form of special instructions or special letters from the PMO addressed to the provinces councils. They consider these resolutions part of their internal correspondences that cannot be shared with other entities except the province.

<sup>45</sup> Law No 29 of 2009

<sup>46</sup> Article 1, Environment Protection Act No. 29 of 2009

Furthermore, due to the association between risk reduction and environmental protection, the provisions of this law will be important to consider when finalizing the National Disaster Risk Reduction Law.

### 3.4 Institutional Framework for DRR

As is evident from the review of legislation, Iraq has traditionally followed a relief- and response-oriented approach to disaster risk management. Correspondingly, the existing institutional architecture is focussed on such activities. There are multiple federal ministries and departments at governorate and district levels dealing with different aspects of disaster management. In recent years a number of functions have also been assumed by the Prime Minister's Office (PMO) through the establishment of institutions such as the National Operations Centre (NOC). However there is no focal agency at the national or governorate level to coordinate and integrate the multiple DRR related roles of various institutions.

#### National Operations Centre (NOC)

The National Operations Centre (NOC) was established under the PMO with support from NATO's Training Mission in Iraq (NTM-I). The centre's primary functions are responding to terrorist incidents as well as occurrences of civil strife and conflict, and collecting and sharing information with the PMO regarding internal security threats. As the threat of terrorism and civil strife is reduced, the remit of the NOC will be extended to include response to natural hazard-induced disasters.

#### Ministry of Environment (MOENV)

The Federal Ministry of the Environment is entrusted with multiple roles relating to DRR, including responding to chemical and biological threats. The Ministry of the Environment also shares responsibility with the Ministry of Defence for landmine and UXO clearance and the disposal of hazardous materials and pollutants. The Environmental Protection and Improvement Council of Iraq, established under the Environment Law 2009, holds responsibility for the formulation of national and ministerial emergency plans relating to environmental hazards. The Federal Ministry for Environmental Protection has yet to develop standards for Environmental Impact Assessments.

#### Ministry of Water Resources (MOWR)

The Ministry of Water Resources (MOWR) holds responsibility for water resource management including the management of nine large dams and eighteen major barrages across the country. MOWR also plays a key role in rehabilitating marshlands and responding to hydrological disasters including drought and seasonal water scarcity. The MOWR is currently formulating a water management strategy to rehabilitate the areas affected by the 2010 drought and to reduce the risk of future hydrological disasters. MOWR is also responsible for ensuring the maintenance of dams and monitoring the water supply<sup>47</sup>.

Representatives from Wasit Province highlighted the deterioration of a local dam. Monitoring and maintenance activities are conducted on a regular basis and restrictions on heavy vehicles and two way traffic on the dam have been imposed. However there is a lack of communication between the Department of Dams in the Province and the Department of Meteorological and Earthquake Observation.

#### Ministry of Displaced and Migrants (MODR)

The Ministry of Displaced and Migrants (MODR) is responsible for responding to the needs of displaced persons in Iraq. The total number of Internally Displaced Persons (IDPs) is estimated to be between 2,040,000 and 2,750,000. In November 2010, the International Organization for Migration (IOM) reported that 2,750,000 IDPs lived in Iraq, out of which 1,660,000 people had been displaced since 2006<sup>48</sup>. It is estimated that prior to 2003 there were 1.2 million

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<sup>47</sup> Interview with Mr. Saleem Challub Bachay, Project Manager Al- Kut Dam

<sup>48</sup> International Organization for Migration (IOM), February 2011, Review of Displacement and Return in Iraq

displaced people in the country. The number increased drastically in the aftermath of the 2003 war. According to MODR estimates, there are currently over 1.6 million IDPs in the country<sup>49</sup>.

### Ministry of Science and Technology (MOST) & Inter-Ministerial Committee on Disaster Risk Management

The Ministry for Science and Technology has exhibited commitment to developing a comprehensive DRR framework for Iraq<sup>50</sup>. A centre to study the frequency and impact of disasters has been established at the Ministry. As a result of the MOST's efforts, an inter-ministerial committee was formed with 17 representatives from the Prime Minister's Office (Advisory Committee and Legal Department), the Ministry of Science and Technology (Disasters Centre and Ministry Secretary), the Iraqi Institution of Radiant Sources Control in KRG, the Ministry of Defence, the Ministry of Water Resources/Dams Department, the Ministry of Planning, the Ministry of Health, the Ministry of Municipalities, the Ministry of Environment, the State Ministry for National Security, and the Iraqi Red Crescent Society to prepare the draft National Law on Disaster Risk Reduction<sup>51</sup>. This draft has since been prepared and submitted to the Cabinet for approval.

### Directorate General of Civil Defence

The Directorate General of Civil Defence, working under the Federal Ministry of the Interior, is the focal agency for disaster response at all levels. In the case of an emergency it provides essential services including rescue, evacuation, ambulance, shelters, emergency communications, fire-fighting, and medical services. Resolutions 12, 13, & 14 of 1992, issued under the Civil Defence Law 1978, provide the Directorate with a mandate to strengthen preparedness at all levels down to the municipal level.

### Ministry of Health (MOH)

The Ministry of Health plays a central role in responding to epidemics and providing emergency healthcare in the event of a disaster. The Directorates of Public Health and Primary Health Care working under the MOH are developing protocols and capacities to respond to emerging threats of new health epidemics in addition to building capacities to respond to conditions involving mass casualties.

### Governorate Emergency Cells (GEC)/Emergency Committee (KRG)

Governorate Emergency Cells have been established in nine of 18 governorates under a PMO Resolution at the governorate level. The GECs are headed by the respective governors and include officials from the Civil Defence Department, the Health Department, NGO provincial representatives, and a UN liaison officer. The Emergency Cells coordinate disaster response activities of relevant departments at the governorate and local level. However, the GECs have not been allocated any budgets to perform these functions and there are no funds earmarked to help assist affected populations<sup>52</sup>. In the KRG region, an Emergency and Succour Committee has been established to perform a similar function at the governorate level. The Committee is headed by the Governorate Commissioner and is composed of representatives from the Civil Defence Department, Health Departments, Iraqi Red Crescent Society, KRG Ministry of Environment, and members from national and international NGOs. The committee is supported by a subcommittee that consists of 11 permanent members from various districts within the governorate<sup>53</sup>.

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<sup>49</sup> MODM. 2008. National Policy on Displacement. Baghdad; Iraq

<sup>50</sup> Interview with Dr. Samir Al-Attar, Deputy Minister of Science and Technology Iraq

<sup>51</sup> The committee included representatives of PMO, Ministry of Science and Technology, Iraqi Institution of Radiant Sources Control in KRG, Ministry of Defence, Ministry of Water Resources / Dams Department, Ministry of Planning, Ministry of Health, Ministry of Municipality, Ministry of Environment, State Ministry for National Security, and ICRC.

<sup>52</sup> Interview with Mr. Mahdi Hussein Khalil al-Zubaidi, Governor of Wasit Governorate. December 10, 2012

<sup>53</sup> Interview with Mr. Ali Rawoof, Chief of the Emergency and Succor Committee December 23, 2012

## Department of Meteorological and Earthquake Observation

The role of early warning for preparedness is performed by two key institutions: the State Department for Meteorological and Earthquake Observation in the Ministry of Communication, and the Geological Survey Department in the Ministry of Industries and Minerals. The Meteorological Department is mandated under the Transportation and Communication Law 1994 to take appropriate measures, including the acquisition of scientific equipment and the continuous monitoring of climate and weather events<sup>54</sup>. In the context of early warning and risk assessment the role of these departments is significant not only in terms of providing timely information but also for planning and preparedness at all levels to respond to natural hazards.

### 3.5 Discussion: Legal and Institutional Arrangement for DRR

The above review highlights a number of major gaps and shortcomings in the institutional and legislative systems framework for DRR in Iraq. Iraq continues to take an emergency response model to natural and manmade disasters although there is evident commitment to the development of a more comprehensive framework with a focus on risk reduction. Better integration of responsibilities is needed, as the functions associated with reducing the risk of disasters and responding to them are placed in different ministries. Major gaps in the existing legal and institutional arrangements include the following:

#### Reactive and fragmented nature of DRR legislation

According to the Minister of Science and Technology, existing legislation does not provide a comprehensive disaster risk management framework to adequately address existing risks. The two key laws relating to DRR, the Emergency Use Law 1961 and the Civil Defence Law 1978, provide for relief and response mechanisms for addressing hazards but fail to address mitigation and preparedness.

#### Weaknesses in DRR-Related Laws

The existing body of law is made up of legal instruments enacted during three distinct phases of the political and constitutional development of the country. This includes laws enacted prior to the adoption of the Constitution of 1970, laws enacted under the Constitution of 1970, and laws and regulations enacted or issued post-2003 and after the adoption of the 2005 Constitution. Significant gaps and overlaps in the laws enacted during these phases have obfuscated the applicability of several laws. The Emergency Use Law 1961 and its provisions refer to state institutions which no longer exist thus limiting the applicability of a potentially valuable piece of legislation. Resolution 13 issued in 1992 under the Civil Defence Law primarily focuses on student, youth and women's unions for the purpose of training and mobilizing communities at the local level, however many of these unions have ceased to exist, thus making the law for strengthening community-based DRR redundant.

#### Multiple Agencies dealing with Different Aspects of Disaster

There are multiple laws and institutions dealing with different aspects of managing disasters at all levels. At the national level, the National Operations Centre (NOC) under the Prime Minister's Office is responsible for managing issues related to terrorism and civil unrest. Recently the NOC has expanded its remit to include response to natural disasters. The Civil Defence working under the Ministry of the Interior is also responsible for responding to a number of emergency situations. Similarly, the Ministry of Water Resources, the Ministry of Displaced and Migrants, the Ministry of Environment, the Ministry of Science and Technology, and the Ministry of Defence are responsible for responding to emergency situations under their respective mandates.

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<sup>54</sup> Article 1 & 6 Transportation and Communication Law 1994



## Efficacy of Governorate Emergency Cells

Governorate Emergency Cells (GECs) have been established and are working under their respective governors in nine governorates to date. The GECs are supported by international humanitarian agencies. This represents a step in the right direction, as these cells are performing an essential coordination function among the departments with DRR-relevant functions. However, there are some serious gaps which need to be addressed. GECs are only present in nine of the eighteen governorates. Also, there are no corresponding institutions at national and district/local levels. Most importantly, GECs have no financial support to perform their mandated functions<sup>55</sup>.

## Restrictive Scope

The existing institutional arrangements at national, regional, governorate and district levels focus primarily on post-disaster situations. Also, the capacity of line agencies to engage in disaster response is narrowly focused on disasters associated with natural hazards and does not cover the whole spectrum of emergency situations.

## Early Warning

There are inadequacies in institutionalised early warning & information management systems. A comprehensive risk assessment has yet to be conducted, which would provide essential information to set priorities for mitigation and prevention strategies. Similarly, necessary monitoring and prediction capabilities to provide timely estimates of potential risks faced by communities, the economy and the environment have yet to be developed. Evidence from the field suggests that government departments responsible for undertaking risk assessments and monitoring are lacking in terms of human resources and scientific equipment<sup>56</sup>.

## Information Dissemination

There is no dedicated communication system in place to alert provincial, regional and local governmental agencies in at risk locations.

## Absence of a Focal Agency

The present legislative and institutional system is overly complex. Laws and institutions have overlapping jurisdictions and DRR-related functions are placed in different ministries. There is no coordinating body to ensure an integrated response by the multiple agencies working on DRR.

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<sup>55</sup> Interview with Mr. Mahdi Hussein Khalil al-Zubaidi, Governor of Wasit Governorate. December 10, 2012

<sup>56</sup> Interview with Mr. Salwan Amjad, Department Assistant, Department for the Meteorology and Earthquake Observation



## 4: Draft National Disaster Risk Reduction Law

### 4.1. Conceptual Framework

### 4.2. Draft National Disaster Risk Reduction Law

### 4.3. Discussion: Draft Disaster Risk Reduction Law Issues

## 4. Draft National Disaster Risk Reduction Law

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### 4.1. Conceptual Framework

Having recognized weaknesses in the existing legal and institutional framework, the Government established an Inter-Ministerial Committee led by the MOST to draft a law on disaster risk reduction in Iraq. The disaster risk reduction conceptual framework considers possibilities to minimize vulnerabilities and disaster risks throughout society, to avoid (prevent) or to limit (mitigate and prepare for) the adverse impacts of hazards within the broad context of sustainable development. The framework is comprised of the following elements:

- Risk awareness and assessment, including hazard, vulnerability and capacity analysis
- Knowledge development, including education, training, research and information
- Public commitment and institutional frameworks, including organisational capacity, policy, legislation and community action
- Application of measures including environmental management, land-use and urban planning, protection of critical facilities, application of science and technology, partnership and networking, and financial instruments
- Early warning systems, including forecasting, dissemination of warnings, preparedness measures and response capacities

The committee has prepared a draft law that has been submitted to the Cabinet for review. The draft National Disaster Risk Reduction Law broadens the scope of the DRR framework from traditional disaster response to include disaster risk reduction, prevention and mitigation. The framework is based upon the 2005 Hyogo Framework for Action and the strategy of the Arab Disaster Risk Reduction 2020 document which was approved by the 2012 Arab Summit Conference in Baghdad<sup>57</sup>.

### 4.2. Draft National Disaster Risk Reduction Law

The draft National Disaster Risk Reduction Law emphasizes the reduction of disaster risk using appropriate policy and administrative action. This demonstrates the government's commitment to reduce the potential risks of hazards of all kinds and to develop the capacity of government institutions, communities and organizations<sup>58</sup>. The draft law proposes the establishment of a number of new institutions at national and sub-national levels, including a Supreme National Authority for Disaster Risk Reduction, a National Centre for Disaster Risk Reduction and Disaster Risk Reduction Councils at provincial levels including the KRG Region.

#### Supreme National Authority for Disaster Risk Reduction

The proposed Supreme National Authority will take the lead role on Disaster Risk Reduction. It is headed by the Prime Minister and includes representation from the Regional Prime Minister of KRG; Governors of each of the provinces; Ministers of the Interior, Health, Science and Technology, the Environment, Municipalities and Public Works, Labour and Social Affairs, Electricity, Water Resources, Agriculture, Industry and Minerals, and Civil

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<sup>57</sup> The Hyogo Framework for Action 2005–2015 is a global agreement signed by over 180 countries under the auspices of the UN. HFA calls on governments to enhance and support disaster risk assessment and related process

<sup>58</sup> Article 3, Draft National Disaster Risk Reduction Law

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Defence; and representatives from the Iraqi Red Crescent Society. The authority is mandated to approve national DRR plans, supervise and monitor their implementation, and in the event of a disaster, to declare a state of emergency<sup>59</sup>.

### National Centre for Disaster Risk Reduction

The National Centre for DRR and satellite offices at the provincial level are responsible for the development of the National Plan and the National Strategy for Disaster Risk Reduction. The Centre is also responsible for early warning systems, information system management and knowledge management<sup>60</sup>.

### Disaster Risk Reduction Council for the KRG Region and Governorates

The Disaster Risk Councils for the KRG region and Governorates have a similar structure to that of the Supreme National Authority. The KRG Council is headed by the Prime Minister and representatives of the regional ministries, along with representatives from the Iraqi Red Crescent Society. The provincial councils, which are headed by the respective governors, have a similar composition. The Regional and Provincial Councils are mandated with the preparation and implementation of Disaster Risk Reduction Plans for their respective geographic areas<sup>61</sup>.

### National Plan & National Strategy for Disaster Risk Reduction

The draft law provides for the formulation of a National Plan for Disaster Risk Reduction (National Plan) and a National Strategy for Disaster Risk Reduction (National Strategy) by the National Centre for Disaster Risk Reduction. The National Plan proposes measures for risk mitigation, preparedness, response planning, and the mainstreaming of DRR into development planning<sup>62</sup>. The National Strategy will assign the functions and duties of government authorities and civil society in risk assessment and management<sup>63</sup>.

### Financing for Disaster Risk Reduction

The DRR activities stipulated in the law will be financed from specific allocations in national budgets and grants, as well as from donations, and contributions<sup>64</sup>.

### Role of Civil Society

Under the proposed law, civil society is represented in the Supreme National Authority and Regional and Provincial Councils. The draft law also specifies a role for civil society actors in national efforts for disaster relief and response<sup>65</sup>.

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<sup>59</sup> Article 5-8, Draft National Disaster Risk Reduction Law

<sup>60</sup> Article 9-10, Draft National Disaster Risk Reduction Law

<sup>61</sup> Article 11 (I-III), Draft National Disaster Risk Reduction Law

<sup>62</sup> Article 1 (VI), Draft National Disaster Risk Reduction Law

<sup>63</sup> Article 4 (I), Draft National Disaster Risk Reduction Law

<sup>64</sup> Article 17, Draft National Disaster Risk Reduction Law

<sup>65</sup> Article 13, Draft National Disaster Risk Reduction Law

### 4.3 Discussion: Draft National Disaster Risk Reduction Law Issues

#### Defining “Disaster”

Article 1 (IV) of the draft National Disaster Risk Reduction Law defines disaster as:

‘A certain community emergency that causes damage to life, money, property or the environment wider than its ability to respond thereto, e.g. natural disasters (such as earthquakes, floods, flash floods, epidemics, diseases, and drought, etc.) or man-made disasters (such as technological accidents, acts of sabotage and war).’

This definition presents disasters as resulting directly from hazards, rather than as the result of interactions between hazards, exposure and vulnerability. Disasters occur when people, infrastructure or other assets are present when a hazard event occurs. The extent of losses is dependent on the characteristics of the exposed elements and how they interact with the duration, magnitude and timing of the hazard event.

The definition also fails to recognize negligence as a potential cause of disasters, which may be necessary for establishing liability<sup>66</sup>. The Indian Disaster Management Act incorporates this aspect in its definition of disaster; “a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or man-made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of, property, or damage to, or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area”<sup>67</sup>.

#### Relevant Authority

The reference to a ‘relevant authority’ requires clarification. The only authority referred to in the chapter on definitions is the Supreme National Authority for Disaster Risk Reduction<sup>68</sup>. The reference to a relevant authority in subsequent sections suggests another authority(ies) at the regional and/or governorate levels.

#### National Plan for Disaster Risk Reduction

Article 1 (VI) of the Draft National Disaster Risk Reduction Law establishes a mandate for the preparation of the Plan for Disaster Risk Reduction as follows:

‘A document prepared by the relevant authority which sets goals and targets for disaster risk reduction and develops programmes needed to achieve them and to identify the authority responsible for implementation to occur periodically. This includes for example:

- Necessary measures to mitigate the risk of disasters and their effects.
- Necessary measures for the integration of disaster effects mitigation measures into development plans.
- Required measures to ensure the necessary preparations, disaster preparedness and capacity building required for the relevant authority concerned with addressing disasters.’

The article also sets out key measures to be included in the plan. It is important to include the identification of hazards and vulnerabilities prior to providing measures to mitigate the risk of disasters and their effects<sup>69</sup>. Building resilient

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<sup>66</sup> It is important to consider that an act or omission of an individual or an institution may result in the suffering of many, and it is vital to fix responsibility for such an action. This further necessitates the careful examination of the action or omission which has resulted in such consequences. Negligence is the failure to use care a reasonable person would under the same circumstances. It refers to lack of acceptable or expected conduct. One may refer to Alderson B’s comment in *Blyth v. Birmingham Water Work Co.* (1856), “Negligence is the omission to do something which a reasonable man guided upon these considerations which ordinarily regulate human affairs would do or doing something which a prudent or reasonable man would not do”

<sup>67</sup> Section 2 (d), of Indian Disaster Management Act 2005

<sup>68</sup> Article 1 (I). The Authority: The Supreme National Authority for Disaster Risk Reduction. Draft National Disaster Risk Reduction Law.

<sup>69</sup> Most of disaster management legislations which relate to planning prioritize the identification of hazards. Hazard identification is followed by measures for risk mitigation. See for example Indonesia Disaster Management Act 2007, New Zealand Civil Defence Emergency Management Act 2002, etc.

communities is the cornerstone of planning for disaster risk reduction; therefore it also needs to be listed in this section to ensure it becomes an integral part of future planning documents.

## Integrating the Disaster Risk Reduction Plan with the Disaster Risk Management/ Emergency Response Plan

International best practice indicates two approaches for establishing a comprehensive disaster risk management framework:

- Preparation of separate national and regional disaster response plans, e.g. The Sri Lanka Disaster Management Act provides for the preparation of a National Disaster Management Plan and a National Emergency Operation Plan<sup>70</sup>.
- Preparation of a single plan that encompasses pre and post disaster planning, e.g. New Zealand's Civil Defence Emergency Act provides for the preparation of a National Civil Defence Emergency Management Plan, which comprehensively covers pre- and post-disaster phases.<sup>71</sup>

Iraq's Draft National Disaster Risk Reduction Law provides for the development of a National DRR Plan. This should be supplemented with the development of a Disaster Management Plan and Emergency Operations Plan.

## National Strategy for Disaster Risk Reduction

Article 4 of the Draft National Disaster Risk Reduction Law provides for the formation and outlines the scope of a National Strategy for Disaster Risk Reduction<sup>72</sup>. However there is no definition of this strategy in the chapter on definitions. Provisions relating to the proposed national strategy appear to provide for the preparation of a standalone document. In accordance with international best practice, the strategy should be clearly aligned with national plans as well as provincial and regional strategies<sup>73</sup>. The draft law also does not define a time frame for the development of the strategy document.

The development of a classification system of disasters and procedures for declaring a state of emergency are of vital importance in initiating an appropriate and timely response to emergency situations. The classification system helps to identify the nature and level of response required for a particular situation. Article 8 of the draft National Disaster Risk Reduction Law contains the following provision for the development of a system for the classification and declaration of disasters:

“The Commission shall develop a system to declare a state of emergency in areas affected or threatened by the disaster, taking into account the type of disaster or threat and the concerned region, subject to the provisions of the Constitution and the laws in force, and determine exceptional powers acting in the areas covered by the state of emergency during the period declared.”

There are number of issues with this provision:

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<sup>70</sup> Article 4 (b) Sri Lanka Disaster Management Act 2005

<sup>71</sup> Article 39-45 Civil Defence Emergency Management Act 2002

<sup>72</sup> Article 4 - The Authority seeks to achieve the objectives of the law hereby through the following means:

I. Approve the national strategy for disaster risk reduction and allocate the necessary resources thereto. The national strategy for disaster risk reduction includes the following elements:

1. Determine the functions and duties of government authorities and civil society organization.
2. Assessment of potential disasters risks.
3. Management of disaster risks and its impact on sustainable development.
4. Issues related to preparedness and response plans.
5. Management of information, knowledge, education, awareness, and citizen notification bases.

<sup>73</sup> South Africa Disaster Management Act No. 57 of 2002

## The Commission

Article 8 of the draft law refers to a commission that is entrusted to devise standards and procedures for the classification and declaration of disasters. This is the first reference to a commission in the draft law. It seems fair to assume that the power has been entrusted to the Supreme National Authority as it appears under the section of the draft law which lists the functions and duties of the authority<sup>74</sup>. However if the law intends to constitute a commission under the authority for this purpose, its formation and functions should be clarified so as to avoid ambiguity.

## Classification and Declaration of Disasters and Decentralization

The draft law provides for the development of procedures for the classification and declaration of disasters at the national level. Similar systems are also required at regional, provincial and local levels. Based on international best practice, it is recommended that an authority is entrusted with a mandate to declare an emergency. For example, the Sri Lankan Disaster Management Act 2005 gives responsibility for declaring an emergency to the President. Similarly, the UK Civil Contingencies Act 2004 provides that a Minister of Parliament may, by order, issue a proclamation of emergency.

Furthermore, due to the often local nature of disasters, the authority to declare a situation of emergency in localized areas needs to be delegated to provincial and local levels of government. For example, the South Africa Disaster Management Act 2002 makes provisions for the classification and declaration of disasters at the national, provincial and municipal levels<sup>75</sup>.

## Lack of a Strong Institutional Basis

A weak institutional basis is one of the common barriers to the implementation of an effective DRR framework. Under the draft National Disaster Risk Reduction Law, three key institutions are proposed: the Supreme National Authority, the National Centre for Disaster Risk Reduction and Disaster Risk Reduction Councils.

### **National Centre for Disaster Risk Reduction and Disaster Risk Reduction Councils**

Article 9 (II) of the draft National DRR Law provides for the establishment of Centres for Disaster Risk Reduction at national, regional and provincial levels<sup>76</sup>. The roles of the regional and provincial councils are somewhat ambiguous and further clarification is required regarding the roles and functions of the centres at each level.

### **Integration of national and regional/provincial institutions**

Further elaboration is required regarding the relationships between the Supreme National Authority, National Centre for DRR, and regional and provincial Disaster Risk Reduction Councils.

### **Implementation at regional/provincial levels**

The draft law also lacks specific measures relating to implementation mechanisms at regional and provincial levels. In particular there are no provisions assigning authority for the implementation of plans developed by regional and provincial authorities. Existing mechanisms and institutions such as Governorate Emergency Cells and Civil Defence formations could at least partially fulfil these functions.

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<sup>74</sup> Chapter III of Draft National DRR Law, deals with the formation and duties of Supreme National Authority

<sup>75</sup> Sections 23, 26, 27, 41 & 55, South Africa Disaster Management Act No. 57 of 2002.

<sup>76</sup> Article 9 –

I - Under the law hereby, the National Center for Disaster Risk Reduction shall be established, headed by an official ranked director general, nominated by the President of the Authority with experience and competence, appointed in accordance with the law and linked to the President of the Authority.

II – Shall be established in the Kurdistan Region and the provinces not incorporated into a region for disaster risk reduction and is considered part of the formations of the center. Draft National Disaster Risk Reduction Law

### Institutional arrangements at local level

The draft law does not provide any role for local/municipal authorities. International best practice emphasizes the necessity to provide a substantive role for local and municipal authorities in managing local risks. For example, the Indonesian Disaster Management Law provides a significant role for local authorities<sup>77</sup>.

### Alignment with DRR related laws

Effective Disaster Risk Reduction requires a cross-sectoral approach. Sectoral laws need to be integrated into the disaster management framework and DRR/M should also be mainstreamed within these sectors. The only other legislation that the Draft National DRR Law references is the Civil Defence Law 1979. It is important to align the functions of the Civil Defence services at all levels with those of the proposed institutions in the draft law. For example, New Zealand's Disaster Management legislation incorporates both services i.e. emergency management and civil defence<sup>78</sup>. Moreover, it would be important to integrate the draft law with other relevant laws and regulations, including the Emergency Use Law, the Environmental Law, and Land Zoning and Building Regulations and Codes.

### Financing for DRR

There is international recognition of the need to promote stronger *ex ante* disaster risk management. Risk reduction and preparedness is an ongoing activity which requires regular and predictable financing. Many risk prone countries have created permanent funds for robust disaster preparedness as well as for response activities. Iraq's draft National Disaster Risk Reduction Law does not allocate specific funding for disaster risk reduction at national and sub-national levels. These activities are instead financed using discretionary allocations in the national budgets, as well as through grants and donations<sup>79</sup>. Nor does it create any permanent fund for supporting disaster risk reduction at national and regional/governorate level.

### Compensating victims of disasters

Under Article 4 of the draft National Disaster Risk Reduction Law, the Supreme National Authority is authorised to approve national policies to compensate those affected by disasters with priority given to the most vulnerable members of society<sup>80</sup>. Article 12 of the draft law acknowledges the right of victims to compensation for damage to their health or loss of property<sup>81</sup>. However, the law does not contain any supporting provisions regarding the implementation of this measure.

According to the Minister for Science and Technology, the mechanism for paying compensation to victims of disasters is one of the issues that the Committee attempted to address in the draft law. There have been many cases in which compensation was delayed or only partially paid and there is an absence of proper procedures to govern the process. As a result of interpretative judgements, this fund has been used to cover urgent expenses rather than expenses required after a state of emergency has been declared. The Committee considered the establishment of an Emergency Fund for compensation. The draft law includes provisions preventing the use of the Emergency Fund unless the state of emergency is announced based on this law. Recently, this standard has been applied by all ministries to allocate funds under the Emergency Allocation chapter.

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<sup>77</sup> Indonesia Disaster Management Law 24/2007

<sup>78</sup> New Zealand Civil Defence Emergency Management Act 2002

<sup>79</sup> Article 17 – I - The Authority's resources consists of the following:

1. Allocations thereto in the State's general budget.
2. Grants, donations, contributions, and bequest according to the law.

II - the budget of the Authority include credits required for the Centre, and the staff and workers' wages, allowances, salaries, bonuses and any other expenses required by the duties of the Center. Draft National Disaster Risk Reduction Law.

<sup>80</sup> Article 4 (VI) – Approve the national policy to compensate those affected by disasters, especially society's vulnerable groups. Draft National Disaster Risk Reduction Law.

<sup>81</sup> Article 12 - The State shall guarantee the inalienable rights of citizens during a disaster represented by:

1. Protection of his life, freedom and property
2. Be informed if there are threats of disaster
3. Contribute to the acts of response and disaster risk reduction in accordance with prior-set plans.
4. To get a compensation in case of health or property damage caused by disasters. Draft National Disaster Risk Reduction Law.



The vulnerable groups who are mentioned are not expounded upon. Clarification is required as to which groups are considered vulnerable for the purposes of compensation under the law. These groups may include infants, children, pregnant or lactating mothers, persons with disabilities, the elderly and women.

### Disaster Management Information System

The draft law acknowledges the importance of information and knowledge management but fails to provide a framework for establishing a dedicated information system. The DMIC established by the Government of Bangladesh is a good example in this regard. It coordinates government agencies, NGOs, private sector actors, and regional and international agencies for cooperative action in risk reduction and emergency response.



## 5. Conclusions and Recommendations

5.1. Existing Legislation

3.2. Draft Disaster Risk Reduction Law

3.3. Recommendations

## 5. Conclusions and Recommendations

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### 5.1. Existing Legislation

The review of existing legislation revealed the following gaps and shortcomings in the existing institutional and legislative systems for DRR:

#### Need for a Multi-Hazard Approach

One of the most significant weaknesses in the existing disaster legislation is the lack of standards and criteria for assessing cases of emergencies. In particular, existing legal and institutional systems are unequipped to assess and respond to multi-hazard risks. As a result of protracted conflict and war, the focus of DRR efforts in Iraq has been on manmade catastrophes such as conflicts, terrorism and industrial hazards. Historically the management of disaster risk has been largely ad-hoc and reactive in nature. Due to a lower frequency of disasters associated with natural hazards in recent years there has been no rigorous effort to institute a comprehensive multi-risk disaster risk management framework. The transition from war and internal conflict to functional governance has a direct bearing on the DRR architecture in Iraq.

#### Relief & Response Focus

The existing framework provides a relief and response-based model for addressing hazards to the neglect of mitigation and preparedness. Almost all of the existing disaster-related laws are restrictive and limited in scope. The existing laws do not take account of disaster contingency planning. This is indicative of a reactive approach to the development of institutional and legislative systems for DRR.

#### Complex Institutional & Legislative Framework

The present institutional and legislative framework for DRR is unnecessarily complex. There are multiple institutions with overlapping jurisdictions and conflicting mandates, which contributes to a fragmented response capacity. There is no institution which can perform a coordination function to ensure an integrated response from government agencies and departments working under multiple DRR related laws, regulations and resolutions. The existing laws fail to assign the federal, governorate and district levels with the necessary responsibilities to respond effectively to disasters. There are overlapping and at times conflicting provisions within the various laws outlined above. Several outdated laws refer to institutions which no longer exist. According to international best practice, an effective and efficient response to disasters requires a national perspective. Such an approach is in accordance with the Hyogo Framework for Action (HFA) and is also relevant in the context of federalism.

#### Regional Factionalism

A number of issues regarding the administrative relationships between the federation and autonomous regions, especially the Kurdistan Regional Government (KRG), have yet to be resolved. This inhibits the establishment of a comprehensive DRR framework for the country as a whole.

## Lack of Integration

There are a number of laws enacted prior to 2003 which have a direct bearing on DRR, including the Emergency Use Law 1969, the Civil Defence Law 1978, and the Public Health Law 1981. However these laws fail to adequately address all of the vagaries of DRR. When first enacted, these laws were not designed to address the issue of disaster in a holistic manner. Rather they were enacted in an ad-hoc fashion in response to specific needs arising as a matter of necessity. The majority of these laws fail to define disaster sufficiently; for example the Disaster Emergency Use Law deals with “sudden or unexpected accidents.” The Civil Defence Law 1978 does not provide any definition of disaster. Critically, these laws have yet to be integrated with emerging legal and institutional arrangements.

## Early Warning Capacity

Iraq’s existing DRR framework lacks provisions for adequate early warning systems. The Meteorological Department in the Ministry of Communications and Works, which acts as the focal agency for monitoring, collecting and disseminating climate related information, lacks the necessary human and technical capacity to perform its mandated functions.

## 5.2 Draft National Disaster Risk Reduction Law

The Government of Iraq, though the Ministry of Science and Technology, has recently prepared a draft National Disaster Risk Reduction Law. The review of this draft reveals a number of inadequacies:

### Lack of focus on Implementation

The draft law focuses on regulating the institutional aspects of the proposed new commission rather than on the implementation of disaster risk management, including early warning systems and the declaration of disasters and delegation of responsibilities to regional governments, provinces and local institutions.

### Status & Structure of the Commission

The establishment of a new commission is proposed in the draft law; however the legal status of this institution is unclear, in particular whether it will act independently or be attached to a ministry. This aspect is very important for financial and administrative reasons. The proposed commission is comprised of the Prime Minister, his deputies, the Prime Minister of KRG, and other Ministers and Director Generals. Such a composition is more appropriate for a committee rather than a commission. From a legal perspective, the composition of a commission requires members of similar levels to perform an ongoing function determined by law while a committee is an entity established on a temporary basis to perform a specific task. The establishment of such a commission will place a new burden on the Iraqi legal and institutional system for several reasons.

First, there are several existing institutions which could undertake the tasks of this commission, such as the Province Coordination Commission established by the Law on Provinces No. (21) of 2008, MOI /Civil Defence Department and the Civil Defence Corps in the Ministry of Defence. It is unclear if this commission is expected to share its mandate with these institutions or to supersede them. In its present form, the suggested commission could exacerbate the institutional duplication which currently undermines the Iraqi system. It is unclear if the Commission will have an advisory or executive function. It is recommended that it acts as a central body to supersede (or guide) other institutions during disasters.

Second, the sensitive relationship between the federal government and KRG must be carefully brokered in a way that is consistent with the Constitution. The reference to the establishment of a Disaster Risk Reduction Council in KRG in Chapter 5 of the draft law is inconsistent with that of the Central Commission as referred to in the same draft. The

Constitution establishes the exclusive and common powers of the federal and regional governments. These provisions could provoke objections at the early stages of the legislative process. The legislative process for passing the draft law may be hampered by a lack of consensus amongst the political parties, as is the case with the law on the exceptional powers of the Prime Minister during situations of emergencies.

### Definitional Weaknesses

There are a number of terms and institutions used in the law which require further elaboration in the section on definitions. These include the National Strategy for Disaster Risk Reduction, the Commission (with the responsibility to prepare the system for declaring a disaster) and regional/governorate authorities which have been assigned multiple functions. Furthermore the definition of disaster fails to stipulate negligence as a cause. Negligence is a necessary element in deciding liability for incidents which are caused by human acts or omissions.

### Clarity of Mandates

The draft law establishes the National Centre for Disaster Risk Reduction with subsidiary offices at the governorate level. It also establishes Disaster Risk Reduction Councils at regional or provincial levels. The roles and functions of these institutions and their associations with one another are unclear. The law does provide for the establishment of Disaster Risk Reduction Councils at Regional and Governorate levels; however it fails to specify the actual functions of the DRR councils.

### Cross Sectoral Integration

Disaster Risk Reduction is a cross-sectoral issue. In order to maximize the efficacy of institutional and legislative systems, sectoral laws should be better integrated with the national disaster management framework and DRR should be mainstreamed into sector laws, policies and plans. The draft law refers only to the Civil Defence Law 1978. It does not reference other relevant laws and regulations such as the Social Care Law, the Environment Protection Act, Water Management regulations or land zoning and building codes.

### Decentralisation

There are certain sections of the law which need to be made more robust in providing for comprehensive disaster risk management at all levels of governance in Iraq. Local and municipal authorities have a key role to play in reducing risk, and preparing for and responding to disasters. The draft law is particularly weak in this regard. There are no provisions regarding the roles and functions to be performed by local authorities and their linkages with communities.

### Community Level Participation

The development of a robust DRR framework in Iraq requires the active participation of relevant stakeholders in the process; especially communities and civil society actors. Initially, it is necessary to empower local and municipal authorities by issuing regulations to involve communities in planning and preparedness activities. Strengthening the capacity of the most vulnerable and providing them with timely and relevant information is critical to reducing the impact of hazards on their lives. Relevant clauses of existing laws and resolutions such as the Civil Defence Law and Resolution No. 12 (1992), which provides for the inclusion of student, youth and women's unions, can be operationalized through the inclusion of representatives of communities and members of local civil society organisations.

## 5.3 Recommendations

Considering the existing weaknesses in the institutional and legislative systems for DRR, there is a recognised need to develop a comprehensive disaster legislation framework that creates synergies between various legal instruments and implementing agencies. Two options to address these weaknesses are suggested:

- Issue a comprehensive new law which would supersede other DRR-related legislation. This represents a long term solution, however it could take up to three years for the CoR to approve such legislation since it must be reviewed and approved by a number of authorities in addition to the CoR.
- Issue a regulation regarding specific procedures for disaster risk management. Such a regulation would be issued by the Council of Ministers which has a higher executive authority than the CoR. Through such regulation, the activities of the Crisis Cells and National Operations Centre can be elaborated to facilitate coordination amongst ministries, provinces and NGOs for disaster management.

Regardless of the format of the new legislation, it should cover the following elements:

- Provide general standards for defining disasters and determine the main criteria for assessing disaster situations.
- Increase the contingency reserve appropriations to 10% of the federal budget. Unused allocations may be rolled over to subsequent years in order to build up a reserve fund for response to large scale disasters.
- Revise the administrative structure of some departments to better align them with ministries and institutions with similar jurisdictions and mandates.
- Provide for training to develop staff capacity for disaster management in executive authorities including the NOC, the Ministry of the Interior, the Ministry of Defence, the Ministry of Labour and Social Affairs, the Provincial Councils and the Civil Defence Department.
- Invest in necessary technology and equipment, and build the technical capacity of departments with early warning system and information dissemination functions.

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