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Sykes, Mark C. Major USMC

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14. ABSTRACT

The magnitude of internally displaced persons (IDPs) is globally increasing and the results are a tragic, modern threat to stability. In Iraq, the United Nations High Commissioner for Refugees (UNHCR) reported that IDPs increased from 900,000 in 1999 to over two million in 2007. The 2003 Iraq War resulted in an avoidable internal Iraqi displacement crisis by the US-led coalition. Coordination between UNHCR and the Coalition Provisional Authority (CPA) was lacking. UNHCR rightfully established a Temporary Protection Regime (TPR) to save the lives of millions of fleeing Iraqis, but the TPR holistically frustrated the resettlement process until UNHCR established the "prima facie" refugee regime in January 2007. Moreover, the US-led coalition should have appropriately addressed the Iraqi IDP crisis before 2007, retained the majority of Iraq's military as a security force, and empowered previous members of the Ba'ath Party whom supported regime change. These factors led to instability, a general lack of internal security in Iraq, mass killings, early returns of displaced persons, border closures, and prolonged the war. This paper proposes that an Internally Displaced Persons Convention (IDPC) must be established to formalize temporary protection, prohibit the generalized discrimination against members of previously ruling parties, and retain host nation security forces to promote and expedite stability efforts resulting from armed conflict.

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Internally Displaced Persons; IDPs; 2003 Iraq War; Iraqi Displacement Crisis; Temporary Protection Regime; Internally Displace

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THE IRAQI INTERNAL DISPLACEMENT CRISIS
Impacts of the 2003 Iraq War

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AUTHOR: MAJOR MARK C. SYKES

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Mentor and Oral Defense Committee Member: Dr. Jill Goldenziel
Approved: Jill Goldenziel
Date: 5/4/18

Oral Defense Committee Member: KEVIN DEWITT, LTCOL, USMC
Approved: K.B.D.
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Executive Summary

Title: The Iraqi Internally Displaced Crisis: Impacts of the 2003 Iraq War

Author: Major Mark C. Sykes

Thesis: This paper proposes that an Internally Displaced Persons Convention (IDPC) must be established to formalize temporary protection, prohibit the generalized discrimination against members of previously ruling parties, and retain host nation security forces to promote and expedite stability efforts resulting from armed conflict.

Discussion: The magnitude of internally displaced persons (IDPs) is globally increasing and the results are a tragic, modern threat to stability. During Iraq's forty-years of terror, internal displacement increased at unprecedented levels for a Middle Eastern state. In Iraq, the United Nations High Commissioner for Refugees (UNHCR) reported that IDPs increased from 900,000 in 1999 to over two million in 2007. However, uncoordinated and globally unsupported decisions by the UNHCR and the U.S.-led coalition before and during the 2003 Iraq War amplified internally displaced Iraqi citizens by several orders of magnitude, significantly increased unemployment, targeted professional Iraqis through de-Ba'athification, and failed to address the internal displacement crisis until 2007. These factors led to instability, prolonged armed conflict, mass killings, early returns of displaced persons, border closures, and a general lack of internal security in Iraq.

Conclusion: The 2003 Iraq War resulted in an avoidable internal Iraqi displacement crisis by the U.S-led coalition. Coordination between UNHCR and the Coalition Provisional Authority (CPA) was lacking. UNHCR rightfully established a Temporary Protection Regime (TPR) to save the lives of millions of fleeing Iraqis, but the TPR holistically frustrated the resettlement process until UNHCR established the "prima facie" refugee regime in January 2007. Moreover, the U.S.-led coalition should have appropriately addressed the Iraqi IDP crisis before 2007, retained the majority of Iraq's military as a security force, and empowered previous members of the Ba'ath Party whom supported regime change. The combination of these factors prolonged the war. An IDPC is desperately needed to formalize international support for IDPs as a result of future armed conflict.

DISCLAIMER

THE OPINIONS AND CONCLUSIONS EXPRESSED HEREIN ARE THOSE OF THE INDIVIDUAL STUDENT AUTHOR AND DO NOT NECESSARILY REPRESENT THE VIEWS OF EITHER THE MARINE CORPS COMMAND AND STAFF COLLEGE OR ANY OTHER GOVERNMENTAL AGENCY. REFERENCES TO THIS STUDY SHOULD INCLUDE THE FOREGOING STATEMENT.

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Acknowledgments

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"The international community is more inclined than prepared, to respond effectively to the phenomenon of internal displacement."[1]

– Francis M. Deng

"The world did not seem to notice the rapidly developing humanitarian needs of displaced Iraqis."[2]

– Jill Goldenziel

Introduction

The magnitude of Internally Displaced Persons (IDPs) is becoming recognized as one of the most tragic phenomena of the contemporary world.[3] IDPs are individuals who leave their residence as a result of violence or natural disaster, and they are either unwilling or unable to return to their homes but remain in their country of origin.[4] IDPs are not the same as refugees. A refugee is an individual outside their country of national origin that is unable or unwilling to return for the fear of being persecuted for their race, religion, nationality, membership in a particular social group or political opinion.[5] Today IDPs are estimated at 40.3 million people worldwide.[6] In early 2003, the Global IDP Project estimated that 25 million people were internally displaced in various regions across the world.[7] In the months leading up to the 2003 Iraq War, the Internal Displacement Unit of the UN Office for the Coordination of Humanitarian Affairs estimated that Iraqi internal displacement exceeded 1.5 million people.[8] This was a substantial increase over the United Nations High Commissioner for Refugees (UNHCR) estimate of 900,000 Iraqi IDPs in 1999.[9] From the time of the U.S.-led invasion of Iraq in 2003 to the end of 2006 the internal Iraqi displacement crisis grew significantly. By the end of 2006, Iraqi IDPs were estimated at over 2.2 million. This paper examines four factors that increased Iraqi IDPs from March 2003 to January 2007. First, the Temporary Protection Regime (TPR) established by the UNHCR in March 2003 complicated post-conflict resettlement.[10,11] Second, the release of Coalition Provisional Authority (CPA) Order 1 (de-Ba'athification) targeted

educated professional Iraqi citizens who were needed to establish a new Iraqi democratic system. Third, the release of CPA Order 2 (disbanding Iraq's standing Army) dissolved Iraq's means to provide its citizens with security. Lastly, the U.S.-led coalition failed to identify or address the magnitude of Iraqi internal displacement until 2007, following the Samarra Shrine bombing. This paper examines these issues and suggests that an IDP Convention (IDPC) must be established to formalize policy, programs, and enforcement standards specific to those internally displaced. Following armed conflict, such oversight and global collaboration would prioritize protection, prohibit the generalized discrimination of previously ruling parties, and retain host nation security forces to promote and expedite stability efforts.

A global audience first recognized the crisis of displaced persons following the Second World War. At that time, UNHCR became the guardian of the 1951 Refugee Convention which established the rights of displaced people and the legal obligations of States to protect them, yet no specific language was used to address IDPs. Before the U.S.-led 2003 Iraq War, the UNHCR established the TPR, aiming to support fleeing Iraqis to neighboring states quickly.[12] The term "fleeing Iraqi" is used throughout this paper as an Iraqi citizen crossing national borders but not necessarily recognized as a refugee by the 1951 Refugee Convention. The TPR had both positive and negative impacts on the Iraqi IDP crisis. The TPR provided an open door for displaced Iraqis to enter neighboring states encouraging massive amounts of Iraqi IDPs to flee into states such as Syria and Jordan, instead of remaining in Iraq to support the new government. However, neighboring countries to Iraq did not collectively agree with the TPR, which required additional economic and security support with little initial assistance from the international community.[13] Lack of support for the TPR by neighboring states increased diplomatic friction and diminished UNHCR efforts to adequately account for fleeing Iraqis, their needs, and any

violations of international law.[14] The utility of the TPR ended in January 2007 when UNHCR openly granted refugee status on a prima facie basis to Iraqis from Southern and Central Iraq who were displaced outside their home country.[15,16]

Following the invasion of Iraq in 2003, the U.S.-led coalition created an environment that superfluously amplified population displacement, which unnecessarily frustrated paths towards stability. Shortly following the defeat of Saddam, the U.S.-led CPA released two orders that directly contributed to tens of thousands of civilian deaths, prolonged instability, and a level of fear that directly contributed to the internal Iraqi mass displacement crisis. Both CPA Orders 1 and 2 had the effect of devaluing and discriminating against a massive number of Iraqi civilians that could have otherwise positively contributed to reconstruction and stability efforts. These two CPA Orders aimed to abolish any remaining influences of Saddam, but also dramatically contributed to the increasing internal Iraqi displacement crisis by increasing unemployment, decreasing local security, and targeting the professional working class.[17]

The Iraqi IDP crisis continued to progressively get worse over time with little acknowledgment or action from the U.S.-led coalition to address it. It was not until after the Samarra Shrine bombing of 2006 that the U.S.-led coalition suitably addressed the global impact and magnitude of Iraqi IDPs. The Samarra Shrine bombing was a focal point of instability that resulted in massive numbers of Iraqis fleeing into neighboring states generating conflict "spillover" and highlighting the magnitude of the Iraqi IDP crisis.[18] The term "spillover" in this paper refers to Iraqi citizens fleeing into neighboring states.[19]

Using examples from the 2003 Iraq war, this paper proposes that an IDPC is necessary to mitigate the growth of internal displacement in future armed conflict. An IDPC would establish an international standard providing temporary protection aimed to resettle persons within their

country of origin following armed conflict, in addition to developing international IDP management standards consistent with Deng's Guiding Principles.[20] Finally, the IDPC would encourage the country of origin's military capabilities to remain intact to decrease unemployment, maintain security, and expedite the stability process.

Background

The genesis of division amongst the Iraqi population started in the early 1920s following the breakup of the Ottoman Empire.[21] In a fifty-year period leading up to the 2003 Iraq war, the ruling Iraqi government induced massive displacement.[22] The path towards stability did not materialize until after a "bloodless coup" in 1968 that ended with Ahmed Hassan al-Bakr becoming President of Iraq and Saddam Hussein as his Vice President.[23] In 1976 Saddam served as a general in the Iraqi Army, and soon after that became the President of Iraq in 1979. From 1986 – 1989 Saddam led the Anfal Campaign against the Kurds in Northern Iraq, which resulted in the deaths of between 50,000 and 182,000 Kurds. As a result of the Anfal Campaign, approximately 2,000 Kurds died per day due to climate injuries, famine, or inadequate medical capabilities in the austerity of the mountainous region of the Iraqi-Turkey border.[24] Multiple countries considered the Anfal Campaign an act of genocide by Saddam.[25]

Saddam's government-sponsored genocide practices led to mass displacement throughout his presidency, from 1979 to 2003.[26] Both the Anfal Campaign (1986 – 1989) and the Kurdish-Iraq Civil War (1994 – 1997) generated an environment that killed innocent Iraqi citizens, displaced millions within and outside of Iraq, and grossly negated his national responsibility to resettle the displaced.[27] Also, Saddam's actions against the Kurds during the Kurdish-Iraq Civil War undermined UN Resolution 688, and it was clear to the international community that

Saddam used chemical weapons in support of offensive operations against the Kurdish Region of Iraq (KRI).[28] As proposed from the International Commission on Intervention and State Sovereignty (ICISS), "military interventions for human protection purposes are justified to halt or avert either large scale loss of life or large scale ethnic cleansing, whether carried out by killing, forced expulsion, acts of terror, or rape."[29] Under Saddam's presidency, IDPs rose at unprecedented levels leading up to and following Operation DESERT STORM in 1991.[30]

After Operation DESERT STORM ended in February 1991, the international community, through the United Nations (UN) Security Council, aimed to provide critical supplies and support to displaced Kurds in Northern Iraq. The UN Security Council passed Resolution 688 in April 1991. Resolution 688 effectively ended Saddam's oppressive actions against the Iraqi people, and the Resolution established no-fly zones in both northern and southern Iraq.[31] To support Resolution 688, a U.S.-led coalition of thirteen nations and multiple Non-Governmental Organizations (NGOs) took part in Operation PROVIDE COMFORT that began pushing humanitarian aid to IDPs in Northern Iraq in April of 1991.[32] Humanitarian-focused missions to support the Kurdish people of Iraq were short-lived, and Operation PROVIDE COMFORT ended on July 24th, 1991. On that same day, Operation PROVIDE COMFORT II began as the coalition shifted focus from humanitarian aid to the provision of conventional military aerial protection to the Kurdish people until August of 1996. Over this five-year period, neither UN Security Council Security Resolution 688, PROVIDE COMFORT or PROVIDE COMFORT II aimed to resettle the large numbers of IDPs in Northern Iraq.

From 1991 to the present the UN Security Council estimates an overwhelming number of IDPs in Northern Iraq, in the neighborhood of 4.2 to 4.8 million people.[33] A displacement crisis of this magnitude is both a regional and global problem to solve.[34] President Roosevelt

commented on post-WWII reconstructive efforts as being "opportunities for co-operation," offering a unique opportunity for civilians in the international community to be engaged. [35] Looking at Europe and Japan through a modern lens, WWII reconstructive and resettlement efforts were enduring, practical, and successful. In line with this, Roosevelt states that solving a displacement crisis, "offers a means for pacifists and intellectuals, perhaps opposed to the war, a non-military approach to support the stabilization phase of a campaign effort."[36]

In March 2003 the U.S. led a coalition to invade Iraq, end Saddam's reign of terror over the Iraqi people. President Bush outlined the purpose of the Iraq War with British Prime Minister Tony Blair: to disarm Iraq of weapons of mass destruction, end Saddam's support for global terrorism, and free the Iraqi people from half a century of oppression.[37] In all, thirty-six countries formed the coalition, and six nations made up the invasion force (U.S., United Kingdom, Spain, Australia, Poland, and the Kurds). The coalition plan for the Iraq War was simple – remove Saddam Hussein from power.[38] In May 2003, after five weeks of fighting, Saddam's ability to govern fell, and the Ba'ath Party ceased to control the citizens of Iraq.

The Temporary Protection Regime

Per the UN, UNHCR often operates in countries where domestic asylum systems are weak or absent.[39] UNHCR provides expertise to host countries that accommodate mass influxes of fleeing persons across their borders.[40] Critical aid providing life support, education, and healthcare are essential, but the focus needed to aim at practical resettlement solutions. In response to the mounting Iraqi IDP crisis, the UNHCR and the U.S.-led coalition made a decision that was not supported by regional countries and which created an environment that amplified population displacement and frustrated paths towards regional stability.

Since 1951, the mission and impact of the UNHCR has continually widened, at the direction of the Secretary General, to provide support to people internally displaced as a result of violence.[41] In March 2003 the UNHCR established a Temporary Protection Regime (TPR) to support fleeing Iraqis crossing into neighboring countries in response to escalating tensions and the impending armed conflict in Iraq.[42] The purpose of the TPR was to garner international support for fleeing Iraqis, allowing them to be temporarily protected and supported until they could be safely returned to Iraq. The TPR prevented Iraqis, who fled and registered with the refugee agency, from refoulement back to Iraq.[43] Per Article 33 of the 1951 Refugee Convention, refoulement is the return of a refugee or asylum seeker back to a country where their life or freedom is threatened.[44] The TPR provided registered Iraqis an "asylum seeker" card which intended to provide them with protection from deportation.[45] The TPR leveraged the legal framework of the 1951 Refugee Convention to garner safe-zone support amongst neighboring countries, providing temporary protection to millions of fleeing Iraqis. In theory, safe-zones were areas where fleeing Iraqis consolidated away from armed conflict and persecution. In practice, safe zones offered little protection, opportunity for employment, or adequate healthcare.

Despite positives of the TPR, there was a deficiency in coordination between the TPR, neighboring Iraqi states, and internal Iraqi resettlement efforts. The lack of synchronization between states and UNHCR generated confusion as to the scope of responsibility of countries accepting fleeing Iraqis. Six countries (Jordan, Syria, Iran, Egypt, Lebanon, and Turkey) primarily hosted fleeing Iraqis.[46] Of those countries, Syria was the only country to formally acknowledge UNHCR's TPR; however, Syria frustrated UNHCR efforts by marginalizing its commitment to the TPR and ordering the deportation of fleeing Iraqis back to Iraq.[47] Syria changed visa polices pertaining to Iraqi citizens by reducing the number of months an Iraqi could

be in Syria, increasing the number of months an Iraqi must reside back in Iraq before re-applying for another Syrian visa, and forcefully returning Iraqi citizens that were in Syria with expired visas.[48] Iraqis in Syria were deported back to Iraq whether they had an "asylum seeker" card or not. By 2005, states bordering Iraq began deporting Iraqis under the TPR assuming that the Iraqi resettlement process was mature enough to process and resettle the influx of both external and internally displaced Iraqis. The early return of regionally displaced persons into Iraq dramatically increased the Iraqi IDP crisis. The cycle of Iraqi citizens moving back and forth across neighboring state borders increased Iraqi IDPs and diminished stability across the region.[49] Countries neighboring Iraq saw significant increases in cross-border terrorism and transnational crime.[50] Without consensus from states neighboring Iraq, postured to best support the intent of the TPR, efforts to adequately account for fleeing refugees, provide for their needs, and track violations of international laws were frustrated.[51]

Between March 2003 and January 2007, UNHCR leveraged the TPR to garner international support to host fleeing Iraqis seeking temporary protection in neighboring countries. However, the temporary and non-binding nature of the TPR was problematic for both the fleeing Iraqi and the country hosting them. Many Iraqis fleeing into neighboring countries were only temporarily accommodated before being deported back to Iraq. Unfortunately, the accelerated return of fleeing Iraqis was marred by a colossal failure of internal Iraq resettlement, and UNHCR has reported that seventy percent of returned Iraqi refugees are now IDPs.[52] Of more significant note, UNHCR reported that as of January 2007 twelve percent of all Iraqi citizens were IDPs.[53] By January 2007 there were over 1.7 million displaced Iraqis outside of Iraq with over two million internally displaced people in Iraq. As a result, the Iraqi displacement crisis, internal and external, became an international problem.[54]

De-Ba'athification

On 1 May 2003, the coalition reported that Saddam's regime was officially no longer in control of the Iraqi people. The U.S.-led coalition proved to be successful on all accounts in removing Saddam's regime from power; however, decisions and orders following this victory undermined the efforts of Iraqi citizens who embraced and supported democratic changes on the horizon. Just following the end of Saddam's regime, both the U.S. military and the Organization for Reconstruction and Humanitarian Assistance (ORHA), led by retired Lieutenant General Jay Garner, were tolerant of those willing to renounce their allegiance to the Ba'ath Party.[55] Following interviews, ORHA successfully employed Iraqi professionals that were previous Ba'ath Party members. Arguably, the efforts of ORHA and the U.S. military with de-Ba'athification were seeing success. Despite peaceful progressions towards stability by both ORHA and the U.S. military to quickly dissolve Ba'ath Party influence, Ambassador Paul Bremer's interpretation of de-Ba'athification took shape in May 2003 and apparently aimed to completely remove previous Ba'ath Party members from any position of authority in the new Iraqi government, military, or the educated professionals.

The Ba'ath Party, as a political and social identity, was officially abolished in May 2003 by a personal letter to the Iraqi people from General Tommy Franks, an American hero and Commander of the U.S.-led coalition prosecuting the 2003 Iraq War.[56] Following that letter, General David Petraeus personally oversaw various peaceful de-Ba'athification ceremonies in places like Mosul where Iraqi citizens would renounce their allegiance to the Ba'ath Party, burn their membership cards publicly in city centers, vow to end violence, and commit to rebuilding Iraq.[57] General Franks acknowledged that the majority of Iraqi citizens maintained allegiance to the Ba'ath Party strictly for financial reasons, and the vast majority of these Party members were

not involved in war crimes. For example, a school teacher without Ba'ath Party membership made the equivalent of four U.S. dollars per month; whereas a teacher that was a Ba'ath Party member in the same school would earn the equivalent of two-hundred U.S. dollars per month.[58] In middle-class terms, pledging allegiance to the Ba'ath Party instantly increased one's salary by fifty times. Both General Franks and ORHA understood the requirement for former Ba'ath Party members to assist in regaining stability in Iraq.

On 16 May 2003, under the direction of Ambassador Bremer, the CPA released Order Number One to de-Ba'athify Iraq.[59] The order was akin to de-Nazification following World War II and aimed to target any Iraqi citizen that was previously a member of the Ba'ath Party.[60] Both General Franks and ORHA disagreed with the extent of CPA Order Number One. Direction and clarification regarding the scope of CPA Order Number One should have come directly from the President of the United States, given that Ambassador Bremer held the rank of Presidential Envoy. However, it was Under Secretary Feith and Deputy Secretary of Defense Paul Wolfowitz who continued to assure Ambassador Bremer that the extent of de-Ba'athification outlined in CPA Order Number One was necessary to rehabilitate, rebuild, and stabilize Iraq.[61] In November 2003, Ambassador Bremer established the Iraqi Governing Council (IGC) to operationalize and carry-out de-Ba'athification efforts across Iraq.[62] Importantly, de-Ba'athification efforts were led by Ahmad Chalabi, a previously exiled Iraqi Shi'ite political elite who aimed to increase Shi'ite influence in Iraq through deep de-Ba'athification. Chalabi was hand selected by Ambassador Bremer for his passion for de-Ba'athification. Chalabi's biased methods proved to be destructive. For example, thousands of primary school teachers lost their positions, their property, and were forced to flee their community. Ambassador Bremer later reported that an international or coalition judicial organization should have led de-Ba'athification

efforts instead of the IGC, explicitly pointing to Chalabi's agenda and bias that made him the wrong person for the job.[63]

Bremer's CPA Order Number One failed to distinguish the critical difference between a member and a loyalist, and this failure in itself generated avoidable unemployment, mass killings, and regional exodus within Iraq's borders. Not all Ba'ath Party members were loyalists to Saddam's regime. As a result of IGC-led de-Ba'athification, tens of thousands of Ba'ath Party members Iraqi citizens were punished equally to the few remaining Saddam regime loyalists without distinction. De-Ba'athification, as outlined in CPA Order Number One, intensified the Iraqi internal displacement crisis. The Baghdad branch of the Central Intelligence Agency (CIA), led by Charlie Sidell, estimated that CPA Order Number One was clearly "anti-Sunni" and the order would immediately displace between 30,000 and 50,000 Iraqis.[64] Later, Sidell would clarify that the number was closer to 50,000.[65] Following CPA Order Number One, previous Ba'ath Party members were not able to find employment, and many that were employed were relieved of their positions. De-Ba'athification single-handedly crippled the Iraqi stability process by reducing the positive contributions of tens of thousands of educated professionals such as doctors, lawyers, professors, businesspeople, and administrators, and directly contributed to a dismal unemployment rate of 50% between 2003 and 2005.[66] Educated, unemployed, and demonized amongst their communities, many Sunni professionals fled their homes following the release of CPA Order Number One, and many of them sought refuge in neighboring states. The mass exodus of Iraq's professional, and later their middle class, made rebuilding efforts nearly impossible.[67] Of note, one third of Iraqi physicians sought asylum (either temporary or permanent) outside of Iraq from 2003-January 2007.[68] De-Ba'athification efforts contributed to the internal displacement or refugee status of nearly 40% of Iraq's professional class.[69]

Disbanding Iraq's Military

Shortly after CPA Order Number One was released on 16 May 2003, Ambassador Bremer directed the release of CPA Order Number Two, disbanding Iraq's military.[70] The order to release CPA Number Two confusingly dissolved a capable and ready standing Army of over 600,000 that predominantly supported de-Ba'athification and democratic reform.[71] President George Bush would later tell journalist Robert Draper, "The policy had been to keep the Iraqi Army intact. Didn't happen."[72] Before the release of CPA Order Number Two, President Bush had given "managerial control" to the Secretary of Defense, Donald Rumsfeld vice retired General Colin Powell as the Secretary of State.[73] Highlighting the passing of managerial control is vital to understanding why Ambassador Bremer targeted previous Ba'ath Party members and the Iraqi military, and later Ambassador Bremer commented that direction to dissolve the Iraqi military came from the Secretary of Defense with approval from the President of the United States.[74] CPA Order Number Two was an unnecessary compliment to CPA Order Number One. U.S. Army General David McKiernan and CIA officials provided Ambassador Bremer with an alternative to CPA Order Number Two that would have retained and transitioned large portions of the previous Iraqi military to serve in the new Iraqi Security Forces through a vetting process.[75] Despite numerous objections, CPA Order Two was released on 23 May 2003. The negative impacts of disbanding the Iraqi military were immediate, the path towards stability was frustrated, and factors that influenced internal displacement worsened.

More importantly, CPA Order Number Two restricted previous Iraqi military colonels and general officers from joining the new Iraqi Security Forces. Of note, the Iraqi military was disproportionately top-heavy with over 10,000 general officers, only half of whom were members of the Ba'ath Party before the 2003 Iraq War.[76] Very few general officers who were

Ba'ath Party members were loyalists to Saddam's regime. The vast majority of the Iraq military leadership wanted and embraced democratic change.[77] Previous Iraqi generals should have been given the opportunity to serve and have utility throughout the transformation. CPA Order Number Two dissolved ambitions of inclusiveness of previous military leaders, and it terminated the only security force Iraq had, unemployed 600,000 Iraqi citizens, and failed to provide a solution for almost four months. Between May and August 2003, the U.S.-led coalition provided the only means of local or regional security. During that time, domestic security was dismal or nonexistent, and there were multiple accounts of Sunni or Ba'ath Party assassinations by Shi'ite-led de-Ba'athificationists. Finally, in August 2003, the CPA released Order Number Twenty-Two to create the new Iraqi Army consisting of 40,000 light-arms-equipped soldiers.[78]

The lull in time between CPA Order Number Two and Number Twenty-Two made it difficult to rebuild an Iraqi security force without previous Iraqi military senior leadership. To further complicate matters after the release of CPA Order Number Two, some previous Iraqi military leaders formed alliances that sought to stall coalition stabilization efforts.[79] These efforts to undermine stabilization disrupted security force training, terrorized local supporters of transformation, and violently displaced over one million people between July 2003 and September 2004.

Of the topics discussed in this paper, the release of CPA Order Number Two to disband the Iraqi military was the largest failure of the U.S.-led coalition. The decision was myopic, made without regard to recommendations otherwise, prolonged armed conflict, further destabilized Iraq, and exacerbated an already growing IDP crisis in the region.

Properly Addressing the Iraqi Internal Displacement Crisis

By the end of May 2003, the TPR was in effect, the U.S.-led coalition supported deep de-Ba'athification efforts, and Iraq's military was disbanded. The results of these three factors combined equated to a massive internal displacement crisis with a threat of conflict spreading to the region. Once internal displacement exceeded life support and security capacities in Iraq, massive numbers of fleeing Iraqis poured into neighboring states. The U.S.-led coalition needed three key agendas in order to attain success in minimizing internal displacement: first, the U.S.-led coalition needed to acknowledge and address the Iraqi internal displacement crisis in 2004 vice in 2007 following the bombing of the Samarra Shrine (which occurred in 2006); secondly, some if not all of Francis Deng's Guiding Principles on Internal Displacement were needed to shape internal resettlement strategies; and finally, James Kunder suggests a model for addressing public policy to support IDPs.

The IDP crisis became globally evident in February 2006 when a terrorist tragically targeted and attacked the Samarra Shrine. Following the bombing at the Samarra Shrine, the New York Times reported that an estimated three-thousand Iraqis were attempting to flee to Syria per day.[80] The Honorable Ms. Ellen Sauerbrey, Assistant Secretary of State for population, refugees, and migration correlated the growing Iraqi IDP crisis to security failures leading up to and following the Samarra Shrine bombing.[81] The attack became a pivotal point in stabilization or the lack thereof; however, the Samarra Shrine bombing incorrectly hallmarks the genesis of the Iraqi refugee crisis.[82]

Implying causality between the Samarra Shrine bombing and the Iraqi IDP crisis is grossly inaccurate. Coalition fighting in Fallujah alone, in 2004, resulted in mass Sunni internal displacement.[83] Despite massive outflows of Iraqis from the start of the Iraq War, there was no formal congressional hearing on the matter until 2007.[84] Senator Edward Kennedy, who was a

Democrat from Massachusetts, led a Senate Judiciary Hearing regarding Iraqi refugees titled "The Plight of the Iraqi Refugees" that optimistically changed United States policy regarding the refugee crisis.[85] The redirection of United States' policy in 2007 was late, and the changes did little to improve human rights for individual Iraqis spread across neighboring states. However, it did set conditions to allow refugees to remain in countries without being forcefully returning to Iraq.[86] As important as this hearing was, a discussion on this topic should have taken place years earlier. The delay between 2003 and early 2007 allowed the problem to fester for over three years, and Iraqi internally displaced persons increased from 900,000 to 2.4 million during that timeframe. The externally displaced numbers grew to over 2 million, significantly impacting neighboring Iraqi states.

The 2003 Iraq War offered a perfect opportunity to apply the thirty guiding principles identified by Francis Deng in a document entitled the Guiding Principles on Internal Displacement, which was commissioned by the United Nations.[87] The purpose of Deng's Guiding Principles is to address needs, identify rights, and outline guarantees relevant to the protection of internally displaced persons.[88] Like UNHCR, Deng defines an internally displaced person as someone who leaves their residence to avoid the effects of armed conflict, violence, human right violations, or a natural disaster that (most importantly) have not crossed an internationally recognized state border.[89] Deng's Guiding Principles intend to provide a practical framework for public policy, education, and improved awareness.[90] Deng appealed to the UN Commission on Human Rights to apply the Guiding Principles to provide protection, assistance, and the reintegration of IDPs through the use of international agencies, intergovernmental organizations, and non-governmental organizations.[91] The Guiding Principles are all-encompassing and allow for no discrimination on the basis of race, color, sex, language, religion,

political opinion, national origin, ethnicity, social status, age, disabilities, or property.[92] All thirty of Deng's Guiding Principles are important in managing an IDP crisis; however, this section focuses on three Guiding Principles that are specific to the protection of IDPs within a sovereign state, core rights of IDPs, and what the minimum support requirements are for IDPs.

Deng's third Guiding Principle outlines that national authorities are primarily responsible for protection and humanitarian assistance of IDPs within their borders.[93] All measures must be taken to minimize displacement and its negative effects.[94] Under Deng's fifteenth Guiding Principle, IDPs have four core rights. IDPs have the right to seek safety in another part of their own country, leave their country, seek asylum in another country, and refuse resettlement in any area that threatens their life, safety, personal liberties, or their health.[95] Per Deng's eighteenth Guiding Principle, IDPs need to receive at minimum food, potable water, basic shelter, personal clothing, critical medical services, and sanitation support.[96] States have a duty and responsibility to establish conditions, as well as provide the means, for IDPs to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country."[97]

Building upon the foundational work of Francis Deng, James Kunder, the Director of the, U.S. Office of Foreign Disaster Assistance (OFDA) proposed a tactical roadmap to operationalize global strategies to aid IDPs.[98] Kunder made recommendations in 1999 to the Senate Foreign Relations Committee for policy changes that aimed to examine U.S. involvement regarding IDPs and provide proposals to establish global integrative solutions to be applied by the U.S. (and other countries).[99] Importantly, Kunder identified that a "policy and program" foundation is the most appropriate method of support that provides an effective and responsible response to IDPs.[100] Kunder identifies that all conscientious policy and programs include six

elements: statutory basis, congressional interest, official policy, government lead agency, resource allocation, and external linkages.[101] The first element in appropriately approving, developing, executing, and accessing an conscientious policy and program is to approve a statutory basis for action. The first element would require that the UNHCR authorize a policy initiative through the development of specific laws requiring action or by a broader grant of authority that provides a foundation for a new policy initiative.[102] The second element would authorize a convention to satisfy global interests, maintain initiatives, and answer to oversight hearings for governing body inquiries and budget reviews.[103] The third element would require official policy based on legislative directives developed from organized analysis and deliberation.[104] Policies must establish a lead agent with well-defined responsibilities to initiate policy directives and facilitate the connectivity of multinational engagements. The fifth element would appropriate resources to properly fund policy initiatives.[105] Finally, the sixth element requires the agreement of global partners to enable collaborative dialogue and the facilitation of global involvement. These elements would establish a model policies and program to enable Deng's Guiding Principles to be justly executed and accessed with oversight.[106]

Recommendation: An Internally Displaced Persons Convention

Solving internal displacement is complicated and solving internal displacement without globally integrative solutions focused on policies or binding agreements is more so. Some scholars have proposed modifying the legal definition of "refugee" to include IDPs. However, the definition of "refugee" does not require modification from that in the 1951 Refugee Convention.[107] As a complement to the 1951 Refugee Convention, a Displaced Persons Convention, as Dr. Jill Goldenziel points out, would provide a legal framework to make displacement safer and more organized, which would ultimately benefit everyone.[108] This

complementary framework would clarify international support requirements for displaced persons outside of their home state but simultaneously not classify them as a refugee, per the 1951 Refugee Convention. In future conflict, for example, a Displaced Persons Convention could help manage "spillover" responsibilities with neighboring states. However, a Displaced Persons Convention would not address IDPs. The Displaced Persons Convention is constrained by sovereignty, so a separate Internally Displaced Persons Convention (IDPC) would be required for the international community to specifically address displacement within a state. IDPs have the freedom of movement within their country, a critical mode that aids resettlement efforts that refugees do not possess.[109] Moreover, states are responsible for the human rights of their own citizens inside their borders. As Kunder suggested, new policies and programs are necessary to provide guidance on how states should treat IDPs to allow the international community to assist other states in doing so, and ideally, to allow the international community to intervene when states cannot or will not protect IDPs. [110]

The IDPC must be established as a binding international agreement.[111] A non-binding agreement would marginalize the rights of internally displaced individuals, and would lack a mechanism to force the international community to address displacement impartially.[112] An IDPC would aim to augment a Displaced Persons Convention in addition to the framework of the 1951 Refugee Convention. The IDPC would enable multinational collaboration to establish policy and programs specific to the needs of IDPs, following Kunder's six outlined elements. The IDPC would continually designate and develop "enforcement mechanisms" for the international community to justly engage IDPs throughout the entire cycle of displacement.[113] Established policy and programs would then facilitate the ethical application of Deng's Guiding Principles. These principles would establish the priority of protection, prohibit the generalized

discrimination of previously ruling parties, and encourage the retention of host nation security forces to promote and expedite stability efforts resulting from armed conflict.

Conclusion

Shortly following the U.S.-led coalition invasion of Iraq, the International Organization for Migration estimated that approximately 12.5 percent of all Iraqi citizens were either internally displaced or fled outside of Iraq.[114] The massive "spillover" of Iraqi IDPs into neighboring states significantly contributed to regional instability and magnified the Iraqi displacement crisis. The Iraqi displacement crisis following the 2003 Iraq War was a complex problem to solve. Due to state sovereignty, international laws pertaining to refugees do not apply to IDPs.[115] Yet regardless, the international community had a moral obligation to assist both refugees and IDPs.[116] In aspirations of mitigating the displacement crisis, the UNHCR had good intentions in authorizing the temporary protection of fleeing Iraqi into neighboring states, however, ill-coordinated efforts exacerbated stability operations. Simultaneously, the U.S.-led coalition dramatically amplified an already growing internal Iraqi displacement problem by directing deep de-Ba'athification under CPA Order One, disbanding Iraq's military under CPA Order Two, and failing to formally address the magnitude of the crisis until January 2007. These factors led to instability, prolonged armed conflict, unemployment, mass killings, early returns of displaced persons, border closures, and a general lack of internal Iraqi security.

As more Iraqis return to a post-war Iraq, the international community can expect IDPs to increase unless resettlement efforts within Iraq gain much-needed success. During the resettlement process, efforts need to focus on schools, vocational programs, and other common democratic educational opportunities to bridge the intellectual gap suppressed by violence and tyranny.[117] More research is needed to develop additional solutions to prevent internal

displacement and help IDPs in future armed conflicts. Further lessons may be learned from how the international community resettled massive amounts of internally displaced people post World War II in either Europe or Japan. Analysis of these case studies lay beyond the scope of this paper, but it is invaluable to understanding the complexities of providing international assistance for massive population displacement and resettlement in a post-conflict environment. Additional research is necessary to determine a legal policy or mechanism appropriate to assist IDPs, specifically those displaced by armed conflict. IDPs resulting from other situations, such as natural disaster, may face different challenges and different levels of moral responsibility from the international community.

Any international agreement to protect IDPs must also be compatible with ongoing global and regional legal and policy efforts. For example, the 2010 Kampala Convention of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, may provide some lessons applicable to a global IDP Convention. Additional research is needed to determine whether or not the 2010 Kampala Convention delivers a useful legal framework to expand IDP support globally.

The UNHCR continues to lead the international effort to stabilize the Iraqi internal displacement crisis as the second largest refugee crisis in history until the Syrian Civil War began in 2010.[118] Moving forward, the U.S. State Department, for U.S.-led operations, must coordinate efforts more efficiently with UNHCR to protect IDPs, set up safe zones, and mitigate further regional displacement.[119] In addition, an IDPC is necessary for the international community to formalize temporary protection, prohibit generalized discrimination, and retain military capabilities to expedite stability efforts. An IDPC would provide the necessary international legal framework for global partners to support IDPs fleeing armed conflict within a

sovereign state. Future U.S.-led coalition campaign plans must factor in UNHCR coordination and IDPs throughout the battlespace to fight, win, stabilize, and redeploy quickly.

Endnotes

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[2]Jill I. Goldenziel, *Regulating Human Rights: International Organizations, Flexible Standards, and International Refugee Law*. Chicago Journal of International Law. Vol. 14 No. 2. 2014, 474.
[3]Deng, *Further Promotion and Encouragement, 2*.
[4]United Nations High Commissioner for Refugees
[5]1951 Refugee Convention, Article 1
[6]www.unhcr.org/en-us/internally-displaced-people.html
[7]Kathleen Newland, Erin Patrick, and Monette Zard, "No Refuge: The Challenge of Internal Displacement", Office for the Coordination of Humanitarian Affairs, Internal Displacement Unit, United Nations, 2003, 9.
[8]Ibid.
[9]United Nations High Commissioner for Refugees 2000, Oxford University Press, 215.
[10]Merrion-Webster Legal Dictionary, https://www.merriam-webster.com/dictionary/regime#legalDictionary. A "regime" is a system of principles, rules, or regulations for administration.
[11]See paragraph 3, page 1 of UNHCR, *Guidelines on Temporary Protection or Stay Arrangements*, 2014. "Temporary protection/stay arrangements (TPSAs) are pragmatic 'tools' of international protection, reflected in States' commitment and practice of offering sanctuary to those fleeing humanitarian crises. TPSAs are complementary to the international refugee protection regime, being used at times to fill gaps in that regime as well as in national response systems and capacity, especially in non-Conventional States." This work uses Temporary Protection Regime (TPR) as the principle and agreed upon rule that temporary protection (defined above by UNHCR) is provided to fleeing Iraqis as a result of the 2003 Iraq War. See note 10 for "regime".
[12]Goldenziel, *Regulating Human Rights, 471*.
[13]Jill I. Goldenziel, *Solving the Middle East's Refugee Disaster*, The National Interest, 2014.
[14]Goldenziel, *Regulating Human Rights, 471-474*.
[15]Merriam-Webster Legal Dictionary, https://www.merriam-webster.com/dictionary/regime#legalDictionary. The term "*prima facie*" is legally sufficient to establish a fact or a case unless disapproved. In this work, prima facie regime refers to the rule established by UNHCR in January 2007 that classified all displaced Iraqis outside of Iraq as refugees. See note 10 for "regime".
[16]Andrew Harper, *Iraq's Refugees: Ignored and Unwanted*, International Review of the Red Cross, Vol 90 Num 869, Mar 2008, 175.

[17]Andrew W. Terrill, *Lessons of the Iraqi De-Ba'Athification Program for Iraq's Future and the Arab Revolutions,* Strategic Studies Institute Monograph, U.S. Army War College, 2012, 15.
[18]Goldenziel, *Regulating Human Rights, 471-474.*
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[24]Goff, Donald G. *Building coalitions for humanitarian operations: Operation Provide Comfort,* Army War College (U.S.), 1.
[25]Ibid.
[26]Ibid.
[27]Terrill, *Regional Spillover Effects, 4-6.*
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[29]International Commission on Intervention and State Sovereignty.
[30]Romano, "Whose House is this Anyway?", 430-453.
[31]Goff, *Building coalitions for humanitarian operations, 26-27.*
[32] Ibid.
[33]Terrill, *Regional Spillover Effects,* 4-15.
[34]Jill I. Goldenziel, *Refugees, and International Security,* On the Move: Migration Challenges in the Indian Ocean Littoral. 2010, 29-42.
[35]Shephard, Ben. "'Becoming Planning Minded': The Theory and Practice of Relief 1940-1945." *Journal of Contemporary History*43, no. 3 (2008): 405-19. http://www.jstor.org.lomc.idm.oclc.org/stable/40542967.
[36]Ibid.
[37]Terrill, *Regional Spillover Effects,* 4-15.
[38]Ibid.
[39]Goldenziel, *Regulating Human Rights, 471-474.*
[40]Ibid.
[41]Jill I. Goldenziel, *Displaced: A Proposal for an International Agreement to Protect Refugees, Migrants, and States*, 35 BERKELEY J. INT'L LAW. 47 (2017) (http://scholarship.law.berkeley.edu/bjil/vol35/iss1/2), 47-89.
[42]Goldenziel, *Regulating Human Rights, 471-474.*
[43]Human Rights Watch, *The Silent Treatment: Fleeing Iraq, Surviving in Jordan,* Vol. 18 No. 10. Nov 2006, 5.
[44]1951 Refugee Convention, Article 33, 472.
[45]Human Rights Watch, *The Silent Treatment*, 42.
[46]Goldenziel, *Regulating Human Rights*, 470.
[47]Ibid.
[48]Patrick Cockburn, *Unwanted in Syria, Hundreds of Iraqi Refugees Return Home*, Independent, 28 November 2007. https://www.independent.co.uk/news/world/middle-east/unwanted-in-syria-hundreds-of-iraqi-refugees-return-home-760734.html.

[49]Ibid.
[50]Terrill, *Regional Spillover Effects,* 4-15.
[51]Goldenziel, *Regulating Human Rights, 471-474*.
[52]Goldenziel, *Refugees, and International Security*, 29-42.
[53]Ibid.
[54]Terrill, *Regional Spillover Effects,* 4-15.
[55]Andrew W. Terrill, *Lessons of the Iraqi De-Ba'athification Program for Iraq's Future and the Arab Revolutions,* Strategic Studies Institute, U.S. Army War College, 2012, 13.
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[60]Ibid, 14.
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[63]Ibid, 25.
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[66]Terrill, *Regional Spillover Effects,* 4-15, 18-21.
[67]Ibid, 4-15, 18-21.
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[69]Ibid, 4-15, 18-21.
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[72] Draper interview with President Bush as cited in Robter Draper, *Dead Certain: The Presidency of George W. Bush*, New York: Simon & Schuster, Inc. 2007, p. 211, and cited in, Andrew W. Terrill, *Lessons of the Iraqi De-Ba'athification Program for Iraq's Future and the Arab Revolutions,* Strategic Studies Institute, U.S. Army War College, 2012, 18.
[73]Terrill, *Lessons of the Iraqi De-Ba'athification*, 18.
[74]Ibid, 18.
[75]Ibid, 35.
[76]Ibid, 38.
[77]Ibid, 38.
[78]Ibid, 40.
[79]Ibid, 40.
[80]Goldenziel, *Regulating Human Rights, 471-474*.
[81]International Crisis Group. *Failed Responsibility: Iraqi Refugees in Syria, Jordan, and Lebanon.* Middle East Report. No. 77. 10 July 2008, 17.
[82]Goldenziel, *Regulating Human Rights, 471-474*.
[83]Ibid.
[84]Ibid.
[85]Ibid.
[86]Ibid.
[87]Deng, *Further Promotion and Encouragement, 1*.
[88]Ibid, 3.
[89]Ibid, 5.

[90]Ibid, 4.
[91]Ibid, 4.
[92]Ibid, 6.
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[104]Ibid, 2-3.
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[107]Goldenziel, *Displaced,* 47-89.
[108]Ibid.
[109]Ibid.
[110]Kunder, *The U.S. Government and Internally Displaced Persons*, 2-3.
[111]Goldenziel, *Displaced,* 47-89.
[112]Ibid.
[113]Ibid.
[114]Jill I. Goldenziel, *Solving the Middle East's Refugee Disaster*, The National Interest, 2014.
[115]Roberta Cohen, Francis M. Deng, *The Forsaken People: Case Studies of the Internally Displaced*, Brookings Institution Press, Washington D.C., 1998, 1-2.
[116]Goldenziel, *Displaced,* 47-89.
[117]Jill I. Goldenziel, *Solving the Middle East's Refugee Disaster*, The National Interest, 2014.
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