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Human Rights Annual Report 2009 - Countries of Concern: Iraq

In 2009, there were signs of considerable progress in the human rights situation in Iraq, but significant human rights challenges remain. Iraq has had to deal with the legacy of decades of appalling violations under Saddam Hussein's regime, the recent bloodshed, and the attempts by terrorists to trigger a return to widespread sectarian violence.

Despite this, Iraq has consolidated democracy in 2009. The January provincial elections passed peacefully and led to peaceful changes of power in governorates across the country. The elections in the Kurdish Regional Government in July led to the emergence of a new opposition grouping. And at the beginning of December, after lengthy but constitutional discussions, Iraqi politicians agreed the detailed arrangements for national elections in March 2010. Of the next Council of Representatives 25 per cent will again be reserved for women.

Despite high-profile attacks, security is gradually improving across the country and Iraqi politics and society are now characterised by a relatively open, free and inclusive debate. The Foreign Secretary welcomed this progress in his opening remarks to the FCO's Human Rights Forum on Iraq on 17 December: "Since 2003, Iraq has not only had to come to terms with the former regime's legacy but move forward and allow the Iraqi people to enjoy new democratic freedoms of expression and human rights...All Iraqis deserve their rights and all must continue to promote them". Much of the FCO's work on human rights in Iraq is spearheaded by the Prime Minister's Special Envoy for human rights in Iraq, the Rt Hon Ann Clwyd MP (see page 123). She raised pressing human rights issues – detention, death penalty, women's rights – in 2009 with the President and other senior officials.

Following the success of the 2008 Human Rights Forum for Iraq, three further working groups were held throughout 2009 to discuss women's rights, rule of law and civic society freedoms. Open and frank conversations were held with NGOs, UK Parliamentarians and Iraqi officials, and a number of important action points agreed. These discussions helped drive FCO human rights work throughout 2009, for example, as a result of concerns about the draft NGO law expressed during the working group on civil society freedoms. The FCO agreed to tackle the issue, and the Prime Minister's Special Envoy for Human Rights in Iraq wrote in November 2009 to the Chair of the Civil Society Organisation Committee in the Iraqi Parliament, outlining the concerns and recommendations of the working group.

In November 2008, the Iraqi Council of Representatives passed legislation to establish the Iraqi National Human Rights Commission. This will be a separate body to the Ministry of Human Rights and will conduct independent investigations and request reviews of legislation. We will encourage the Ministry of Human Rights to maintain its important role in ensuring human rights are promoted throughout Iraq and raised at Cabinet level. It is

disappointing to see that the National Human Rights Commission has not yet been set up. Human rights norms are enshrined in Iraq's Constitution and Prime Minister al-Maliki and his government have repeatedly made clear their commitment to those principles and their application across Iraq. The challenge is to make them a living reality for the Iraqi people.

Security and Law and Order

Insecurity and the weakness of the rule of law have been serious obstacles to an effective functioning human rights-based culture in Iraq. Militia and extremists continue in their attempts to kidnap, kill and maim, but the Iraqi government has made significant improvements in the overall security situation. The Iraqi people have shown their frustration at those that offer nothing but violence by democratically voting in the provincial and regional elections. Political leaders are held to account on security issues. Prime Minister al-Maliki is publicly committed to improving the security situation; this formed the cornerstone of his campaign for the provincial elections in January. With the improvements in security and continued international support, the Iraqi Security Forces are growing in confidence and the Iraqi Police Service is improving in its capability to maintain public order, investigate crimes and arrest suspects.

Women's Rights

Despite improvements in the last year, women in Iraq continue to suffer systematic abuses of their human rights. Reports suggest that many women, particularly those in rural areas, have limited access to education, employment and healthcare. Widows and households headed by women are especially vulnerable. Ten per cent of all households are headed by women (80 per cent of whom are widows). Local traditions also discourage them from taking employment.

Prime Minister al-Maliki has repeatedly called for women to play an increasing role in the political process and state-building. On 25 November, the International Day for Elimination of Violence against Women, Prime Minister Barham Salih in the Kurdish region announced that the regional government would continue its efforts to reduce discrimination against women. Under the electoral arrangements established in 2005, 25 per cent of seats to the Council of Representatives are reserved for women. This quota was exceeded in some areas in the provincial elections in January. We hope that the 2010 elections result in a similar, or improved, level of representation of women in the Council of Representatives.

Domestic violence and "honour" killing remain a problem in Iraq. Thousands of Iraqi women are beaten or killed each year. Some NGOs in the Kurdistan region of Iraq offer shelters for women escaping violence. However, such shelters operate in an undefined legal framework and the NGOs who run them, especially in central or southern Iraq, are cautious about publicising their services. In the Kurdish region honour killings are now punished as harshly as other murders and are not viewed differently under the law. Female genital mutilation is also widespread. But the Kurdish Regional Government and a growing percentage of the population are increasingly acknowledging its existence and the need to address the issue. Independent research carried out in 2008, indicated that in some parts of northern Iraq the number of women and girls who have undergone a form of circumcision may be as high as 80 per cent. Figures for central and southern Iraq are unknown. However, it is understood the practice exists across all of Iraq.

For many, improved security in 2009 has led to greater freedom of movement and employment, although others still feel constraints. In November, the first 50 female police officers graduated from the same nine-month course as their 1,050 male counterparts, with an additional class in self-defence.

Women in Iraq have held more rights than many others in the region following the 1959 Personal Status Family Law that protected women's rights in marriage, child custody, divorce and inheritance. Concerns that Article 41 of the new Iraqi constitution will devolve family law matters to religious and ethnic community leaders remain. This issue was raised with the PM's Special Envoy in December and at the Human Rights Forum also in December.

We were encouraged to see an increase in the number of Iraqi business women and professionals operating inside Iraq in 2009. Many local Iraqi NGOs continue to offer legal and business advice to those wanting to start their own businesses, as well as micro loans. The UK enjoys a successful working relationship with the Iraqi Human Rights Minister and acting State Minister for Women's Affairs. Through the work of the Prime Minister's Special Envoy on Human Rights in Iraq, we have been able to raise women's rights with the most senior government officials. The UK has funded a number of important projects in 2009, which educate and promote women's rights in Iraq. Projects include work on altering general public understanding and attitude to gender and human rights in the Kurdish region and raising awareness of female genital mutilation.

Death Penalty

The Iraqi authorities resumed executions in April 2009 following the appointment of a new Minister of Justice. Obtaining precise information from the Iraqi authorities on the number of prisoners on death row and details of executions is often difficult. The head of the Supreme Court, Medhat al-Muhammad said in a statement that "77 death sentences were enforced in 2009". However, international organisations estimate at least 117 people were

executed in 2009, and at the end of the year around 900 prisoners were on death row. These figures mean Iraq has one of the highest rates of capital punishment in the world.

The Iraqi High Tribunal continues to try members of the former Iraqi regime. Following the conclusion of the trials against Ali Hassan al-Majeed ("Chemical Ali"), which included charges of crimes against humanity and genocide, he received four death sentences. He was executed on 25 January 2010. The former Deputy Prime Minister Tariq Aziz remains in custody, awaiting trials on further counts of murder.

On 31 December 2008, the last two Iraqi nationals held in UK military detention, Mr al-Saadoon and Mr Mufdhi were transferred to the Iraqi authorities. Ahead of the transfer we received assurances from the Iraqi authorities that the death penalty would not be sought in these cases. We also received assurances that they would be detained in an acceptable manner. They were subsequently held in an Iraqi detention facility awaiting their trial by the Iraqi High Tribunal for the murder of two UK military service personnel. In September, the two defendants were acquitted due to insufficient evidence. However, the Public Prosecutor appealed against this verdict in November when it was ruled that a new investigation of the case should take place. This will include additional defendants, and the defendants who were previously acquitted, who will remain in custody while the investigation proceeds.

We continue to raise our opposition to the death penalty with President Talabani, and Prime Minister al-Maliki. The UK joined other EU Member States in demarches against the death penalty on 8 March, 13 April and 18 November. Together with EU Member States we will press the Iraqi government for more transparency in their systems and for executions to end.

Detention and Prisons

Detention and prison facilities remain an area of concern. Many prisoners are forced to wait several years in detention before facing trial, owing to the inability of the judicial system to cope with the large numbers of detainees and the lack of prisons, resulting in overcrowding and poor sanitation.

The UK has provided assistance in facilitating the refurbishment of a 1,500-space prison in Basra. However, it is clear that more equipment, such as computers, libraries and mechanical workshops, are needed to facilitate the rehabilitation process.

Gaining unrestricted access to Iraqi prisons is often difficult. However, the Prime Minister's Special Envoy for Human Rights in Iraq, the Rt Hon Ann Clwyd MP visited a women's and juvenile prison in Erbil in March. Embassy officials also visited a prison in the Kurdish region of Iraq in November. Both visits revealed the Kurdish Regional Government's commitment to providing adequate facilities and focus on rehabilitation. We will continue to encourage acceptable access in other parts of the country.

At the start of 2009, the US held around 15,000 detainees. With the closure of the US-run Camp Bucca, this number has now decreased to around 7,000. Under the US Status of Forces Agreement, the US aim to complete the release or handover to the Iraqi authorities of the remaining detainees by August 2010. This marks an important step in handing back full control to the Iraqi authorities.

Forensic Investigative Techniques

In 2009, the UK continued, through the Conflict Pool, to support the Iraqi government to increase its use of forensics and reduce its reliance on confession. The UK helped build and equip a laboratory in Erbil in July, which will provide training in a range of techniques, including biology, chemical analysis, fingerprint identification, firearm analysis and document examination. The UK also helps to facilitate bespoke training in Jordan, available to the judiciary throughout Iraq, in order to encourage the use of forensic evidence in the courts.

In October, the UK funded a visit of key Iraqis to the International Commission on Missing Persons facilities in Bosnia and Herzegovina to view best practices on how to deal with missing persons. Eight Iraqi personnel attended from the Ministry of Human Rights, Medico-Legal Institute and the Kurdish region. They were taught how to collect bone samples for DNA identification and exhumation of mass-grave sites. Many Iraqis have been affected in some way by the issue of a missing person and this is an important step in the healing process.

Police

The Iraqi Police Service plays a fundamental role in ensuring Iraq has a strong rule of law sector. It is vital that the police appreciate the importance of respecting human rights when dealing with the community, violations by law enforcement officials and excessive use of force.

The UK continues to provide assistance through the Conflict Pool, to the work of the British Civilian Police Team based at Baghdad Police College. In 2009, they provided over 30 investigation workshops to Iraqi detectives, which have led to the production of a revised training curriculum ready for use in 2010. The British Civilian Police Team has also assisted the Iraqi police in producing their first bespoke investigation manual, which provides instructions for officers arriving at a crime scene.

As part of an UN Development Programme project aimed at introducing the concept of Community Based Policing (CBP), the UK provides three serving police officers to the Basra region. Part of the training includes a whole module devoted to human rights and CBP.

The UK works closely with the EU Integrated Rule of Law Mission to Iraq. Their mandate is to strengthen rule of law in Iraq by providing professional development opportunities to senior Iraqis. Part of this work includes running training courses and work experience secondments for senior Iraqi police officers and penitentiary officers.

Camp Ashraf

Camp Ashraf is home to approximately 3,500 members of the Mujahedin e-Khalq, who claim to be the Iranian opposition in exile. In July, a violent confrontation between the residents and the Iraqi authorities took place, and 11 residents were killed. The UK, together with international partners, requested the Iraqi authorities carry out a review. The UK has raised regularly Camp Ashraf in discussions with the Iraqi authorities, including with the Prime Minister, the Human Rights Minister and the Minister of Internal Affairs. The UK does not consider the Mujahedin e-Khalq a credible opposition group, and strongly opposed their de-proscription as a terrorist organisation in 2008.

Lesbian, Gay, Bisexual and Transgender Rights

We have received numerous reports of violence being committed against individuals because of their sexual orientation. It is difficult to obtain precise information. The 2009 Human Rights Watch (HRW) report highlighted examples of attacks being carried out by militia groups. However, official figures do not show a significant overall increase in violence against, or systematic abuse of, the homosexual community by fundamentalists or militia groups.

The UK has raised concerns with the Iraqi Human Rights Minister who confirmed that homosexuality is not a criminal offence in Iraq. The Ministry of Interior has also stated that the killing of homosexuals is considered as murder, as it would be for any other individual, and the perpetrators will be prosecuted. We continue to monitor and discuss this issue with a range of NGOs, including a UK-based Iraqi LGBT group. In April, the former Foreign Office Minister, Bill Rammell, said: "The UK condemns the persecution of any individual because of their sexual orientation."

Minorities

The Iraqi constitution includes a commitment to freedom of religion, freedom of practice and freedom of worship for followers of all religions and sects and guarantees the protection of the places of worship. However, minority communities in Iraq still face violence and persecution because of their political or religious beliefs. According to a recent report by HRW, attacks against minority groups in the Nineveh province in northern Iraq between July and September resulted in the deaths of more than 157 people and 500 wounded from the Yazidi, Shabak, Turkmen and Kakai communities. The Christian community in Iraq has decreased markedly in numbers following attacks, mostly by Islamic fundamentalists, on individuals and places of worship.

FCO officials in London and Iraq regularly meet representatives of minority communities to hear their concerns. The Prime Minister's Special Envoy for Human Rights in Iraq, the Rt Hon Ann Clwyd MP frequently raises the protection of minorities on her regular visits to Iraq. We continue to urge the Iraqi government to deal appropriately with those who are found responsible for any acts of violence and intimidation because of political, ethnic or religious affiliation.

Freedom of Expression

Journalists enjoy relative freedom in Iraq and are generally able to voice their concerns and opinions freely. Media articles today show an increase in criticism of public officials and stories of corruption in business and in the government. However, there are still reports of journalists being threatened and deliberately targeted, and we have some concerns that draft media legislation on the role of journalists may lead to greater institutional control over the media. UK officials and the Prime Minister's special envoy expressed these concerns to the drafting committee.

In the FCO's forum on Human Rights in Iraq, journalists and NGOs cited increased use of Iraq's libel laws as a threat to media freedom in the country; they called for improved legislation to protect journalists. In November, The Guardian newspaper was found guilty in the Iraqi courts in a libel case relating to an article about the Iraqi Prime Minister. The Guardian has expressed concern about the legal process. The Foreign Secretary said: "... Media freedom is vital in any democracy. If the case goes to appeal, I ask the Iraqi authorities to ensure that their courts, which are independent, follow due process in accordance with the Iraqi constitution."

The UK discusses freedom of expression with a variety of civil society organisations in Iraq. Through the Independent Media Centre in Kurdistan, the UK is supporting a project to create a professional and independent media in Iraq, including agreed professional reporting standards.

Combating Female Genital Mutilation

In 2009, the FCO provided funding to a specialist German NGO called WADI, which has been working to reduce the practice of female genital mutilation in the Kurdish region, and to increase the numbers of senior figures who speak out against it. The project was supported by the Kurdish Regional Government, the United Nations, the Dutch Ministry of Foreign Affairs, and various local human and women's rights groups, as well as several MPs and doctors from the region. The project raised awareness of Female Genital Mutilation across the region, using computer equipment and a specially produced film. Around 7,000 information booklets were distributed to MPs, health workers, Imams, teachers, social workers and community leaders to encourage them to speak out against the practice. Four TV short films focusing on the issue were also broadcast.

The Prime Minister's Special Envoy for Human Rights in Iraq

The Rt Hon Ann Clwyd MP was appointed as the Prime Minister's Special Envoy for Human Rights in Iraq in May 2003. Ms Clwyd reports on human rights issues directly to the Prime Minister, ensuring that human rights considerations have remained at the heart of UK policy in Iraq. Since her appointment, Ms Clwyd has been involved in a wide range of human rights issues in Iraq. During her visits to Iraq in 2009, she continued to press the Iraqi government on its human rights commitments and to provide support to the work of the Iraqi Human Rights Ministry. She also raised:

- > the rights of those detained in Iraq, their treatment while in detention and the speed at which prisoners are either released or face trial with the Minister for Human Rights and the then Prime Minister of the Kurdish region in March and with the Chief Judge of the Central Criminal Court in December;
- > trades unions rights with the Deputy Prime Minister, al-Issawi, and the parliamentary committee scrutinising new trades unions legislation;
- > the rights of women with religious and political leaders, members of the international and NGO communities and Iraqi activists; and
- > freedom of expression and of the media with the Speaker of the Council of Representatives, al-Sammarai.