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ABSOLUTE IMPUNITY

MILITIA RULE IN IRAQ

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Cover photo: Shiite Muslim fighters from Saraya al-Salam (Peace Brigades) August 2014 © AFP/ Getty images

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CONTENTS

Introduction	4
Methodology	5
Abductions, killings and extortion	6
Summary killings in revenge for IS attacks.....	10
Samarra.....	10
Kirkuk	11
Abductions and the missing	15
Growing power and lack of accountability for Shi'a militias.....	17
Torture and deaths in custody of government forces.....	19
International law and the conduct of Shi'a militias	22
Conclusions and recommendations	24

INTRODUCTION

In recent months, Shi'a militias have been abducting and killing Sunni civilian men in Baghdad and around the country. These militias, often armed and backed by the government of Iraq, continue to operate with varying degrees of cooperation from government forces – ranging from tacit consent to coordinated, or even joint, operations. For these reasons, Amnesty International holds the government of Iraq largely responsible for the serious human rights abuses, including war crimes, committed by these militias.

The victims were abducted from their homes, workplace or from checkpoints. Many were later found dead, usually handcuffed and shot in the back of the head. Reports by families of the victims and witnesses have been corroborated by Ministry of Health workers, who told Amnesty International that in recent months they have received scores of bodies of unidentified men with gunshot wounds to the head and often with their hands bound together with metal or plastic handcuffs, rope or cloth. Photographs of several bodies shown to Amnesty International by victims' relatives and others viewed at Baghdad's morgue, reveal a consistent pattern of deliberate, execution-style killings.

Some of the victims were killed even after their families had paid hefty ransoms. Several families told Amnesty International how they had received the dreaded call from the kidnappers, had searched frantically for the ransom money and had managed to pay it, only to discover that their loved one had still been killed. *"I begged friends and acquaintances to lend me the ransom money to save my son, but after I paid they killed him and now I have no way to pay back the money I borrowed, as my son was the only one working in the family"*, a grieving mother told Amnesty International.

Scores of other victims are still missing, their fate and whereabouts unknown, weeks and months after they were abducted.

Amnesty International has documented dozens of cases of abductions and unlawful killings by Shi'a militias in Baghdad, Samarra and Kirkuk, with many more such cases reported all over the country.¹

Such crimes are being perpetrated against a background of increased sectarian tensions in the country. Since Iraqi central government forces lost control of much of northern Iraq to the Sunni Islamist armed group which calls itself "the Islamic State" (IS)² last June, sectarian attacks have spiraled to a level not seen since 2006-2007, the worst period of civil strife in the country's recent history. Government-backed Shi'a militias and Sunni armed opposition groups have both been targeting civilians from each other's communities.

In addition to the mass human rights abuses they have been committing in the areas under their control, IS fighters carry out frequent bomb attacks in predominantly Shi'a areas in the capital and elsewhere that either deliberately target Shi'a civilians – sometimes in places of worship – or indiscriminately kill or injure civilians along with members of the security forces or of pro-government militias.

Shi'a militias, for their part, have been taking advantage of the atmosphere of lawlessness and impunity to abduct and kill Sunni men, seemingly in reprisal or revenge for IS attacks and at times also to extort money from the families of those they have abducted.

With government forces unable or unwilling to ensure the security and protection of the civilian population, militias have been operating with unprecedented freedom and have been able to perpetrate such crimes with impunity.

In almost all the cases mentioned in this briefing, and others reported to Amnesty International, the principal perpetrators have been members of Shi'a militias. However, the responsibility of the government for such acts, as a result of their involvement in arming and supporting these militias and the security forces' complicity or acquiescence in these serious abuses, cannot be ignored. At the same time, violations committed directly by government forces have likewise continued unabated.

METHODOLOGY

Information contained in this briefing was obtained by an Amnesty International delegate during six weeks of field research in central and northern Iraq, including the areas under the control of the Kurdistan Regional Government, in August and September 2014. The delegate met with dozens of victims and relatives of victims, witnesses, medical professionals, government officials (who spoke on condition of anonymity for fear of reprisals), members of the Iraqi Human Rights Commissions, NGOs, and lawyers. In most cases the names of the victims have been changed and any details which could lead to their identification or that of their surviving relatives has been withheld for their safety. Exact dates and locations of some of the interviews have likewise been omitted.

ABDUCTIONS, KILLINGS AND EXTORTION

Some victims of abductions were killed by their captors after their families paid ransoms they were promised would secure their release. Two cousins, Majed, a 31-year-old Ministry of Education employee and father of three young children, and Nayef, a 30-year-old engineer, were abducted at about 3.15pm on 30 May by men in military uniform in a military vehicle near a military camp in al-Taji area, some 30 km north of Baghdad. On the evening of 2 June, the families delivered the agreed ransom for their release, the equivalent of about US\$90,000,³ but the two men were not released. Their bodies were found the following day in al-Shu'la, a predominantly Shi'a area northwest of Baghdad. They had both been shot in the head and their hands were cuffed behind their backs with metal handcuffs. When they were abducted they were transporting Nayef's family furniture from Tikrit, where Nayef, the family's breadwinner, had been working and the family had been living for the previous five years. The family decided to leave Tikrit because of the deteriorating security situation there. Tikrit, which was subsequently taken over by IS fighters, has long been considered a bastion of anti-government Sunni insurgency.⁴ Its residents, notably young men, tend to be suspected, wholesale, of support for groups like the IS for the mere fact of living there, and as such have often been targeted by both government forces and Shi'a militias.

A relative of the two cousins told Amnesty International:

"That day (30 May) I went with Nayef and a friend to Tikrit to bring the family furniture. On the way down to Baghdad we were stopped at a military checkpoint between Djeil and al-Taji (some 40 km north of Baghdad). They asked for a permit for the truck. Nayef and our friend stayed at the checkpoint with the truck and I came to Baghdad to try to get the permit. I got Majed to accompany me as he is well educated and knows how to handle such procedures. Even though it was a Friday we eventually managed to get the permit and then Majed accompanied me back to the checkpoint. There we gave the permit to the soldiers and were allowed to continue on to Baghdad. I drove the truck and Nayef and Majed were behind us in my car. When we got to Aqwas al-Taji we were stopped by some men in a military vehicle, a Hummer type of vehicle, near the al-Taji military base. It was about 3.15pm. They said Nayef and Majed had to stay behind to be checked and we were not allowed to stay and wait for them, so we drove on for 15 minutes and then I tried to call them but there was no answer and then the phones were switched off. We drove on, and when we got to the Baghdad entry checkpoint, I saw my car pass through the checkpoint and go on into Baghdad. Its number plate had been removed and it was being driven by two young guys; it was not stopped at the checkpoint, even though at that checkpoint all cars are usually stopped and papers checked. I left the truck there and took a taxi back to the place where I had left Majed and Nayef but found no one; the military vehicle which had stopped us had gone. It was 4.20pm."

Majed's mother told Amnesty International:

"At 8pm that evening I got a call from a man speaking from my son's mobile asking for 20 dafatir (about US \$180,000) for the release of Majed and Nayef. I told him I only have this

boy and we have no money but he said 'find the money and don't go to the police or we'll kill them'. They called several times over the next two days and eventually they lowered their demand to 10 dafatir. I had to borrow the money and so did Nayef's family.... On the evening of 2 June they told me to take the money to the Mashat bridge. I waited there for an hour and then they called and again I asked to speak to my son and to Nayef. They called me back after 10 minutes and allowed me to speak to both of them; Majed sounded very tired. The kidnapper then told me to take a taxi to a place in al-Ghazaliyeh area and when I got there they called again and told me to take a taxi to another place, and then to another place. It was late, dark and there was no one around except me. A white car drove up and stopped near me and the men inside shouted 'yalla, yalla, the money'. I asked where is my son and they said 'they'll come now, after us'. They took the money and drove off towards al-Shu'la. I waited for an hour but nobody came. The following day a relative called to say that their bodies had been found in al-Shu'la and taken to the morgue. Both had been shot in the head. He was my only son, now I have nothing to live for."

Photographs taken by the police at the place where the bodies were found shows both Majed and Nayef, kneeling face down in tall grass with their hands bound behind their backs with metal hand-cuffs.

A government official explained his understanding of the pattern to Amnesty International:

"Sunni men of fighting age who come from, go to or live near areas where there are IS groups tend to be considered by many militias to be terrorists or terrorist supporters and that is why they often get killed, whereas some militiamen target Sunnis in blind revenge for the crimes committed by Sunni terrorist groups. I'm afraid that we're regressing back to the situation as it was seven or eight years ago, when this behaviour was very widespread".

Salem, a 43-year-old businessman and father of nine from Baghdad, was abducted from his factory in al-Taji area, some 30 km north of Baghdad at 4.30pm on 15 July in the presence of some of his workers. The family paid a US\$60,000 ransom but he was never released. Two weeks later, his family found his body in Baghdad's morgue. His head had been smashed and his hands were bound together with metal handcuffs. A member of his family told Amnesty International:

"Salem had previously been arrested with his son and his brother on 3 July 2014, also from his workplace. They were arrested by two officers and several soldiers and a masked man in civilian clothes, with three military vehicles. The masked civilian, a Shi'a, who had been accompanying the soldiers contacted us and said he could get Salem, his son and his brother released if we paid US\$30,000. We then agreed on US\$ 27,000 and when we paid, the three were promptly released. Then on 15 July Salem was abducted again, this time by three men in military uniform, armed, but driving a civilian car with no number plate. The same evening we received a call asking for US\$200,000 for his release. We said we could not get that sort of money. They called us a total of 14 times between 15 and 21 July and they eventually lowered the ransom to US\$60,000. We were instructed to bring the money to al-Shu'la and drop it from the middle of the highway bridge to someone waiting under the bridge. We were supposed to find Salem half an hour later near the Mashat pedestrian bridge, near al-Taji military checkpoint. We waited for a long time but Salem never appeared. We began searching for Salem in all the police stations and on 3 August found a photograph

of his body in the police station in al-Shu'la [in the photograph, seen by Amnesty International, Salem is handcuffed and his head is mostly destroyed – either by a heavy object or a large calibre bullet]. His body had been taken to the morgue”.

Family members said the body was collected for burial by female relatives because they feared that male relatives could be at risk of abduction and/or killing if they got involved. Family members have also since moved address for fear that they too could be at risk of abduction or killing. Salem's factory, from where he was abducted, is located within sight of two military watchtowers, one belonging to the brigade at whose barracks Salem, his son and his brother were held when they were briefly detained earlier in July.



One of the victims of a Shi'a militia abduction. © Private

Khaled, a 39-year-old businessman and father of four from Samarra, was abducted as he was driving from Samarra to Baghdad in the early morning of 26 July. One of his relatives told Amnesty International:

“At 10.30pm that day we got the first call from the kidnappers who asked for US\$150,000, an amount we did not have and could not borrow. We negotiated for six days before we could finally speak to Khaled and confirm that he was still alive. We could only speak to him after having agreed the amount of the ransom. They finally settled for US\$45,000 and his car, which they had taken when they abducted him; this is all we were able to borrow. We were

asked to deliver the money on 1 August in a mostly Shi'a neighbourhood of Baghdad. Once the person who was to deliver the money was at the appointed location with the money, the kidnappers changed the location five times in the space of one hour and then the ransom was delivered as requested by them. It was about 2.30pm. Khaled was to be released after 30-45 minutes but was not. At 9.30pm they sent a message saying ‘we released Khaled and he is now in Souq Mreid’, but we found no trace of him in that place. We continued to look for him until 11 August, when we found his body at the morgue in Baghdad. He had been shot in the head three times. According to the death certificate the date of death was 1 August, so this means that he was killed immediately after we paid the ransom, as we spoke to him that day”.

A government official described the pattern to Amnesty International:

“Some militiamen are thieves as well as killers and try to get money from their victims’ families, before killing them. Those who are kidnapped by these have little chance of

survival, no matter how much their families pay. And then there are militiamen who kidnap only to make money, and they can target everyone, Christians, Kurds, and even Shi'a. I am Shi'a and I know of several Shi'a who have been abducted and released on payment of ransom. They were abducted in areas which are militias' strongholds, where it would be impossible for ordinary criminals to operate in such a way. But mostly they kidnap Sunnis, because the victims can easily be labelled as terrorists and nobody is going to do anything about it".

A Christian woman whose husband narrowly escaped an attempted abduction told Amnesty International:⁵

"Three armed men came to our home on 21 July at 9pm. They said they were from the neighborhood security but we knew this was not true. Luckily we were having a dinner party and the house was full of people, so the men left but later called demanding a large sum of money. They told my husband 'we know you are Christian and you are a good man and we don't want to kill you but you must pay and don't think you can avoid paying by moving; we know everything about your family and we'll find you wherever you go and will kill you'. So we left our home and in a few days we will leave Iraq. Who is to say that even if we pay we would be safe? We don't want to live with such a threat hanging over our head."

The family subsequently left the country.

This family and other residents of the area told Amnesty International that they believe that those responsible for the threats and extortion are members of 'Asa'ib Ahl al-Haq, a Shi'a militia. *"They are very strong in our area, they are in control; nobody else could operate there"*, a resident told Amnesty International. The fact that the family felt it would be neither useful nor safe to inform the police speaks volume about the atmosphere of lawlessness in the capital, where Shi'a militias know that they can act with impunity.



One of the victims of a Shi'a militia abduction. © Private

SUMMARY KILLINGS IN REVENGE FOR IS ATTACKS

SAMARRA

Amnesty International has obtained the details of more than 170 mostly young Sunni men who have been abducted in and around Samarra, a predominantly Sunni city of about 400,000, since early June. Dozens were later found dead and the rest remain unaccounted for. In one single day, Friday 6 June, more than 30 were abducted from or near their homes, shot dead, and their bodies dumped nearby.

Omar, a 22-year-old taxi driver, was taken from his bed by armed men in military uniforms on the morning of 6 June in front of his family. He was found dead nearby the following morning. His mother told Amnesty International:

"The militias broke into our home as we were sleeping. My son woke up and said 'what is happening?' They grabbed him from his bed and took him outside where more armed men and three black Hummers (vehicles) were waiting. Before leaving they took all our mobile phones. Outside one of them pointed to our car and asked if it was ours and when I said yes he shot at it. I tried to follow them but they shot in my direction. They also took our neighbour's son. We looked for them everywhere until the following day when their bodies were found in a mosque nearby. My son had been shot twice in the head and once in the chest. As they were taking my son from the house the militiaman who took my mobile phone asked 'what is his name?' They didn't even know my son's name; maybe they just took him because they were looking for young men and he was the only young man in our house."



One of the victims of a Shi'a militia abduction.
© Private

Two brothers, Fares and Issam, both labourers aged 20 and 22, were seized from their aunt's house that same morning. Their bodies were found on a nearby building site a few hours later. Both had been shot in the head. A family member told Amnesty International:

"Eight armed men in black uniforms came to the house at 7.15am and checked the family ration card and when they saw that their names were not listed on the card they asked why they were there since they do not live there. We told them that these are our relatives and that they had visited the previous evening and we had stayed up talking until late and they had slept over as they often did. They took them away and said they would bring them back after half

an hour but they didn't."

Another relative said they found the bodies of the two brothers at about 11am about 200 meters from their aunt's house. The kidnappers likely presumed the brothers were hiding at their aunt's home.

Abdul Samad, a 49-year-old taxi driver was seized from his home in front of his family on the same morning and shot dead. His relatives and a neighbour who witnessed the shooting told Amnesty International:

"Four men dressed in black and masked dragged him out of his house; two cars were waiting for them and there were other armed men around. They dragged him for about 25 or 30 meters and then shot him. I could not approach to see in details as was afraid they would see me. After they left me and his relatives went to the body; he had been shot in the head."

According to families of other victims and local community leaders, 37 men were abducted and killed in such attacks on the morning of 6 June,⁶ most in Hay al-Dhubbat (Officers' district) and other neighbourhoods in the east of the city. The killing spree seems to have been in reprisal for a brief incursion the previous day by IS fighters into the city. The IS fighters had entered Samarra from the East, through Hay al-Dhubbat and other nearby areas, where some residents may have supported or welcomed them, but their incursion was limited in time and scope – they were present for a few hours only in a small area of the city. Amnesty International found no information indicating that any of those abducted and killed on 6 June, or since, had played any part in the IS incursion or in any IS attacks in surrounding areas. Even if some of these men had been involved with IS, they could have easily been apprehended and handed over to law enforcement, as demonstrated by the ease with which they were seized. The deliberate killing of individuals who have been captured is absolutely prohibited and, in these circumstances, is a war crime.

KIRKUK

Nour, a 28-year-old nurse and father of a baby girl, was abducted in the evening of 24 August near his home in Kirkuk, in a predominantly Sunni Arab area in the south of the city. An hour later his body was found on a nearby rubbish dump on the southern bank of the wadi (dry river-bed), together with the bodies of two other young men who were also abducted near their homes in the same area at around the same time. All three had been shot in the back of the head and were found with their hands tied behind their back. A relative of Nour told Amnesty International:

"We prayed at the nearby mosque and went back to the house and drank tea. Nour then left to go check on a sick relative, saying he would be back after a few minutes. When he did not return I went to look for him and neighbours told me he had been abducted. They said that he was talking on the phone when three vehicles, two four-wheel-drive and a pick-up, stopped and he was bundled into one of the vehicles and driven away. Neighbours also said that two other neighbours had been abducted in the same way. We found his body at the morgue. It was a terrible sight. He had been shot in the back of the head at close range and on his wrists were marks left by the handcuffs. Why did they kill him? There was no reason for anyone to harm him. He was a good man. He spent his time working at the hospital, looking after his family and studying; he had two degrees, in nursing and Islamic Shari'a

(law), and was about to start studying for a master's degree in addition to his work. Now he is gone and nothing can be done to bring him back."

Relatives of the other two victims, Mahmoud, a 19-year-old labourer, and Hassan, a 27-year-old bus driver and father of two young children, told Amnesty International that the two had been abducted by men in a three-vehicle convoy at around the same time – Mahmoud was taken from the street and Hassan while repairing a bus in front of his home.



One of the victims of a Shi'a militia abduction. © Private

None of the relatives and neighbours of the three victims who spoke to Amnesty International could offer any explanation of why the three young men had been targeted; some members of the Sunni community believed the killings may have been in revenge for a triple bomb attack against security positions in the city the previous day (23 August), for which the IS claimed responsibility.

The following evening (25 August), a 60-year-old lawyer and a baker were shot dead in the Hay al-Nasser's district, in the south-east of Kirkuk. Two of the lawyer's relatives, one of them a six-year-old girl, were injured in the attack. A family member who was present at the time of the attack told Amnesty International:

"We have a family bakery which had not been in use for a long time so we asked Ali, the baker who used to run it, to show us how the oven

works. He came just after 9pm and we started to work but the electricity went so we went outside to wait for the generator to be turned on. As we stood there talking, a car drove by and opened fire at us. It all happened very quickly, they just shot a burst of gunfire as they drove by. Uncle Fayad and Ali were killed and two relatives were injured."

Two days later, on the morning of 27 August, Karim 'Awad Fardous, a 55-year-old tribal leader and father of 18, was gunned down along with two relatives, Ibrahim Sajhil and Saadi Ahmad, while driving near the stadium. A relative told Amnesty International:

"They had just left home; Karim was sitting in the passenger seat, Ibrahim was driving and Saadi was at the back. Another vehicle drove up behind them and opened fire on their car, killing all three. They were going to a meeting to resolve the case of a detained relative. Karim was very involved in the community; he used to be an army officer until 2003. Since then he became a leader of the al-Louhibi tribe and was involved in three local civil society organizations. He had also stood as a candidate in the April 2014 elections but was not elected. Recently, with the increased tensions since DA'ESH (IS) seized control of parts of the country, he was involved in negotiations to improve relations and open channels of communication between the communities. That must be why he was targeted by people who did not want things to improve."

Sectarian tensions are particularly high in Kirkuk, between the city's main ethnic groups—Kurds, Turkmen and Arabs—who have long battled for control over the city and its large oil resources. When the Iraqi army fled northern Iraq in June 2014, the Peshmerga forces of the autonomous Kurdistan Regional Government (KRG) stepped in to take control of the city, halting the IS advance. The KRG, which had long claimed sovereignty over Kirkuk, has frequently reiterated that claim in recent months, indicating that it does not intend to give up control of the city.

In the city, mistrust has grown between Sunni and Shi'a Turkmen and Arab communities and between Arabs and Kurds. Accusations such as “the Sunnis [Turkmen and Arabs] are cooperating with IS” and “the Shi'a [Turkmen] and the Kurds are cooperating with Iran-backed Shi'a militias” are common – and in some cases true. Kirkuk has become a frontline city, with Peshmerga forces and Shi'a militias, at times backed by Iranian fighters,⁷ battling IS fighters, supported by some local residents from Sunni Arab and Sunni Turkmen communities, to the south, west and north-west of the city. While Shi'a militias are operating openly, and in cooperation with or at least with the tacit consent of Kurdish Peshmerga forces, IS fighters are keeping a low profile and focusing on hit-and-run attacks, such as bombings, which they can carry out in areas they do not control.



One of the victims of a Shi'a militia abduction. © Private

“This business of DA'ESH (IS) and the war it has caused have poisoned relations among and within communities. Sunni or Shi'a did not use to matter; now some people are exploiting the situation and causing dangerous divisions. I am Shi'a and my son is Sunni, and another son is Shi'a; there is no difference between us. There must be justice for all”, a man from a mixed Shi'a-Sunni family whose son, a Sunni, was abducted and killed, told Amnesty International.

However, to date, justice for victims of attacks has been elusive. Lack of political will to hold accountable militias and Iraqi central government forces responsible for abductions and deliberate killings has been a long-standing concern throughout the country. Since June the unusual security arrangements in Kirkuk makes it even more difficult, in fact impossible, for victims' families to obtain justice and redress.

In theory, the administration of justice in Kirkuk remains the responsibility of the Iraqi central government in Baghdad, though its armed forces fled the north of the country and local police members and civil servants say they have not been paid in months. In practice, the city is under the control of the KRG, which has no mandate and seemingly neither the will nor the capacity to take on the task of running the administration of justice.

The victims' families have not just given up hope of obtaining justice and redress, but remain very scared. *“I have lost one son and don't want to lose any more. Nothing can bring him*

back, and I can't put my other children at risk. Who knows who will be next? There is no rule of law, no protection," a relative told Amnesty International. *"KRG forces control Kirkuk, but they did not stop armed Shi'a militias parading through the city with their weapons on display some weeks ago, while we Sunnis are regarded with suspicion and treated as if we are all members of DA'ESH (IS),"* another resident said. The fear displayed by the families of victims interviewed by Amnesty International – none were willing to be seen meeting openly with the organization for fear of reprisals⁸ – is a clear indication of the breakdown of the rule of law and the pervasive impunity in the city.

Amnesty International has information about four other cases of Sunni Arab men, three originally from the Anbar region, who were abducted and killed in August in Kirkuk in a manner similar to the cases detailed above. Several others have been abducted in the city and their families have been unable to find any information on their fate and whereabouts.

ABDUCTIONS AND THE MISSING

Many of those abducted by militias in recent months are still missing. In most cases families are too scared to look for them openly, for fear of putting themselves at risk of being abducted or killed. A lawyer whose relative was abducted in June in Baghdad told Amnesty International that he felt unable to make inquiries:

"I asked some friends to inquire but did not do so myself. I am afraid for myself and especially for my son. Militias have a free rein in this area; they have very good relations with the police and the army and they can act with total impunity. If I go to the police and tell them what I know about my relative's abduction by a militia they will likely learn about it and could take revenge on my family. I cannot take such a risk. I keep my son under virtual house arrest; he goes to college and the rest of the time he is at home. I am too afraid he will be abducted."

On the night of 12 June, a 59-year-old Imam and a 73-year-old muezzin were abducted by a large group of masked men from their homes near the mosque where they serve in the Saidiya neighbourhood of Baghdad. The abduction was recorded by a surveillance camera outside the mosque. The kidnappers had smashed the surveillance cameras but one remained which they seemingly did not notice. A little earlier, three brothers who owned a butcher shop and a property dealer were abducted by armed masked men in the same area. To date the six remain unaccounted for.



One of the victims of a Shi'a militia abduction. © Private

Two brothers, 46-year-old Sarhan, a taxi driver, and 32-year-old Raghi, a farmer and father of three young boys, were abducted at a checkpoint north of Samarra in the afternoon of 12 July as they and their families were moving their belongings from Tikrit, where they used to live, to Samarra.

One of their relatives who was with them told Amnesty International:

"We were moving from Tikrit because of the worsening security situation. We had all our belongings and all our documents in Sarhan's taxi. At Jeilam checkpoint, we were stopped by armed men who said they were from Saraya al-Salam (Peace Brigade, an offshoot of the notorious Mahdi Army militia, which has long been involved in abduction and arbitrary killings). They took Sahran and Raghi and told us they would release them very quickly but we waited by the checkpoint for about four hours and they did not release them. They then took us to Samarra in

one of their vehicles and again told us that Sarhan and Raghi would be released soon but they were never released. We have no idea where they are and what has happened to them; if they are still alive or have been killed. Their car too has disappeared, with our IDs and all our documents inside, so we now don't even have any way of proving who we are".

GROWING POWER AND LACK OF ACCOUNTABILITY FOR SHI'A MILITIAS

Iraq's main Shi'a militias are:⁹

- The **Badr Brigades**¹⁰ (or Badr Corps or Badr Organization), the military wing of the Supreme Islamic Iraqi Council (SIIC), created in the 1980s with the backing of Iran to fight the regime of Saddam Hussein, and currently headed by Hadi al-Ameri, who also heads the Badr Organization political party and served as Transport Minister in the Government of Prime Minister Nouri al-Maliki [until September 2014].
- The **Mahdi Army** of cleric Moqtada al-Sadr had become the most powerful militia following the 2003 US occupation of Iraq, but was officially dissolved in 2008. It was revived last June with the creation of its offshoot **Saraya al-Salam** (Peace Brigade).¹¹
- The **'Asa'ib Ahl al-Haq** (League of the Righteous),¹² established around 2005 as a splinter group of the Mahdi Army under the leadership of Qais al-Khaz'ali and linked to General Qassem Suleimani, the head of al-Quds Force of the Iranian Revolutionary Guard Corps (IRGC). It is believed to be currently the most powerful of the Shi'a militias; in the past two years some of its members have been fighting in Syria alongside Syrian government forces battling Sunni armed opposition groups.
- The **Kata'ib Hizbullah** (Hizbullah Brigades),¹³ unrelated to the Lebanese Hizbullah and reportedly an offshoot of the Mahdi Army's "Special Groups".

The largest Shi'a militias have tens of thousands of fighters in their ranks. They can look and operate like regular armed forces but are not regulated by any laws or subject to oversight and accountability mechanisms. Shi'a militias, acting outside any legal framework, have long been operating in Iraq with the backing and blessing of successive Iraqi central governments, which have been dominated by Shi'a political parties. In the wake of the Iraqi army's spectacular flight from a third of the country in June 2014, the power and legitimacy of Shi'a militias have risen dramatically,¹⁴ with government officials, including then Prime Minister Nouri al-Maliki, and leading political and religious figures calling on volunteers to take up arms against IS insurgents. Though some of the calls were for volunteers to join the depleted armed/security forces, after tens of thousands of soldiers fled in the face of the IS advance leaving their uniforms and weapons behind, the main recruitment drive was by militias.

Militia members often wear uniforms and operate both independently and alongside government forces - on the battlefield and checkpoints, and use army/security forces' bases and detention centres - increasingly blurring the lines between them and regular forces.¹⁵ Qais al-Khaz'ali, leader of the 'Asa'ib Ahl al-Haq militia said in a media interview in June: *"It is like any army, in that there are divisions inside it... and each one has its specialties... The military has artillery and aerial force. We have the fighters who go down on the ground and purge the areas"*.¹⁶ Ahmed al-Kinani, a spokesman for the militia's political wing told media, also in June: *"They are fighting side by side with the government forces on all fronts... They wear military uniforms. They are working with the security forces. It's logical."*¹⁷ However,

militias are not subordinate to the regular forces.¹⁸ On the contrary, they appear to have more authority and effective power on the ground than the beleaguered government forces, increasingly seen as weak and ineffective.

In September 2014, a member of the 'Asa'ib Ahl al-Haq militia on duty at a checkpoint north of Baghdad, unaware that he was speaking in front of an Amnesty International delegate, said nonchalantly that "if we catch 'those dogs' [Sunnis] coming down from the Tikrit area we execute them; in those areas they are all working with DA'ESH (IS). They come to Baghdad to commit terrorist crimes. So we have to stop them".¹⁹ In a similar vein, in June a militia



Banner of Shi'a militia, Liwa Qamar Bani Hashem. © Amnesty International

commander shared with a journalist a message from a fellow militiaman on the battlefield, which said: "Captured six ISIS members in an ambush... At dawn I killed two, four I gave to the army".²⁰

A 68-year-old man who fled the western city of Falluja when it came under IS control in January 2014 told Amnesty International that he regularly returns to Falluja.

"IS terrorists looted my house after my family and I fled, so we got a family to live in it so as to prevent IS gangs from taking it over. I go to Falluja regularly to keep an eye on my home and my property; only I can go because I am old. My sons cannot go. It would be too dangerous for them. They could be killed by Shi'a militias on the road between Baghdad and Falluja, as they treat anyone going to or coming from Falluja as a terrorist and often kill people on that road. And the IS gangs in Falluja would consider my sons as government collaborators because they left Falluja and are living in Baghdad."

As mentioned above, the line between paramilitary militias and government security and armed forces is often blurred, with the latter, operating on their own and/or alongside paramilitary militias, also involved in extrajudicial executions of captured fighters or detained suspects.

In March 2014 a government soldier was quoted saying "Whoever we capture now as a terrorist we kill him on the spot except for someone we want to investigate... I've watched dozens executed... Article Four is to arrest and Article Five is killing [play on words referring to Article 4 of the Anti-Terrorism law]... Whoever ISIL [IS] captures, they execute him, so we are doing the same".²¹

TORTURE AND DEATHS IN CUSTODY OF GOVERNMENT FORCES

While the focus of this briefing is the growing abuses by the increasingly powerful Shi'a militias, violations by government forces have also continued unabated.

Udai Taha Kurdi, a 33-year-old lawyer and father of two young children, was arrested on 10 June 2014 from Baghdad Central Court. Two weeks later, on 25 June, his family were informed that he had died. In a letter dated 24 July, addressed to the Iraqi Lawyers' Union and entitled "Death of a lawyer under torture", the Iraqi Ministry of the Interior, seemingly in response to the lawyers' questions about the case, stated that on 24 June Kurdi had suffered a "health problem" while in detention in the Anti-Terrorism General Directorate in Baghdad, and was taken to Yarmouk Hospital on 25 June. It adds that a judge had said that Kurdi is "from the IS leadership", that he is "from a terrorist family", that his brother is in prison on terrorism-related charges, and that at his last hearing the judge had asked Kurdi if he had been tortured and he had responded that he hadn't.

On 7 September 2014 a deputy leader of the Lawyers' Union told Amnesty International that the Judicial Council (Majlis al-Qada') had informed the Union that Kurdi had died of kidney failure and not as a result of torture as alleged. However, photographs of Kurdi's body obtained by Amnesty International tell a different story. There are bruises, open wounds and burns on his body. According to his family Kurdi was in perfectly good health prior to his detention.



Udai Taha Kurdi, a 33-year-old lawyer, who died in custody. © Private

Derrick Pounder, a Professor of Forensic Medicine, examined the photographs of the body at Amnesty International's request:

"There are injuries inflicted in life present on the back, particularly the left lower back, the inner aspect of the left forearm, the right elbow, and the outer aspect of the right upper arm. There is a duplicated rounded patterned injury associated with bruising to the left buttock. The back of the right calf shows a grouping of pale punctate lesions highly suspicious of injury from the application of electricity via the bare end of a wire (so-called picana). The left little toe shows complete blackening as a result of what appears to be dry gangrene suggesting that a ligature has been tightly applied around the base of that toe, and this may represent a tightly applied electrical wire. Given that the immediate cause of death is stated to be renal failure, the injuries to the body raise the strong possibility that the cause of the

renal failure was muscle damage resulting from electrical torture, with electrodes applied to the left little toe and the right calf.

Renal failure is not acceptable as a statement of cause of death since it represents only the final (proximate) mechanism of death and does not clarify the underlying cause of death, that is the injury or illness which initiated the sequence of events leading to death. As such the stated cause of death is not compliant with universally agreed international rules (World Health Organisation, WHO) on formulation of cause of death for death certification purposes."

In August 2014 a 25-year old man who had been detained for three years died in suspicious circumstances. His mother told Amnesty International:

"The army took my two sons, Subhi, and Safwan, from our home in August 2011. I had no news for more than two months and then they called and said they were being held by Brigade 54 in Baghdad military airport. They were badly tortured. They had broken teeth and had some nails pulled. They were then moved to Abu Ghraib prison where their situation was good and I could visit them every two weeks. When Abu Ghraib prison was attacked, my sons did not escape because by then they had been acquitted of most charges and wanted their trial to finish as they were confident they would be acquitted of the remaining charges.²²

They were moved but I did not know where to and for a year I had no news, until 5 April 2014, when they called me and said they were being moved but did not know where. I again had no news until 1 August when someone called me and told me to go to the Jumhuri hospital [in Baghdad] and bring the boys' papers – which I did not have because their IDs were with them when they were arrested back in 2011. At the hospital I found only one of my sons, Subhi, the youngest. He was in a terrible state, I could barely recognize him. He said he had been held in al-Taji but did not know where his brother was. I was able to see him again on 4 August by bribing a guard. He was much better but he told me not to go back to visit him because 'Asa'ib militiamen were watching him and may harm me and him. I went back every day and brought him food but could not see him again. On 11 August a guard told me he had been dead for days. 'Did they not inform you?' he asked. We were too scared to go to the forensic medical authority (Tibb al-'Adli) so we got some Shi'a friends to go get his body. The death certificate says he died on 9 August but no cause of death is mentioned. When we got his body we noticed a strike mark at the back of his head; I don't know if that is what killed him. All I know is that he was well when I saw him and was dead a few days later without any explanation. And I have no news of my other son, Safwan since he was moved from Abu Ghraib jail more than a year ago"

Amnesty International has continued to gather reports of torture and other ill-treatment by government forces, notably of Sunni men detained under (Article 4 of) the Anti-Terrorism Law (Law 13 of 2005). A man who was detained for five months under the Anti-Terrorism Law and then released without charge on 29 August 2014 told Amnesty International that he had been detained for the first 26 days in Mosul and for the remaining four months in an interrogation centre in Baghdad military airport and that he had been repeatedly tortured in both places.²³ He said that he had been repeatedly beaten with cables and sticks; subjected to prolonged electric shocks, notably to the pubic area and after he had water thrown on him to increase the impact of the electric shocks; and threatened with being raped with a stick.

He said virtually all the other detainees held with him were likewise tortured. He was eventually ordered to be released by Baghdad Central Court in May 2014 but remained detained for a further three months, during which he says that he continued to be tortured on a near daily basis.

Members of the Iraqi High Commission for Human Rights told Amnesty International that despite repeated requests they have so far not been allowed to visit detainees in interrogation and detention centres and prisons managed by the Ministries of the Interior, Justice and Defense,²⁴ and were only allowed to visit children detained in facilities managed by the Ministry of Labour and Social Affairs.

INTERNATIONAL LAW AND THE CONDUCT OF SHI'A MILITIAS

International humanitarian law (IHL, the laws of war) applies in situations of armed conflict. In Iraq, there is currently a non-international armed conflict involving Shi'a militias clearly operating with the consent of the central government and in cooperation with government armed and security forces and the armed group calling itself Islamic State (IS). The rules of IHL therefore apply and are binding on all parties to the conflict, including Shi'a militias. These rules and principles seek to protect anyone who is not actively participating in hostilities: notably civilians and anyone, including those who were previously participating in hostilities, who is wounded or surrenders or is otherwise captured. They set out standards of humane conduct and limit the means and methods of conducting military operations.

The deliberate and summary killing of people in captivity – be they civilians, suspected members of armed groups or combatants captured on the battlefield – is a flagrant and serious violation of international humanitarian law and constitutes a war crime.²⁵ Torture and cruel treatment, rape and other forms of sexual violence, hostage taking, and arbitrary deprivation of liberty are also serious violations of IHL and also constitute war crimes.²⁶

Under IHL, individuals, whether civilians or military, can be held criminally responsible for war crimes. Leaders and commanders of militias and armed groups must be particularly diligent in seeking to prevent and repress such crimes. Military commanders and civilian superiors can be held responsible for crimes committed by their subordinates if they ordered such acts or if they knew, or had reason to know, such crimes were about to be committed and did not take



*Banner of the Shi'a militia, Imam 'Ali Brigades, in Baghdad.
© Amnesty International*

already been committed.²⁷ Individuals are also criminally responsible for assisting in, facilitating, aiding or abetting the commission of a war crime.²⁸

necessary measures to prevent their commission, or to punish crimes that have

Unlike IHL, which applies only to situation of armed conflict, international human rights law continues to bind the conduct of states in all situations. As a state party to the International Covenant on Civil and Political Rights, Iraq has a duty to respect, protect and fulfil the rights

to life, to freedom from torture and other ill-treatment, and to liberty and security of the person.²⁹ By allowing and even encouraging the creation and growth of unaccountable militias and failing to prevent and remedy unlawful killings, abductions and torture by these militias, Iraq is violating its legal obligations and can be held responsible for these gross human rights abuses.³⁰

CONCLUSIONS AND RECOMMENDATIONS

The human rights abuses detailed in this briefing are extremely serious and some constitute war crimes, notably the widespread killings by paramilitary Shi'a militias. The Iraqi central government authorities bear a significant part of responsibility for the crimes committed by these militias. Militias have been armed, and/or allowed to be armed, by the state; successive governments have allowed and encouraged militias to operate outside any legal framework; and they have not been held accountable for the crimes they have been perpetrating.

The existence of these sectarian, unregulated and unaccountable militias is both a cause and a result of the country's growing insecurity and instability. They preclude any possibility of establishing effective and accountable security and armed forces able and willing to protect all sectors of the population and enforce the law equally and undermine the establishment of a fair justice system that upholds equality before the law and other human rights.

It is imperative that the new government of Prime Minister Haider al-Abadi takes swift and decisive measures to reverse the phenomenon of militia rule, and establish the rule of law and respect for human rights without discrimination, notably by:

Reining in militias

- Publicly acknowledging the scale and gravity of ongoing human rights abuses perpetrated by militias, condemning them without seeking to justify such actions as part of the anti-terror fight, and making it clear that the task of defending the country and protecting the population must be carried out by security and armed forces who are recruited according to transparent non-sectarian standards, operate within the framework of the law and, are subject to rigorous oversight and are accountable for their actions;
- Establish a disarmament, demobilisation and reintegration process that complies with human rights standards. It must include an independent vetting mechanism to prevent integration into the army, police and security forces of militia members or other individuals who are reasonably suspected of having committed or participated in crimes under international law or other serious human rights abuses, pending investigation and prosecution.

Ensuring accountability for perpetrators and reparation for victims

- Establish mechanisms to ensure that all allegations of abductions, hostage-taking, enforced disappearance, unlawful killings, including extrajudicial executions and other summary killings, torture and other ill-treatment by members of pro-government militias and members of the security services or armed forces are investigated promptly, thoroughly, transparently and independently; empower those carrying out such investigations to question officials and militia leaders and members under oath, and to have access to all places, including places of detention (official and unofficial), and official records that they consider

relevant to their investigations; and compel militia leaders and members to cooperate with such investigations;

- Ensure that families of missing or disappeared persons, and of victims of unlawful killings; and victims of torture or other ill-treatment and their families are promptly afforded full reparation by the state.

¹ Human Rights Watch has documented scores more cases in other parts of the country. See: Iraq: Pro-Government Militias' Trail of Death, 31 July 2014, <http://www.hrw.org/news/2014/07/31/iraq-pro-government-militias-trail-death>

² Previously known as Islamic State in Iraq and al-Sham/the Levant, ISIS or ISIL.

³ 10 "dafatir" in Iraqi dialect, 100 million Iraqi Dinars, about US\$90,000. Dafatir is plural of dafatar (bundle). A dafatar for Iraqis means US\$10,000

⁴ Tikrit was also the hometown of the late dictator Saddam Hussein, also a cause of mistrust towards its population

⁵ Interview in Baghdad 4 August 2014

⁶ List of the victims on file at Amnesty International

⁷ "Islamic State insurgents have brutally slain the Iranian commander of the Shiite Badr militant organization Sheikh Jaafar al-Moussawi. He was found and killed in the village of Basheer, 15 km south of Kirkuk in northern Iraq": <http://basnews.com/en/News/Details/Commander-of-Shiite-Badr-organization-killed-by-ISIS-in-Kirkuk/28801>

⁸ Arrangements were made to families and witnesses in confidence and their names and any details which could identify them are being withheld for their security.

⁹ These are the largest, more powerful militias; several other smaller ones operate in different parts of the country

¹⁰ <http://www.businessinsider.co.id/the-flaw-in-obamas-isis-strategy-2014-9/>

<http://samawhnews.com/archives/35500>

<http://www.almejlis.org/eng/more/4954-1/Visiting-the-Security-Forces-and-Popular-Crowd-Units-in-Dabetiya-and-Karma,-Sayyid-Ammar-Al-Hakim:-Iraqis-Will-Free-their-Country-Themselves-and-their-Trust-in-God-is-High>

http://www.foreignpolicy.com/articles/2014/09/18/all_the_ayatollahs_men_shiite_militias_iran_iraq_islamic_state

¹¹ http://www.lemonde.fr/proche-orient/article/2014/06/21/a-bagdad-les-volontaires-defilent-contre-les-djihadistes_4442851_3218.html?_sm_byp=iVV6ZbjsRQ60FWrH

<http://www.indiatimes.com/boyz-toyz/weapons/shia-militia-show-of-force-in-iraq-156595-7.html>

<https://twitter.com/zaidbenjamin/status/480378594943053826>

<http://www.bbc.co.uk/news/world-middle-east-27953312>

<http://www.businessinsider.com.au/iranian-proxy-militias-in-iraq-and-syria-2014-9>

<http://www.telegraph.co.uk/news/worldnews/middleeast/iraq/10916926/Iraq-crisis-Baghdads-Shia-militia-in-defiant-50000-strong-rally-as-Isis-make-further-gains.html>

¹² <http://www.trackingterrorism.org/group/asaib-ahl-al-haq-aah>

http://musingsoniraq.blogspot.co.uk/2014/08/militia-mobilization-in-iraq-started-in.html?_sm_au=iVVVwvZ060FqWNs

<http://jihadology.net/2013/08/14/hizballah-cavalcade-asaib-ahl-al-haq-liwaa-kafeel-zaynab/>

<http://www.albawabhnews.com/456582>

<http://www.elaph.com/Web/News/2014/8/928219.html>

¹³ <http://www.elhashemi.com/41975/%D8%A8%D8%A7%D9%84%D8%B5%D9%88%D8%B1-%D8%AA%D8%B4%DB%8C%DB%8C%D8%B9-6-%D8%B4%D9%87%D8%AF%D8%A7%D8%A1-%D9%85%D9%86-%D8%AD%D8%B2%D8%A8-%D8%A7%D9%84%D9%84%D9%87-%D8%A7%D9%84%D8%B9%D8%B1%D8%A7%D9%82.html>

<http://www.bbc.co.uk/news/world-middle-east-29019034>

<http://kataibhizbollah.com/ar/index.php?p=gallery&gid=8>

<http://kataibhizbollah.com/ar/index.php?p=gallery&gid=1>

<http://kataibhizbollah.com/ar/index.php?p=gallery&gid=7>

¹⁴ Baghdad's Shia militia in defiant 50,000-strong rally as Isis make further gains. Tensions mount in Iraq as Mahdi Army put on show of force in Baghdad featuring missiles, bazookas and assault rifles while Isis seize key Syria border crossing.

<http://www.telegraph.co.uk/news/worldnews/middleeast/iraq/article10916466.ece#oid=t0M211bjoa9R4bPPCdzsCodbnjqjFUzW>

¹⁵ Shi'a Militias received the most praises for the breaking of the IS siege of Amerli at the end of August, a joint operation by Shi'a militias, backed by Iranian forces (see:

<http://observers.france24.com/content/20140904-amerli-iraq-soleimani-video-iran-isis> and

<http://www.reuters.com/article/2014/09/01/us-iraq-security-miltias-iran-idUSKBN0GW2Y420140901>),

Iraqi government forces, and Kurdish Peshmerga forces. "I would like to thank the jihadists from Asaib Ahl al-Haq, as they are sacrificing their lives to save Amerli," said Mahdi Taqi, a member of the provincial council in Salahuddin. Naeem al-Aboudi, the spokesman for Asaib, said, "today is a great happiness and victory for all Iraqis. Iraqi security forces, volunteers and resistance brigades have proved their ability to defeat ISIS." http://www.nytimes.com/2014/09/01/world/middleeast/iraq.html?_r=0

¹⁶ http://www.washingtonpost.com/world/middle_east/militias-that-fought-us-now-lead-charge-against-sunni-militants/2014/07/18/cf4f98a6-9150-4372-a7b0-95928b03bc54_story.html

¹⁷ http://www.washingtonpost.com/world/middle_east/iraqi-army-increasingly-bolstered-by-shiite-militias-as-isis-advances/2014/06/20/0eabaf3a-f8b5-11e3-a606-946fd632f9f1_story.html

¹⁸ In a darkened living room in the Shiite neighborhood of Sadr City [in the capital], a gray-haired militia commander [of the Peace Brigade] picked up his phone Friday to read a text message from one of his

colleagues on the battlefield. "Captured six ISIS members in an ambush," ... "At dawn I killed two, four I gave to the army." http://www.washingtonpost.com/world/middle_east/iraqi-army-increasingly-bolstered-by-shiite-militias-as-isis-advances/2014/06/20/Oeabaf3a-f8b5-11e3-a606-946fd632f9f1_story.html#

¹⁹ Date and exact location withheld for security reasons

²⁰ In a darkened living room in the Shiite neighborhood of Sadr City [in the capital], a gray-haired militia commander picked up his phone Friday to read a text message from one of his colleagues on the battlefield. "Captured six ISIS members in an ambush," ... "At dawn I killed two, four I gave to the army." http://www.washingtonpost.com/world/middle_east/iraqi-army-increasingly-bolstered-by-shiite-militias-as-isis-advances/2014/06/20/Oeabaf3a-f8b5-11e3-a606-946fd632f9f1_story.html#

²¹ "Whoever we capture now as a terrorist we kill him on the spot except for someone we want to investigate," the soldier said matter-of-factly. "I've watched dozens executed."... The slang term the soldiers use for executions is "article five terrorism", the soldier said and the Facebook pages show. It's a play on Article Four Terrorism, a clause in the actual legal code that allows the security forces to arrest people on a blanket terrorism charge. "Article Four is to arrest and Article Five is killing," said the soldier, grinning at the logic of the slang. Iraqi army soldiers know about ISIL's videos of executions and of dead Iraqi soldiers, he said. He described his peers as tired and wanting to fight back. "Whoever ISIL captures, they execute him, so we are doing the same." Commanders don't want to know, he added. Nobody asks questions. "We believe it is correct because they (the militants) are Kuffars (Infidels)," he said, explaining the views of his brothers-in-arms. "It is the right thing to do. All of the military is doing it." The soldier said he didn't care if this caused scandal. "Let people be angry," he said. "We are defending Iraq." <http://www.reuters.com/article/2014/03/20/us-iraq-anbar-specialreport-idUSBREA2J11720140320>

²² Hundreds of detainees escaped from Abu Ghraib prison in July 2013, when the prison was attacked by Sunni insurgents/members of armed groups believed to be affiliated to al-Qa'eda. <http://www.reuters.com/article/2013/07/22/us-iraq-violence-idUSBRE96LORM20130722>

²³ Interview, undisclosed location, 7 September 2014

²⁴ Meeting on 8 September 2014 in Baghdad

²⁵ International Committee of the Red Cross study, Customary International Humanitarian Law: Volume 1: Rules, J-M Henckaerts and L Doswald-Beck, eds, 2005 ("ICRC Customary IHL Study"), Rule 89 and Rule 156

²⁶ ICRC Customary IHL Study, Rules 90, 93, 96, 99 and 156

²⁷ ICRC Customary IHL Study, Rule 153

²⁸ Rome Statute of the International Criminal Court, Article 125

²⁹ International Covenant on Civil and Political Rights (ICCPR, ratified by Iraq in 1971), Articles 6, 7 and 9.

³⁰ ICCPR, Art 2. See in particular Human Rights Committee General Comment 31 (The Nature of the General Legal Obligation Imposed on States Parties to the Covenant) CCPR/C/21/Rev.1/Add. 13, para. 8.

ABSOLUTE IMPUNITY

MILITIA RULE IN IRAQ

In recent months, Shi'a militias have been abducting and killing Sunni civilian men in Baghdad and around the country. These militias, often armed and backed by the government of Iraq, continue to operate with varying degrees of cooperation from government forces – ranging from tacit consent to coordinated, or even joint, operations. Amnesty International holds the government of Iraq largely responsible for the serious human rights abuses, including war crimes, committed by these militias.

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