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IRAQ

# At a Crossroads

Human Rights in Iraq Eight Years after the US-Led Invasion

HUMAN  
RIGHTS  
WATCH



# **At a Crossroads**

**Human Rights in Iraq Eight Years after the US-Led Invasion**

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## **At a Crossroads**

### **Human Rights in Iraq Eight Years after the US-Led Invasion**

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## Summary

Almost eight years after US-led forces invaded Iraq, the country's transition to a functioning and sustainable democracy built on rule of law is far from accomplished. The rights of Iraq's most vulnerable citizens, especially women and detainees, are violated with impunity, and those who would expose official malfeasance or abuses by armed groups do so at enormous risk. Iraq's future as a society based on respect for fundamental human rights depends in large part on whether Iraqi authorities will adequately defend those rights and establish a credible national criminal justice system embodying international standards with respect to torture, free expression, and violence against women and other vulnerable sectors of society.

The 2003 invasion and its resulting chaos have exacted an enormous toll on Iraq's citizens. Over the past eight years, violence has claimed tens of thousands of Iraqi lives and millions continue to suffer from the effects of insecurity. Iraq has made some recent progress as it has pulled itself away from the civil strife that engulfed the country, especially in 2006 and 2007. But terror attacks increased again in the run-up to the March 2010 parliamentary elections and did not abate in the months that followed. Only in November, eight months after those elections, did Iraq's political parties finally agree to form a new coalition government—ending the political crisis that has stunted progress on security and other fronts, including human rights.

Human Rights Watch conducted on-the-ground research in April 2010, visiting seven cities across Iraq and interviewing 178 activists, lawyers, journalists, religious leaders, detainees (former and current), security officers, victims of violence, and ordinary Iraqis. We found that, beyond the continuing violence and crimes associated with it, human rights abuses are commonplace. This report presents those findings regarding violations of the rights of women and other vulnerable populations, the right to freedom of expression, and the right to be free from torture and ill-treatment in the 2009-2010 period.

### The Rights of Women and Girls

The deterioration of security has promoted a rise in tribal customs and religiously-inflected political extremism, which have had a deleterious effect on women's rights, both inside and outside the home. For Iraqi women, who enjoyed some of the highest levels of rights protection and social participation in the region before 1991, these have been heavy blows.

Militias promoting misogynist ideologies have targeted women and girls for assassination, and intimidated them to stay out of public life. Increasingly, women and girls are victimized in their own homes, sometimes killed by their fathers, brothers and husbands for a wide variety of perceived transgressions that allegedly shame the family or tribe. If they seek official protection from violence in the home, women risk harassment and abuse from Iraq's virtually all-male police and other security forces. Iraqi law protects perpetrators of violence against women: Iraq's penal code considers "honorable motives" to be a mitigating factor in crimes including murder. The code also gives husbands a legal right to discipline their wives.

Trafficking in women and girls in and out of the country for sexual exploitation is widespread. There have been no reported convictions for trafficking, and a long-awaited anti-trafficking bill is on hold in the parliament, awaiting revisions. Outside of Kurdistan, there are no government-run shelters.

The many women who have fled sectarian or other violence, who have been widowed, or who for other reasons are heads of households and dependent on state aid are particularly vulnerable to abuse. Religious and government institutions are sometimes complicit in their exploitation—in exchange for charity or benefits, widows have been asked to engage in "pleasure marriages," a previously banned traditional practice that critics say is akin to prostitution. The women who are coerced into the practice face stigmatization and have no recourse.

Human Rights Watch calls on Iraq to immediately suspend and proceed to repeal sections in the penal code that allow mitigation of sentences on grounds of "honor" for violent crimes against women.

## **Freedom of Expression**

In the months following the 2003 invasion, Iraq experienced a media boom as hundreds of new publications and television and radio channels sprung up across the country, and Iraqis gained access to satellite dishes and the Internet. But media freedom was short-lived with the introduction of restrictive legislative and other barriers and an upsurge in violence that made Iraq one of the most dangerous countries in the world to work as a journalist. While improvements in security since 2008 have reduced the murder rate of media workers, journalism remains a hazardous occupation. Extremists and unknown assailants continue to kill media workers and bomb their bureaus. In addition, journalists now also have to contend with emboldened Iraqi and Kurdish security forces and their respective image-conscious central and regional political leaders. Increasingly, journalists find themselves

harassed, intimidated, threatened, arrested, and physically assaulted by security forces attached to government institutions and political parties. Senior politicians are quick to sue journalists and their publications for unflattering articles.

The government should amend vague legislative and regulatory content-based restrictions that curtail the right to freedom of expression, and direct security forces not to harass, abuse, and intimidate journalists.

## **Torture**

After the fall of Saddam Hussein, Iraqis hoped that torture as an instrument of state coercion would end. But US and British forces tortured Iraqi detainees at their facilities across Iraq, most famously at Abu Ghraib. And despite knowing there was a clear risk of torture, US authorities transferred thousands of Iraqi detainees to Iraqi custody, where Iraqi security forces have continued the torture tradition. Iraqi interrogators routinely abuse detainees, regardless of sect, usually in order to coerce confessions. Interviews with dozens of detainees transferred from a secret detention facility outside Baghdad revealed the significant shortcomings of Iraq's criminal justice system. Interrogators sodomized and whipped detainees, burned them with cigarettes and pulled out their fingernails and teeth. Yet Iraq's prime minister, instead of ordering a public inquiry and prosecuting those responsible for the abuse, dismissed both our findings and those of the Ministry of Human Rights as fictitious, and suspended the government's prison inspection team that initially uncovered the abuse.

The government should launch independent and impartial investigations into all allegations of torture and ill-treatment, and institute disciplinary measures and criminal prosecution proceedings, as appropriate, against officials at all levels who are responsible for the abuse of detainees. The United States and other governments should assist with legal reforms in Iraq by advising how to amend existing laws so that they are consistent with Iraq's obligations under international human rights standards. The international community should press Iraq to promptly investigate all allegations of torture and ill-treatment and criminally prosecute officials who are responsible for the abuse of detainees.

## **Marginalized Groups**

Iraq today has numerous communities whose marginalization has left them in dire straits.

Although the government has passed laws (including constitutional safeguards) to protect some of these different communities, and in some cases has instituted significant

assistance programs, it is still failing some of its most vulnerable citizens, such as internally displaced persons, minorities and persons with disabilities. Many of the government's assistance or protection programs are non-operational or sub-operational, and insufficient to meet the needs of target populations, despite Iraq's international and domestic commitments.

More than 1.5 million Iraqis fled their neighborhoods as sectarian violence tore up their communities in 2006 and 2007. Thousands of internally displaced persons now reside in squatter settlements without access to basic necessities such as clean water, electricity and sanitation. An over-stretched Ministry of Displacement has promised aid, but none of the more than a dozen displaced persons we interviewed had received any. Human Rights Watch calls on Iraq's government to develop a coherent national strategy on refugees and internally displaced persons to facilitate their voluntary return, local integration in places of displacement, or relocation to other places in safety and dignity.

Armed groups proclaiming intolerant ideologies have continued their assaults on minority communities, decimating Iraq's indigenous populations, and forcing thousands to flee abroad with no plans to return. The government has failed to stop such attacks targeting minority groups, including Sabian Mandeans, Chaldo-Assyrians, Yazidis, and Shabaks. To end a climate of impunity, the government must conduct thorough and impartial investigations when attacks occur and bring those responsible to justice.

Years of armed conflict have resulted in thousands of war amputees and other persons with disabilities. Stigmatized, unable to find work, get adequate medical care, or obtain new prostheses and wheelchairs, persons with disabilities in Iraq find themselves relegated to the margins of society. The government needs to ensure access to education and employment, strengthen health-care services, and establish rehabilitation and psycho-social support facilities.

## Methodology

The report is based on a four-week fact-finding mission in April 2010 in which Human Rights Watch visited the cities of Baghdad, Basra, Tikrit, Najaf, Karbala, Amara, and Sulaimaniyya to examine the human rights situation seven years after the US-led invasion.

Human Rights Watch interviewed 178 Iraqis, including victims of human rights abuses as well as rights activists, representatives of nongovernmental organizations (NGOs), journalists, lawyers, political and religious leaders, and government and security officials about violence against women and minorities, the plight of persons with disabilities and internally displaced persons, freedom of expression, torture, detention conditions, and enforced disappearances. We chose these topics in consultation with Iraqi human rights and other NGO activists. We conducted interviews, mainly in Arabic via an Iraqi translator, both privately and in group settings, at the offices of NGOs, homes of victims, community centers, schools, detention and prison facilities, and religious sites. Iraqi NGOs assisted in identifying persons for us to interview.

In addition, Human Rights Watch interviewed five women in a prison, a detention center and a government-run shelter in Sulaimaniyya and Arbil in June 2010. Human Rights Watch also conducted follow-up telephone interviews and consulted official documents provided by victims and NGOs. We informed all persons interviewed of the purpose of the interview, its voluntary nature, and the ways in which the data would be collected and used. The names and other identifying information of most of our interlocutors have been withheld in the interests of their personal security.

The report also draws on meetings in Baghdad with then-Human Rights Minister Wijdan Michael Salim and other government officials in the Ministries of Human Rights and Defense that focused mainly on trafficking of and violence against women, torture, and government restrictions on media. Most of those meetings occurred during the last week of April after we returned to Baghdad from visiting the other cities. In November, Human Rights Watch sent a detailed letter with our findings and recommendations to the Prime Minister's Office and requested the government's response (see annex). The Prime Minister's Office acknowledged receipt of the letter on November 14, 2010, but as of January 15, 2011, it had not responded to the specific issues raised.

## I. Rights of Women and Girls

“The biggest victims in Iraq are young women. They are widowed, trafficked, forced into early marriages, beaten at home and sexually harassed if they leave the house, which is a new phenomenon in Iraq.”

– Women’s rights activist, Baghdad, April 8, 2010.

### Background

For much of the last century, the rights of Iraqi women and girls have been relatively better protected than in other countries in the region.<sup>1</sup> After seizing power in 1968, the Ba’ath Party promulgated laws specifically aimed at improving the status of women in both the public and private spheres as a way to consolidate its authority and to achieve rapid economic growth despite labor shortages.<sup>2</sup>

The Iraqi Provisional Constitution, drafted in 1970, formally guaranteed equal rights to women before the law.<sup>3</sup> In 1976, the government passed a compulsory education law mandating that both sexes attend school through the primary level.<sup>4</sup> In 1979, the literacy gap between males and females began to narrow after the government passed legislation for the eradication of illiteracy.<sup>5</sup>

The Iraqi government also passed labor and employment laws to ensure that women were granted equal opportunities in the civil service sector, maternity benefits, and freedom from harassment in the workplace.<sup>6</sup>

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<sup>1</sup> For a comprehensive analysis on women’s rights prior to 2003, see Human Rights Watch, *Background on Women’s Status in Iraq Prior to the Fall of the Saddam Hussein Government*, November 2003, <http://www.hrw.org/backgrounder/wrd/iraq-women.htm>.

<sup>2</sup> Suad Joseph, “Elite Strategies for State-Building: Women, Family, Religion and State in Iraq and Lebanon,” in Deniz Kandiyoti, ed., *Women, Islam and the State* (Leiden, The Netherlands: E.J. Brill, 1992), p. 178-79.

<sup>3</sup> Article 19 declares all citizens equal before the law regardless of sex, blood, language, social origin, or religion.

<sup>4</sup> The Compulsory Education Law 118/1976 stated that education is compulsory and free of charge for children of both sexes from six to ten years of age. Girls were free to leave school thereafter with the approval of their parents or guardians. See UN Committee on the Elimination of Discrimination Against Women, “Second and Third Periodic Reports of State Parties: Republic of Iraq,” CEDAW/C/IRQ/2-3, October 19, 1998, pp. 11-12.

<sup>5</sup> All illiterate persons between the ages fifteen and forty-five had to attend classes at local “literacy centers.” Although many conservative sectors of Iraqi society refused to allow women in their communities to go to such centers (despite potential prosecution), the literacy gap between males and females narrowed. See UN Economic and Social Commission for Western Asia, “Arab Women in ESCWA Member States,” E/ESCWA/STAT/1994/17, 1994, p. 88.

<sup>6</sup> Articles 80-89 of the Unified Labor Code (originally Law 151/1970, replaced by Law 81/1987) established “protections of working women.” Article 4 established the right to equal pay. Under the Maternal Law of 1971, women received six months paid maternity leave and could take six additional months of unpaid leave.

The government also made modest changes to the personal status law in 1978, giving women extended custody rights in divorce.<sup>7</sup> The amendments also changed the conditions under which a woman could seek divorce and regulations concerning polygamous marriages and inheritance.<sup>8</sup> These reforms reflected the Ba'ath Party's attempt to modernize Iraqi society and supplant loyalty to extended families and tribal society with loyalty to the government and ruling party.<sup>9</sup>

After the 1991 Gulf War, the position of women within Iraqi society rapidly deteriorated as Saddam Hussein embraced Islamic and tribal traditions as a political tool to consolidate his waning power. The government reversed many of the positive steps advancing women's and girls' status in Iraqi society.<sup>10</sup>

Compounding the problem, the UN sanctions imposed after the 1991 Gulf war had a disproportionate impact on women and girls.<sup>11</sup> For example, the gender gap in school enrollment (and subsequently female illiteracy) increased dramatically as families facing financial stress elected to keep their girls at home. During the sanctions years, the mortality rate for children and pregnant women jumped; between 1989 and 2002, the number of women who died during childbirth almost tripled.<sup>12</sup> The poor economic situation, coupled with a population imbalance as a result of male casualties from combat, created conditions whereby families wanted to give up girls quickly, fueling child marriages and trafficking in women and girls. During this time poorer families were more inclined to send their girls

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<sup>7</sup> Under the 1978 changes to the law divorced women had custody of their children until the age of ten (up previously from seven for boys and nine for girls) at which time a judge could extend the custody to the child's fifteenth birthday at which point the teenager could choose which parent to live with. The Code of Personal Status was first promulgated in 1959 under the regime of Abd al-Karim Qasim, which took power after the overthrow of the Hashemite monarchy in July 1958. Until that time, family laws were based on tradition or customary law and had never been codified. Qasim was executed in 1963 and many of the family law reforms he had implemented were reversed by the successive rulers under religious pressure. See Joseph, "Elite Strategies for State-Building," in Kandiyoti, ed., p. 184. See also Eric Davis, *Memories of State: Politics, History and Collective Identity in Modern Iraq* (Berkeley, CA: University of California Press, 2005).

<sup>8</sup> Amal Rassam, "Political Ideology and Women in Iraq: Legislation and Cultural Constraints," Joseph G. Jabbara and Nancy Walstrom Jabbara, eds., *Women and Development in the Middle East and North Africa* (New York: Brill, 1992), p. 84.

<sup>9</sup> Ibid., p. 91. It is also suggested that this may have been done to intimidate religious institutions and authorities.

<sup>10</sup> The Iraqi government suffered large human and material losses in its eight-year war with Iran. At the war's end in 1988, lower oil prices prohibited the state from maintaining the massive social welfare state that it created in the 1970s. The economic impact of the 1991 Gulf War further fueled social discontent and the Ba'ath party reversed many of its earlier social policies. In an attempt to foster loyalty among tribal and religious groups, Saddam Hussein began incorporating religious rhetoric into the party's platform and also reinstated tribal sheikhs as leaders, arming them and giving them land. See Sami Zubaida, "The Rise and Fall of Civil Society in Iraq," February 5, 2003, Open Democracy [http://www.opendemocracy.net/conflict-iraqwarquestions/article\\_953.jsp](http://www.opendemocracy.net/conflict-iraqwarquestions/article_953.jsp) (accessed December 22, 2010).

<sup>11</sup> UN Office of the Humanitarian Coordinator for Iraq (UNOCHR), "Occasional Paper: Situation of Women in Iraq," May 28, 2003.

<sup>12</sup> "Death Rate of Iraq Mothers Triples, UN Survey Finds," Agence France-Presse, November 4, 2003. According to the UN Population Fund survey, the number rose to 310 cases of maternal death per 100,000 live births in 2002 from 117 cases in 1989. See also Mohamed M. Ali, John Blacker, and Gareth Jones, "Annual mortality rates and excess deaths of children under five in Iraq, 1991-98," *Population Studies* Vol. 57 no. 2, 2003, 217-26.

abroad in arranged marriages with few preconditions in the hopes that the girls would lead better lives and send money home.<sup>13</sup>

Women and girls also suffered from increasing restrictions on their freedom of mobility and protections under the law.<sup>14</sup> In an attempt to attract support from conservative and religious groups and tribal leaders, the government introduced decrees and legislation negatively impacting women's legal status in the labor code, criminal justice system, and personal status laws.<sup>15</sup> Security forces subjected female political activists and relatives of dissidents to gender-specific abuses, including sexual violence.<sup>16</sup>

The insecurity created by the US-led 2003 occupation of Iraq, followed by sectarian strife that engulfed the country, further eroded women's rights.

In the months following the invasion, Human Rights Watch documented a wave of sexual violence and abductions against women in Baghdad.<sup>17</sup> At the time, women and girls told Human Rights Watch that insecurity and fear of rape and abduction kept them in their homes, out of schools, and away from work. Although assailants kidnapped many men as well, the consequences for women and girls were worse due to concerns of family "honor," which is predicated on the moral standing and behavior of female members of the family. For women and girls, the trauma of an abduction continued well after release -- the shame associated with the event was a lasting stigma because of the presumption that abductors had raped or sexually assaulted the woman or girl during her ordeal, regardless of whether she was actually raped.

After 2003, militias, insurgents, Iraqi security forces, multinational forces, and foreign private military contractors raped and killed women.<sup>18</sup>

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<sup>13</sup> Human Rights Watch interview with women's rights defenders, (names withheld), Karbala, April 21, 2010.

<sup>14</sup> CEDAW, "Second and Third Periodic Reports of State Parties: Republic of Iraq," CEDAW/C/IRQ/2-3, October 19, 1998, p. 12.

<sup>15</sup> UN Commission on Human Rights, "Report of the Special Rapporteur on Violence against Women," E/CN.4/2002/83, January 31, 2002.

<sup>16</sup> Amnesty International, "Iraq: Decades of Suffering, Now Women Deserve Better," AI Index: MDE 14/001/2005, February 22, 2005, p. 1.

<sup>17</sup> Human Rights Watch, *Climate of Fear: Sexual Violence and Abduction of Women and Girls in Baghdad*, Vol. 15, no. 7 (E), July 2003, <http://www.hrw.org/en/reports/2003/07/15/climate-fear-o> (accessed September 10, 2010).

<sup>18</sup> Some non-Iraqi perpetrators have been held to account, but few if any Iraqi nationals have been prosecuted. In one notorious 2006 incident that garnered international outrage, US soldiers entered the house of 14-year-old Abeer Qassim al-Janabi, near Mahmudiyya, shot dead her mother, father and sister, and then raped the girl before shooting her and setting fire to her remains. The US did convict the perpetrators. "Life for US soldier's Iraq crime," *BBC*, September 4, 2009, <http://news.bbc.co.uk/2/hi/8239206.stm> (accessed September 11, 2010).

In Basra, lawlessness and Iraqi militia activity escalated in September 2007 after British forces withdrew their troops from Basra Palace to the airport on the outskirts of the city.<sup>19</sup>

Until the Iraqi army's "Charge of the Knights" operation in Basra in March 2008, militias terrorized women in the city. In 2007 alone, vigilantes killed 133 women, claiming religious or customary sanction. According to Basra security forces, extremists deemed 79 of the victims to be "violating Islamic teachings." Some 47 other women died in honor killings and seven were targeted for their political affiliations. "The women of Basra are being horrifically murdered and then dumped in the garbage with notes saying they were killed for violating Islamic teachings," Bassem al-Mussawi, head of the security committee and a member of Basra's Provincial Council, said at the time. "Sectarian groups are trying to force a strict interpretation of Islam... They send their vigilantes to roam the city, hunting down those who are deemed to be behaving against their [the extremists'] own interpretations."<sup>20</sup>

Maj.-Gen. Abd al-Jalil Khalaf, who was sent to Basra in June 2007 as the city's chief of police, told Human Rights Watch that extremists were in complete control of the city.

The ages of women who were murdered ranged anywhere from 14 years to 60. Before the women were killed, they were tortured and sometimes had their teeth or eyes extracted. The corpses had bruises all over their bodies. Some had their breasts cut off or arms amputated and their hair was shaven off. Most of the victims had terrified looks frozen on their faces. And none of their families came to collect the bodies. Not only did the police not investigate these crimes, my officers were directly implicated in some of the killings since the militia had infiltrated the police force. ... These men, who committed such atrocious acts, cannot be considered human."<sup>21</sup>

He said it was impossible for the police force to investigate the crimes and bring the perpetrators to justice since armed groups had infiltrated a large portion of the force and were involved in many of the crimes. Although the worst perpetrators have been transferred or removed from the police force, he said none of the officers implicated in these crimes have been held accountable.

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<sup>19</sup> Jonathan Rugman, "British Troops Complete Withdrawal from Basra Base," PBS Newshour, September 3, 200, [http://www.pbs.org/newshour/bb/middle\\_east/july-deco7/basra\\_09-03.html](http://www.pbs.org/newshour/bb/middle_east/july-deco7/basra_09-03.html) (accessed December 10, 2010),

<sup>20</sup> "Iraq: Islamic extremists target women in Basra," IRIN, January 2, 2008, <http://www.irinnews.org/Report.aspx?ReportId=76065> (accessed September 11, 2010).

<sup>21</sup> Human Rights Watch interview with Maj.-Gen. Abd al-Jalil Khalaf, Baghdad, April 22, 2010.

## Targeting Female Leaders and Activists

A women's rights activist who led public campaigns against domestic violence and other women's issues in Najaf told Human Rights Watch that she started to receive numerous death threats via text messages in August 2007.<sup>22</sup> The messages were variations on the same theme: "Oh, you bitch, stop your work or we will kill you." This activist was well-known since she published articles in her own name. In September 2007, assailants bombed her house, damaging it and 12 others in the neighborhood, she told us. She continued to receive threats in the weeks following the explosion. She said the police took some photos of the wreckage but did not follow up with a proper investigation, so she tried to pursue the case on her own by hiring a private investigator to determine who was sending her the threatening text messages. "The police did not do anything to help us or investigate the attack because the perpetrators were extremists and they were afraid. All the police would tell us is 'You're lucky to still be alive.'"

Today, armed groups continue to target female political and community leaders and activists. This threat of violence has had a debilitating impact on the daily lives of women and girls generally and has reduced their participation in public life. It has had profound consequences for women's economic participation, as many female professionals, including doctors, journalists, activists, engineers, politicians, teachers, and civil servants are forced to cease working fearing for their safety.

On November 12, 2009, an assailant shot Safa 'Abd al-Amir, the principal of a girls school in Baghdad, four times.<sup>23</sup> The attack happened shortly after she announced that she was running in the national elections as a Communist Party candidate. After al-Amir left her school in the al-Ghadir district at about 1:30 p.m., a maroon-colored BMW approached her vehicle from behind to the side; an assailant shot her three times in the face and once in the arm. She did not immediately realize what had happened to her since the gunman used a silencer.

Despite her injuries, al-Amir managed to leave her car and walk barefoot for about 20 meters. When police arrived at the scene, they initially feared she was a suicide bomber because she was drenched in blood. "I couldn't answer the questions because they had shot my mouth – I just kept pointing to my mouth," al-Amir related.<sup>24</sup>

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<sup>22</sup> Human Rights Watch interview with a women's rights activist (name withheld), Najaf, April 14, 2010.

<sup>23</sup> Human Rights Watch interview with Safa 'Abd al-Amir, Baghdad, April 3, 2010.

<sup>24</sup> Ibid.

After numerous operations, including one to reconstruct her jaw, she is still undergoing treatment. “They tried to kill me because I’m a political woman,” she said. “According to the extremists’ beliefs, an unveiled progressive woman running for political office sets a bad example for other women.”<sup>25</sup> She said the police conducted a superficial investigation, which comprised only obtaining her statement in response to a few questions and no follow-up. She said the police either did not care or were afraid to investigate. Authorities have made no arrests in the case.

Iraq’s government has acknowledged that armed groups have posed a major challenge to the government’s human rights policy and have had a detrimental effect on women in particular. However, the government said its law enforcement plan had succeeded in bringing about a marked reduction in violence and crime especially in Baghdad since the second half of 2008, although it said the dangers of terrorism remain.<sup>26</sup>

In May 2009, the regional satellite network MBC aired a preview of an upcoming show about the trafficking of women in Iraq, which interviewed an activist from the Organization of Women’s Freedom in Iraq (OWFI). Afterward, OWFI learned from MBC that Iraq’s Ministry of Culture contacted the television station to stop the full show’s airing because it objected to the content. Another TV station affiliated with the Iraqi government criticized OWFI and televised pictures of OWFI activists, circled in black, with a caption, “These are the ones who humiliate Iraqi women.” OWFI members said the publicity forced them to temporarily close their office and keep a low profile, fearing violence from militia forces. “We became the criminals and the enemies of the state,” said one OWFI activist.<sup>27</sup>

## Trafficking and Forced Prostitution

Since the 2003 invasion, widespread security deterioration and displacement, financial hardship, social disintegration, and the dissolution of the rule of law and state authority have all contributed to an increase in trafficking and forced prostitution. There are no official statistics or estimates regarding the number of women who are trafficked within the country or internationally, but anecdotal evidence suggests that the major destination points are Syria, the United Arab Emirates and other Gulf countries. According to some women activists,

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<sup>25</sup> Ibid.

<sup>26</sup> “National report submitted in accordance with paragraph 15 (A) of the annex to Human Rights Council Resolution 5/1,” Government of Iraq submission to the Universal Periodic Review, A/HRC/WG.6/7/IRQ/1, January 18, 2010, [http://lib.ohchr.org/HRBodies/UPR/Documents/Session7/IQ/A\\_HRC\\_WG.6\\_7\\_IRQ\\_1\\_E.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session7/IQ/A_HRC_WG.6_7_IRQ_1_E.pdf) (accessed December 22).

<sup>27</sup> Human Rights Watch interview with OWFI activist, Baghdad, April 2, 2010.

the number is at least in the hundreds if not thousands.<sup>28</sup> According to *Forced Migration Review*, between 2003 and 2007, nearly 3,500 Iraqi women have gone missing, with a portion likely trafficked into prostitution.<sup>29</sup>

Basra's former police chief Abd al-Jalil Khalaf, local human rights organizations that assist trafficked women, and the ex-wife of an Iraqi trafficker all told Human Rights Watch that traffickers transport their victims overseas by land, sea or air mainly out of Baghdad and Basra by different mechanisms.<sup>30</sup> In some cases, women are forced into prostitution through false promises of legitimate employment overseas. These women realize they are duped only after they arrive at their destination country and their trafficker confiscates their passports. Women trafficked by this route generally leave Iraq voluntarily, believing that they will work abroad in restaurants or as secretaries, only to end up as "dancers" in hotels or nightclubs.<sup>31</sup>

Traffickers also transport women and girls internally and internationally through arranged and forced marriages. Families marry off their young women and girls to older men from outside their community who are either agents or brokers. Often the girl's family coerces her into marriage, hoping to escape desperate economic circumstances or to pay debts. Other times families are unaware of the fate that awaits their daughters. "These rich foreigners come, who seem normal and look respectable, and it turns out not to be the case but the families only find out later," said one women's rights activist in Basra. "Many of these poor girls who think they are escaping their hard life in Iraq end up in Syria dancing in nightclubs."<sup>32</sup>

Typically, after the broker or agent takes his "wife" or "wives" to a destination point, he divorces the woman, sells her, and returns to Iraq to claim new victims. The younger the girl, the more lucrative the profits—the highest demand is for girls under 16. Traffickers reportedly sell girls as young as 11 and 12, for as much as \$30,000, while older "used" girls and women can be bought for as little as \$2,000.<sup>33</sup> The traffickers are aided by sophisticated

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<sup>28</sup> Human Rights Watch interviews with five women's rights defenders (names withheld), Baghdad and Najaf, April 3 and April 12, 2010, respectively.

<sup>29</sup> Henia Dakkak, "Tackling sexual violence, abuse and exploitation" *Forced Migration Review*, June 2007, <http://www.fmreview.org/FMRpdfs/Iraq/full.pdf> (accessed September 11, 2010).

<sup>30</sup> Human Rights Watch interviews with three women's rights activists (names withheld) in Baghdad, April 2, 2010; a former wife of a trafficker (name withheld), Baghdad, April 3, 2010; a women's rights defender (name withheld), Basra, April 10, 2010; and Maj.-Gen. Abd al-Jalil Khalaf, Baghdad, April 22, 2010.

<sup>31</sup> Human Rights Watch interview with a women's rights defender (name withheld), Baghdad, April 20, 2010.

<sup>32</sup> Human Rights Watch interview with a women's rights defender (name withheld), Basra, April 10, 2010.

<sup>33</sup> Rania Abouzeid, "Iraq's Unspeakable Crime: Mothers Pimping Daughters," *Time*, March 7, 2009, <http://www.time.com/time/world/article/0,8599,1883696,00.html#ixzzoyVDcJARC>, (accessed September 11, 2010).

criminal networks that are able to forge documents and pay corrupt officials to remove impediments.<sup>34</sup>

With the help of the Iraqi Al-Amal Association, an independent human rights organization, we interviewed Um Hassan, a young woman in Baghdad who unwittingly married into a family of traffickers.<sup>35</sup> She told Human Rights Watch that the girls, aged between 13 and 21, never had any time off, even if they were sick. The mother-in-law's husband would beat the girls if they refused to work or disobeyed.<sup>36</sup>

Um Hassan's mother-in-law took all of the girls' earnings (about 2,000 and 3,000 dirhams, or US\$550 to \$800 per trick) and confiscated any gifts or gold the men gave them. When any of the girls became pregnant, the mother-in-law would administer seven pills to abort the fetus. The girls told Um Hassan they were unhappy but some believed that even if they could escape back to their families, their brothers and fathers would kill them. None of them had possession of their passports or any money.<sup>37</sup>

Often, Iraqi women and girls targeted for abuse are impoverished and unable to read or write. Some have run away from home to escape abuse or avoid a forced marriage.

After one 14-year-old girl from Baghdad ran away with her cousin to Karbala in early 2010, she was referred for work to a woman who worked at a hair salon. After they met, she says the woman took her home and drugged her with sedatives in her juice.<sup>38</sup> When she woke up she found blood on her clothes and between her legs. The woman then took the girl to Sulaimaniyya and told her, "If you don't go with men, I will kill you."<sup>39</sup> The kidnapper's mother bought the girl and held her captive at a house for a month with 12 other Arab and Kurdish girls. There, the girl had to sleep with one or two men daily. Later, after police arrested the girl, a judge imprisoned her for two months. She was then released to a women's shelter in Sulaimaniyya, where we interviewed her. She fears that if she leaves the shelter her brothers will kill her.<sup>40</sup>

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<sup>34</sup> Human Rights Watch interviews with three women's rights activists (names withheld) in Baghdad, April 2, 2010; a former wife of a trafficker, Um Hassan (not her real name), Baghdad, April 3, 2010; and a women's rights defender (name withheld), Basra, April 10, 2010.

<sup>35</sup> Human Rights Watch Interview with a former wife of a trafficker, Um Hassan (not her real name), Baghdad, April 3, 2010.

<sup>36</sup> Ibid.

<sup>37</sup> Ibid.

<sup>38</sup> Human Rights Watch interview with a 14-year-old girl (name withheld), Sulaimaniyya, June 22, 2010.

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

Another young woman, Zahra H., fled to Baghdad with her sister when she was 19, hoping to escape poverty in Basra.<sup>41</sup> But without any employment prospects, her situation in Baghdad became even more desperate – she had to beg on the streets to survive. In 2007, she accepted an invitation to stay with a woman in return for sex work. She lived and worked from the brothel with four other women in similar circumstances, having sex with between 10 and 15 men every day. All of her earnings went to her pimp. After two weeks, she attempted to leave but her pimp prevented her, saying she first had to pay three million dinars (\$2,500 US) for clothes and rent that he claimed she owed. After weeks of beatings from the brothel operator’s husband, Zahra tried escaping but the husband shot her twice in the arm and once in the back. She did not press charges because she feared that if she did, her abusers would harm her sister who lived in the same neighborhood. Three years later, despite two operations, she still has massive swelling in her arm as a result.<sup>42</sup>

### *Penalizing Victims*

Women’s rights groups told Human Rights Watch that trafficked women (and victims of sexual violence) often find themselves in jail. The government provides no assistance to victims repatriated from abroad, and Iraqi authorities prosecute and convict trafficking victims for unlawful acts committed as a result of being trafficked; for example, some victims who were trafficked abroad using false documents were arrested and prosecuted upon their return to Iraq.<sup>43</sup> Apart from document and passport fraud, victims are also jailed for prostitution, while authorities ignore their abusers.<sup>44</sup>

A 30-year-old divorced woman from Baghdad told Human Rights Watch that during a 15-day vacation in May 2010, four men kidnapped her while she was shopping for clothes in a souk in Sulaimaniyya.<sup>45</sup> She spoke with us at the detention center where she had spent the previous month. The men took her to a secluded spot in the mountains and each raped her twice over the course of the day. “They beat me severely on my legs. They even beat me with their shoes. I screamed and yelled but no one could hear me, no one could come to get me.” She thought her ordeal had ended when they were discovered by police. However,

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<sup>41</sup> Human Rights Watch interview with Zahra H. (not her real name), Baghdad, April 4, 2010.

<sup>42</sup> Ibid.

<sup>43</sup> United States Department of State, “Trafficking in Persons Report 2008, Special Cases, Iraq,” June 4, 2008, <http://www.state.gov/documents/organization/105660.pdf> (accessed 13 October 2010).

<sup>44</sup> Iraqi courts do not recognize coercion as a legal defense. See also Mohammed Jamjoom, “Sex slave girls face cruel justice in Iraq,” CNN, May 4, 2010, [http://articles.cnn.com/2010-05-04/world/iraq.women.prisons\\_1\\_trafficked-iraq-sexual-slavery?\\_s=PM:WORLD](http://articles.cnn.com/2010-05-04/world/iraq.women.prisons_1_trafficked-iraq-sexual-slavery?_s=PM:WORLD) (accessed October 13, 2010).

<sup>45</sup> Human Rights Watch interview with 30-year-old woman (name withheld), Sulaimaniyya, June 21, 2010.

authorities have released the four men on bail while she still languishes in the detention center on prostitution charges, unable to afford bail.<sup>46</sup>

In some cases, women and girls request to remain in detention centers even after a sentence is complete, fearful that their families will kill them. One 14-year-old girl originally from Rania said she ran away from home to Arbil after her parents had her engaged to a cousin.<sup>47</sup> She accepted money and accommodation from a man in exchange for sex. An Arbil court convicted her of prostitution and gave her a six-month sentence. When authorities released her to a shelter because of her age, she insisted on staying in the prison, where Human Rights Watch interviewed her. She said she considered the prison more secure. Seven months after her initial arrest, she says she does not know what to do. “My father says that he will kill me if he ever sees me.”<sup>48</sup>

Victims of sexual violence and trafficking have well-grounded fears of reprisals, social ostracism, rejection or physical violence from their families, and a lack of confidence that authorities have the will or capacity to provide the support or protection required. Police are generally reluctant to investigate cases of sexual violence, trafficking, and abductions.<sup>49</sup>

One young woman from al-Kut told Human Rights Watch that her father severely beat her on several occasions after she refused to marry her cousin. In 2003, when she was 14, after a particularly rough beating, she fled to Baghdad to live with her sister. In October 2006, two men in a car kidnapped her on the streets of Baghdad. Security forces thwarted the abduction at a checkpoint and detained the three. During the investigation, police beat her and told her to drop the case. She says the police also tried to sexually assault her but she resisted. After additional beatings she revised her witness statement to stop the abuse and police released the two perpetrators.<sup>50</sup>

Policing in Iraq is almost exclusively a male profession, and officers give low priority to allegations of sexual violence and trafficking compared with other crimes, such as murder and theft.<sup>51</sup> Women’s groups complain that, too often, police blame the victim, doubt her

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<sup>46</sup> Ibid.

<sup>47</sup> Human Rights Watch interview with 14-year-old girl (name withheld), Arbil, June 22, 2010.

<sup>48</sup> Ibid.

<sup>49</sup> Human Rights Watch, *Climate of Fear: Sexual Violence and Abduction of Women and Girls in Baghdad*.

<sup>50</sup> Human Rights Watch interview with Iraqi woman (name withheld), Baghdad, April 4, 2010.

<sup>51</sup> In November, 2009, women entered the officer corps of the Iraqi police for the first time after Baghdad’s Police College graduated 50 female officers (out of more than a thousand graduates).

credibility, show indifference, and conduct inadequate investigations. For these reasons, many women are reluctant to file a complaint.<sup>52</sup>

Also, in rural communities, the loyalty of many police officers is first to their tribe, making impartial investigations a challenge. “We cannot rely on them to do investigations,” said a female lawyer in Qurna. “As long as police remain loyal to the tribes, there will be no justice here.”<sup>53</sup>

### *Government Response to Trafficking*

The government has done little to combat trafficking in girls and women: there have been no successful prosecutions of criminals engaged in human trafficking, no comprehensive program to tackle the problem, and negligible support for victims, as noted above.<sup>54</sup>

The Government of Iraq has no figures on how many women and girls are trafficked. According to an official in the Ministry of Human Rights, the ministry tried to start a trafficking database that would have helped the central and provincial governments better understand the magnitude and scope of the problem by tracking numbers of trafficking incidents, locations where victims are recruited from, and trafficking routes. The government official told Human Rights Watch that because the issue is “taboo”, other government institutions, including the Supreme Judicial Council, the Ministries of Labor, Interior, Foreign Affairs and Planning, and provincial councils responded by stating they had no information to provide or that the issue was just too sensitive.<sup>55</sup> “The issue of trafficking is extremely sensitive and our communities try to cover it up,” one women’s rights defender in Basra told Human Rights Watch. “We are a tribal people and because of pride and honor, people do not want to talk about this.”<sup>56</sup>

The Human Rights Ministry official implied that conservative religious parties may not want to acknowledge the problem because they fear restraints on their religious practices.<sup>57</sup> Traffickers have been known to exploit traditional marriage models, such as *mut’ah*

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<sup>52</sup> Human Rights Watch interview with women’s rights defenders (names withheld), Baghdad, April 23, 2010. See also Human Rights Watch, *Climate of Fear: Sexual Violence and Abduction of Women and Girls in Baghdad*.

<sup>53</sup> Human Rights Watch interview with a women’s rights defender (name withheld), Najaf, April 12, 2010.

<sup>54</sup> See also United States Department of State, “Trafficking in Persons Report 2010 - Iraq,” June 14, 2010, <http://www.unhcr.org/refworld/docid/4c1883ebc.html> (accessed 11 September 2010).

<sup>55</sup> Human Rights Watch Interview with Ministry of Human Rights official (name withheld for security reasons), Baghdad, April 5, 2010.

<sup>56</sup> Human Rights Watch interview with women’s rights defender (name withheld), Basra, April 10, 2010.

<sup>57</sup> Human Rights Watch Interview with Ministry of Human Rights official (name withheld for security reasons), Baghdad, April 5, 2010.

marriages or marrying more than one woman or girl consecutively.<sup>58</sup> He said the government will have a difficult time combating trafficking because of how lucrative it is. “Corruption in Iraq is very big, including members of the judiciary and lawyers,” said the official. “Traffickers are big business, and they are powerful. They have the influence and the means to bribe those in power.”<sup>59</sup>

Women’s rights activists blame corruption within the security forces for enabling traffickers and pimps to operate with impunity. On one occasion, a female pimp with her husband—a police captain—knocked on the door of an NGO that runs an underground shelter for abused women in an attempt to retrieve her prostitute.<sup>60</sup>

In a March 2010 report, the Organization of Women’s Freedom in Iraq documented more than 70 cases of trafficking and forced prostitution in 2008 and estimated that at least 200 women and girls are sold into sexually slavery each year.<sup>61</sup> The report published confidential documents that the organization received from a source within the police department concerning an investigation into a criminal ring in Diyala responsible for trafficking 128 women to Saudi Arabia through Mosul in 2007. Traffickers in Diyala earned between \$3,000 and \$5,000 per victim. Members of the criminal ring allegedly included two members of the Diyala Governorate Council, one security officer, and three police. No one was charged and authorities closed the case.

The government has not yet introduced new legislation to counter the problem (the penal code lacks specific provisions on trafficking), and existing Iraqi laws have proven ineffective and in some cases punitive toward victims. The 2005 Constitution prohibits forced labor, slavery, slave trade, trafficking in women or children, and sex trade, but there are no laws to implement this prohibition.

An April 2010 draft of the government’s anti-trafficking law would outlaw “recruiting, transporting, quartering or receiving” individuals with an intention of “exploiting them in

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<sup>58</sup> *Mut’ah* (also known as pleasure marriage) is a temporary marriage contract between a man and an unmarried woman for a specific timeframe (ranging from an hour to months) that often stipulates the “wife” will be paid a designated sum of money. Women who become pregnant are not entitled to child support. Often, the marriages are conducted in secret, unbeknownst to family members. Some clerics argue the practice prevents adultery while critics view it as a form of prostitution. The practice is not addressed in Iraq’s Personal Status Code.

<sup>59</sup> Human Rights Watch Interview with Ministry of Human Rights official, Baghdad, name withheld for security reasons, April 5, 2010.

<sup>60</sup> Human Rights Watch interview with three women activists (names withheld) in Baghdad, April 2, 2010.

<sup>61</sup> Organization of Women’s Freedom in Iraq, “Prostitution and Trafficking of Women and Girls in Iraq,” March 5, 2010, <http://www.equalityiniraq.com/images/stories/pdf/prostitutionandtrafficking-OWFIreport.pdf> (accessed December 22, 2010).

acts of terrorism, armed conflicts, prostitution or sexual exploitation, unpaid or forced labor, servitude, mendicancy, human organs trading or as subjects for medical experimentation.”<sup>62</sup> The draft law imposes tough penalties, including life imprisonment, and a fine of between 15 and 25 million dinars (US\$13,000 and \$21,000) for traffickers if the victim “is less than 18, or a female, or is a person with a disability.”<sup>63</sup> Criminal acts that result in the death of a victim are punishable by death.<sup>64</sup>

Women’s rights groups say the provisions in the law are too vague and provide no mechanisms (such as shelters or social and health services) to help female victims. It is unclear how authorities can effectively use the law when traffickers rely on legal means, such as fake or temporary marriages, to transport women.

Wijdan Michael Salim, the Human Rights Minister at the time, told Human Rights Watch that the draft is a work in progress. The government is revising it to put a greater focus on protecting the victims of trafficking as well as punishing the perpetrators, she said.<sup>65</sup>

Some women’s rights groups are not convinced that the law, even with improvements, will have an impact. “Even if the best trafficking law is passed it will not be enough,” said a women’s rights advocate in Baghdad. “Iraqi police need to have sensitivity training. They have no idea how to handle traffickers and their victims.”<sup>66</sup>

## Family Violence

Violence at home against girls and women happens mainly at the hands of their husbands, fathers, brothers, sons, and male extended family members. The men sometimes act on the orders of tribal elders who decide on punishments for women deemed to have infringed traditional codes of honor. Such infringements can include a woman or girl dating, marrying against her family’s wishes, being the victim of sexual violence, losing virginity before marriage, seeking a divorce against her family’s wishes, engaging in an extramarital affair, and refusing an arranged marriage.

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<sup>62</sup> Law to Combat Human Trafficking (April 2010 draft), Article 2.

<sup>63</sup> Ibid., art. 6.

<sup>64</sup> Ibid., art. 9.

<sup>65</sup> Human Rights Watch interview with Iraq’s Human Rights Minister Wijdan Michael Salim, Baghdad, April 22, 2010.

<sup>66</sup> Human Rights Watch interview with three women’s rights defenders (names withheld), Baghdad, April 2, 2010.

Iraq's Ministry of Women's Affairs has unsuccessfully attempted to repeal discriminatory provisions of the penal code that give husbands legal authority to "discipline" their wives (article 41) and reduced sentences for honor killings (article 409). Acting in response to a legislative reform initiative spearheaded by a consortium of women legal practitioners, the Ministry recommended in December 2009 that the Ministry of Justice to repeal some of the contentious provisions. According to information received by UNAMI, the Minister of Justice allegedly rejected amendments to article 409 stating that the provision was consistent with Iraqi cultural practices.<sup>67</sup>

### *Honor crimes*

Iraq's penal code allows lenient punishment for so-called honor killings on grounds of provocation or if the accused had "honorable motives."<sup>68</sup> According to the penal code's article 128, "[T]he commission of an offence with honorable motives or in response to the unjustified and serious provocation of a victim of an offence is considered a mitigating excuse." Article 130 allows the court to reduce a death penalty to one years imprisonment and to commute a life sentence to six months imprisonment where there are such mitigating circumstances.<sup>69</sup> Additionally, Article 409 limits the prison sentence to less than three years for an honor killing of a wife by her husband.

The United Nations Assistance Mission for Iraq (UNAMI) has characterized honor killings as a serious concern in Iraq, particularly in Iraqi Kurdistan.<sup>70</sup> The Kurdistan Regional Government's Ministry for Human Rights reported that for 2008 as a whole there were 163 honor killings and 166 cases the previous year.<sup>71</sup>

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<sup>67</sup> United Nations Assistance Mission in Iraq (UNAMI), "Human Rights Report: 1 January – 30 June, 2009," [http://www.uniraq.org/documents/UNAMI\\_Human\\_Rights\\_Report15\\_January\\_June\\_2009\\_EN.pdf](http://www.uniraq.org/documents/UNAMI_Human_Rights_Report15_January_June_2009_EN.pdf) (accessed December 11, 2010), p. 13.

<sup>68</sup> Iraqi Penal Code No. 111 of 1969 (with amendments), articles 128, 130, and 409.

<sup>69</sup> In the early 2000s, the Kurdish region suspended laws providing for mitigated sentences in relation to honor crimes. See National Standards Protecting Women's Rights section below.

<sup>70</sup> Shwan Muhammad, "Surge in violence against women in Iraqi Kurdistan," *France 24*, May 24, 2008, <http://www.france24.com/en/20080524-surge-violence-against-women-iraqi-kurdistan?q=node/1924390//2> (accessed December 11, 2010). See also United Nations Assistance Mission in Iraq (UNAMI), "Human Rights Report: 1 January – 30 June, 2009," [http://www.uniraq.org/documents/UNAMI\\_Human\\_Rights\\_Report15\\_January\\_June\\_2009\\_EN.pdf](http://www.uniraq.org/documents/UNAMI_Human_Rights_Report15_January_June_2009_EN.pdf) (accessed December 11, 2010), p. 13.

<sup>71</sup> United Nations Assistance Mission to Iraq (UNAMI), "Human Rights Report: 1 July 2008-31 December 2008," [http://www.uniraq.org/documents/UNAMI\\_Human\\_Rights\\_Report\\_July\\_December\\_2008\\_EN.pdf](http://www.uniraq.org/documents/UNAMI_Human_Rights_Report_July_December_2008_EN.pdf) (accessed December 11, 2010), p.13.

The practice is not limited to Kurdistan. In its most recent report, covering the second half of 2009, UNAMI drew attention to reports of alleged honor killings perpetrated in the disputed Kirkuk province.<sup>72</sup>

Women's rights groups say that honor killings remain prevalent in southern Iraq. Hajar L., a women's rights activist in Basra, still vividly remembers the day she witnessed an honor killing as a teenager 14 years ago.<sup>73</sup> She described to us what she witnessed to illustrate the nature of the crimes and their social entrenchment.

Her 35-year-old neighbor, whose husband refused to divorce her, was having an affair. After she was found with the man, her father, who was a mukhtar (head of a neighborhood), along with her brother and cousin, descended on her house carrying daggers. "We all heard the woman's screams but none of us did anything," Hajar said. There was no running water in the house so, after the attack, the men came outside to wash their bloody daggers. When they realized she was still alive, they went back in and finished the job. They emerged a second time, carrying one of the women's dismembered hands. Female relatives started to ululate (*helheleh*). One of killers raised the dismembered hand and announced to the crowd, "We are from this tribe, and we have cleansed our honor and washed our shame," and then tossed the hand at the feet of a tribal elder.

Because there were so many witnesses, she said, the police had to make an arrest. The brother confessed that he acted alone but received only a six-month sentence under Iraq's penal code, still in effect today.

Today, Hajar works at a community center for women in Basra where she has documented dozens of incidents of violence against women over the past two years. She says that since 2003, honor crimes have increased because of the poor security situation. "The worse the security situation gets, the more people go back to their tribe for help. When there is a lack of security, people revert to tribal justice."<sup>74</sup>

### *Domestic violence*

Domestic violence has always been a problem in Iraq, but women's rights groups say that years of armed conflict and economic hardships have contributed to increased violence within

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<sup>72</sup> United Nations Assistance Mission to Iraq (UNAMI), "Human Rights Report: 1 July 2009-31 December 2009."

<sup>73</sup> Human Rights Watch interview with Hajar L. (not her real name), Basra, April 8, 2010.

<sup>74</sup> Ibid.

families. The proliferation of weapons has also intensified domestic violence and increased the risks of serious injury or death for women.<sup>75</sup> The issue of domestic violence has not received the attention it deserves, women's groups say. "In conflict areas, women's issues are never a priority," said one human rights defender in Baghdad.<sup>76</sup> "Who wants to talk about domestic violence when violence is everywhere and people are dying on the streets?"

A female lawyer and women's advocate from Qurna told us that the economic situation is forcing women to stay in dysfunctional or abusive relationships out of necessity. "If they don't, who will provide for them or their children? So accepting domestic violence is preferable to being poor."<sup>77</sup>

Social attitudes that stigmatize female divorcees also help keep women in abusive relationships. "No matter how badly her husband treats her, some women believe it is worse to get a divorce," one female journalist said.<sup>78</sup>

For some, the beatings are so harsh that they choose divorce even if it leads to stigmatization. A 55-year-old gynecologist in Baghdad told us that she had to leave her marriage because of the level of abuse she suffered.<sup>79</sup> During one episode, in the fall of 2009, she was hospitalized after her husband smashed her eyeglasses on her face, injuring her cornea. She said that attack has affected her eyesight to this day. Her husband also severely beat her daughters and one of them has recurring headaches after he knocked out three of her teeth. This daughter continues to sleep with only one side of her face on the pillow because of her painful facial injuries. After the woman filed a complaint, police arrested her husband, but he received a suspended sentence after a plea bargain. The women's rights group who put us in touch with this woman told us the case is remarkable because abused women in Iraq rarely make a police complaint against their husbands.

According to a 2008 World Health Organization survey on family health in Iraq, 83 percent of married Iraqi women interviewed said they were subjected to "controlling behavior" by their husbands, including insisting on knowing where they were at all times, and 21 percent

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<sup>75</sup> Henia Dakkak, "Tackling sexual violence, abuse and exploitation" *Forced Migration Review*, June 2007, <http://www.fmreview.org/FMRpdfs/Iraq/full.pdf>, (accessed September 11, 2010).

<sup>76</sup> Human Rights Watch interview with a women's rights defender (name withheld), Baghdad, April 20, 2010.

<sup>77</sup> Human Rights Watch interview with a women's rights defender (name withheld), Basra, April 12, 2010.

<sup>78</sup> Human Rights Watch interview with a female journalist (name withheld), Najaf, April 14, 2010.

<sup>79</sup> Human Rights Watch interview with gynecologist (name withheld), Baghdad, April 3, 2010.

reported physical violence.<sup>80</sup> In a 2003 study in southern Iraq by Physicians for Human Rights, more than half of the surveyed women and men agreed that a husband has the right to beat a disobedient wife.<sup>81</sup>

This level of violence within marriage is underpinned by Iraqi legislation—Iraq’s penal code effectively condones domestic violence under article 41(1). The “punishment of a wife by her husband” is considered a legal right on par with disciplining children, according to the text of the provision. While the penal code specifies that such punishment is permissible “within certain limits prescribed by law or by custom,” there are no specified legal limits. According to a lawyer in Najaf who provides legal assistance to women’s groups, it is “very difficult” to take any legal action against men who abuse their wives. If the woman does not show marks or scars from abuse, the case is automatically rejected.<sup>82</sup>

### **Female-headed Households, Widows, and Other Vulnerable Women**

The International Committee for the Red Cross (ICRC) estimates there are between one and three million female-headed households in Iraq as a result of decades of war and violence.<sup>83</sup>

Traditionally, a widow in Iraq would return to her family or in-laws after the death of her husband. But increasingly families are unable to provide any help. Without their husbands or support from their families, these widows become socially isolated and desperate for ways to support their children.

The Iraqi government has developed a social welfare program, which includes pensions for widows amounting to 50,000 to 120,000 dinars (US\$43 to \$102), according to the number of dependent children.<sup>84</sup> Widows are also entitled to additional compensation of up to 2.5 million dinars (US\$2,100) for a spouse killed because of “terrorism.”

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<sup>80</sup> World Health Organization, “Iraqi Family Health Survey IFHS 2006/7,” January 9, 2008, [http://www.who.int/mediacentre/news/releases/2008/pr02/2008\\_iraq\\_family\\_health\\_survey\\_report.pdf](http://www.who.int/mediacentre/news/releases/2008/pr02/2008_iraq_family_health_survey_report.pdf) (accessed October 1, 2010).

<sup>81</sup> Lynn Amowitz et al., “Human Rights Abuses and Concerns About Women’s Health and Human Rights in Southern Iraq,” *Journal of the American Medical Association*, Vol. 291, no. 12, March 2004, <http://jama.ama-assn.org/content/291/12/1471.full.pdf+html> (accessed December 22, 2010).

<sup>82</sup> Human Rights Watch interview with a lawyer (name withheld), Najaf, April 14, 2010.

<sup>83</sup> The International Committee of the Red Cross, “Iraq: Women in War,” March 2009, [http://www.icrc.org/Web/eng/siteeng.nsf/htmlall/iraq-women-newsletter-050309/\\$File/iraq-women-in-war-eng.pdf](http://www.icrc.org/Web/eng/siteeng.nsf/htmlall/iraq-women-newsletter-050309/$File/iraq-women-in-war-eng.pdf) (accessed September 11, 2010).

<sup>84</sup> Ibid.

Aid experts have said the allowance is insufficient—especially for rural widows who typically have more children and fewer sources of income than urban widows. A 2010 survey by the International Organization for Migration found that 74 percent of 1,355 female-headed displaced families who have returned to their places of origin are struggling to secure adequate nutrition for their families.<sup>85</sup>

Many widows do not receive an allowance because of corruption and government institutions' lack of capacity to reach rural areas. Others, lacking education and documents, do not even bother applying—the process is overly complex and requires excessive amounts of documentation. A 2008 survey conducted by the ICRC in cooperation with a local NGO in one district of Baghdad found that only 10 percent of eligible widows received a widow's pension.<sup>86</sup> Another survey conducted by Oxfam and the Iraqi NGO Al-Amal in five governorates across the country showed that 76 percent of widows did not get any government pension.<sup>87</sup>

In February 2009, the State Minister for Women's Affairs, Nawal al-Samarraie, briefly resigned in protest against the meager resources given to her ministry, stating that the needs of three million widows, namely women whose families have lost their breadwinners in the conflicts since the early 1980s, are the country's most pressing issue.<sup>88</sup> "I have only an office, not a full ministry, with insufficient resources and limited authority ... My mission is very hard, if not impossible, to achieve," she said.<sup>89</sup>

Because of the extreme financial pressures on displaced and female-headed families, local human rights activists say they are seeing an increase in child marriages, forced prostitution and trafficking in women and girls as described above.<sup>90</sup>

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<sup>85</sup> "Iraq: Displaced women still struggle for survival," IRIN, December 7, 2010, <http://www.irinnews.org/Report.aspx?ReportID=91310> (accessed December 19, 2010).

<sup>86</sup> The International Committee of the Red Cross, "Iraq: Women in War," March 2009.

<sup>87</sup> Oxfam, "In Her Own Words: Iraqi women talk about their greatest concerns and challenges," March 2009, <http://www.oxfam.ca/sites/default/files/in-her-own-words-iraqi-women-talk-about-their-greatest-concerns-and-challenges.pdf> (accessed September 11, 2010).

<sup>88</sup> United Nations Assistance Mission to Iraq (UNAMI), "Human Rights Report: 1 January 2000-30 June 2009," [http://www.uniraq.org/documents/UNAMI\\_Human\\_Rights\\_Report15\\_January\\_June\\_2009\\_EN.pdf](http://www.uniraq.org/documents/UNAMI_Human_Rights_Report15_January_June_2009_EN.pdf) (accessed December 11, 2010), p.13.

<sup>89</sup> "Iraq: Minister of Women's Affairs Tenders Resignation," IRIN, February 9, 2009, <http://www.irinnews.org/report.aspx?ReportID=82820> (accessed December 13, 2010).

<sup>90</sup> Refugees International, "Iraqi Refugees: Women's Rights and Security Critical to Returns," July 15, 2009, [http://www.refugeesinternational.org/sites/default/files/071509\\_iraq\\_womensrights\\_o.pdf](http://www.refugeesinternational.org/sites/default/files/071509_iraq_womensrights_o.pdf) (accessed September 11, 2010).

Numerous activists and women in Najaf, Karbala and Basra told us that the practice of *mut'ah*, or temporary marriage, has grown since 2003 because of poverty and a resurgence of religious parties and tribal customs. Impoverished and lacking employment opportunities, widows and girls, often from displaced families, are being pressured into these types of contracts as a way to lessen their families' poverty, according to women's rights activists.

More troublingly, women's rights groups in the south report that men working for local government, religious institutions, and charities use their positions to pressure widows to practice *mut'ah* in exchange for any charity or services. "They are exploited for pleasure marriages by the very institutions that are supposed to be helping them," one of the defenders said.<sup>91</sup>

Two women's rights NGOs in Najaf reported the same phenomenon. "The government offices here encourage women, especially widows, to practice *mut'ah*, and have made it much more socially acceptable," according to a women's right advocate. "If they apply for a job at an office or try to claim benefits as a widow, they are pressured to practice *mut'ah* in exchange for the job or benefits. Most of the men are already married—in Najaf, a man can have four wives and temporary marriages on top of it."<sup>92</sup>

According to the Minister of Human Rights, such cases of exploitation – if genuine – are rare. "These things are not easy to prove ... No one has come to us and told us about this issue. We can't do anything about it if they don't complain to us. If it has happened it is not frequent, but only isolated cases."<sup>93</sup>

A 32-year-old woman who fled with her young children and abusive husband to Najaf from Baghdad during the sectarian conflict attested to the growing acceptance of *mut'ah*. She spends much of each day collecting cans with her girls as a way to generate income for the family.<sup>94</sup> "My husband would beat me and my daughters severely and not allow us to eat if we didn't go out to collect cans." She and her daughters earn 2,000 dinars a day (\$1.70). She said that when she is working outside, men criticize her and offer to help her through *mut'ah*.<sup>95</sup>

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<sup>91</sup> Human Rights Watch interview with three women's rights defenders (names withheld), Karbala, April 21, 2010.

<sup>92</sup> Human Rights Watch interview with women's rights defenders (names withheld), Najaf, April 14, 2010.

<sup>93</sup> Human Rights Watch interview with Human Rights Minister Wijdan Michael Salim, Baghdad, April 22, 2010.

<sup>94</sup> Human Rights Watch interview with a 32-year-old woman (name withheld), Najaf, April 14, 2010.

<sup>95</sup> Ibid.

A 33-year old divorcee in Najaf told us that she is constantly harassed. “When I went to apply for social assistance, the officer kept putting obstacles in my way and telling me to come back tomorrow. When I would come back the next day, he would offer me assistance in exchange for *mut’ah*.” After getting a job at a religious library in Najaf, she said the harassment did not stop and she was constantly pressured for *mut’ah*. “That’s why I developed a complex against religion, not because I’m against Islam but because of these religious men who keep harassing me and especially the religious institutions that encourage them. I have developed a phobia of men.”<sup>96</sup>

A senior Shia cleric in Baghdad said Human Rights Watch had not seen any evidence that religious authorities in the south were pushing widows to practice *mut’ah*, but added that he was not surprised since some Imams have “betrayed their religion and their country.”<sup>97</sup>

## International Standards Protecting the Rights of Women and Girls

Iraq is a state party to major international human rights treaties protecting the rights of women and girls.<sup>98</sup>

The International Covenant on Civil and Political Rights (ICCPR), which Iraq ratified without reservation, obligates states parties to respect and ensure the rights recognized in the ICCPR without discrimination based on sex (article 2), to ensure the equal rights of men and women (article 3) to provide equal protection before the law (article 26) and to ensure the protection of children as required by his or her status as a minor (article 24).

Iraq is a state party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). In 1992, the committee of experts that reviews state compliance with the convention enumerated a wide range of obligations for states related to ending sexual violence, including ensuring appropriate treatment for victims in the justice system, counseling and support services, and medical and psychological assistance to victims.<sup>99</sup>

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<sup>96</sup> Human Rights Watch interview with a 33-year-old woman (name withheld), Najaf, April 14, 2010.

<sup>97</sup> Human Rights Watch interview with a Senior Shia cleric (name withheld), Baghdad, April 23, 2010.

<sup>98</sup> Iraq became a state party to the International Covenant on Civil and Political Rights (ICCPR) on January 25, 1971; the International Covenant on Economic, Social and Cultural Rights (ICESCR) on January 25, 1971, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) on August 13, 1986; and the Convention on the Rights of the Child (CRC) on June 15, 1994.

<sup>99</sup> Committee on the Elimination of All Forms of Discrimination Against Women, “Violence Against Women,” General Recommendation no. 19 (eleventh session, 1992), UN Document CEDAW/C/1992/L.1/Add.15.

CEDAW also recognizes that many women's rights abuses emanate from society and culture, and thus requires governments to take appropriate measures to "modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women."<sup>100</sup> CEDAW is distinguished from other international treaties by its expansive and comprehensive definition of discrimination against women (article 1).<sup>101</sup>

The 1993 Declaration on the Elimination of Violence against Women (DEVAW) defines violence against women as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life."<sup>102</sup> The declaration urges states to condemn violence against women and to refrain from invoking traditional or religious explanations to avoid their obligations under international human rights law.<sup>103</sup>

International human rights law recognizes women's right to be free from nonconsensual sexual relations. The right to sexual autonomy for women is reflected in a number of international declarations and conference documents.<sup>104</sup> Sexual autonomy is closely linked to the rights to physical security and bodily integrity.

The Convention on the Rights of the Child, to which Iraq acceded to in 1994, also sets forth standards for the protection of girls from sexual violence and exploitation. State parties must undertake measures to protect children "from all forms of sexual exploitation and

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<sup>100</sup> CEDAW, art. 5(a).

<sup>101</sup> The text states: "For the purposes of the present Convention, the term 'discrimination against women' shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

<sup>102</sup> United Nations Declaration on the Elimination of Violence against Women (UN DEVAW), December 20, 1993, G.A. res. 48/104, 48 U.N. GAOR Supp. (No. 49) at 217, UN Doc. A/48/49 (1993), art. 1.

<sup>103</sup> *Ibid.*, art. 4c.

<sup>104</sup> At the UN International Conference on Population and Development held in October 1994 in Cairo and the U.N. Fourth World Conference on Women held in September 1995 in Beijing, governments explicitly endorsed women's sexual autonomy. In the 1994 Cairo Programme of Action on Population and Development, not attended by Iraq, governments pledged to eliminate all practices that discriminate against women and to assist women to "establish and realize their rights, including those that relate to reproductive and sexual health." In the 1995 Beijing Declaration and Platform for Action, attended by Iraq, delegates from governments around the world recognized that women's human rights include their right to have control over and decide freely and responsibly on matters related to their sexuality free of coercion, discrimination, and violence. See United Nations, Programme of Action of the United Nations International Conference on Population and Development (New York: United Nations Publications, 1994), A/CONF.171/13, 18 October 1994, para. 4.4(c); and United Nations, Beijing Declaration and Platform for Action (New York: United Nations Publications, 1995), A/CONF.177/20, 17 October 1995, para. 223.

sexual abuse,” and in particular take all appropriate measures to prevent “[t]he inducement or coercion of a child to engage in any unlawful sexual activity” and “[t]he exploitative use of children in prostitution or other unlawful sexual practices.”<sup>105</sup> States must take all appropriate measures to promote physical and psychological recovery and social integration of a child victim of any form of neglect, exploitation, or abuse as well as torture or any other form of cruel, inhuman, or degrading treatment or punishment.<sup>106</sup> States should also take all appropriate legislative, administrative, social and educational measures to protect children from all forms of physical or mental violence, maltreatment or exploitation, including sexual abuse, while in the care of parents or any person who has the care of the child.<sup>107</sup> And states must also take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.<sup>108</sup>

International law requires states to address persistent violations of human rights and take measures to prevent their occurrence. With respect to violations of bodily integrity, states have a duty to prosecute abuse, whether an agent of the state or a private citizen commits the violation.<sup>109</sup> When states routinely fail to respond to evidence of sexual violence and abuse or abduction of women and girls, they send the message that such attacks can be committed with impunity.

## **National Standards Concerning the Rights of Women and Girls**

Iraq’s Constitution, passed by referendum in October 2005, contains the following provisions with respect to women’s rights and gender equality:<sup>110</sup>

- Article 14 states that “Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion, or economic or social status.”
- Article 16 states that “[e]qual opportunities shall be guaranteed to all Iraqis, and the state shall ensure that the necessary measures to achieve this are taken.”

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<sup>105</sup> Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990.

<sup>106</sup> CRC article 39.

<sup>107</sup> CRC article 19(1).

<sup>108</sup> CRC article 24(3).

<sup>109</sup> Article 2 of the ICCPR requires governments to provide an effective remedy for abuses and to ensure the rights to life and security of the person of all individuals in their jurisdiction, without distinction of any kind including sex.

<sup>110</sup> Constitution of the Republic of Iraq, 2005.

- Article 37 (3) prohibits “forced labor, slavery, the slave trade, trafficking in women or children, and the sex trade.”
- Article 41 provides that “Iraqis are free in their commitment to their personal status according to their religions, sects, beliefs, or choices, and this shall be regulated by law.” Some religious parties have interpreted the article as calling for the cancellation of the 1959 Personal Status Code and establishing a new regime in its place.

Prostitution is a criminal offense in Iraq. The Anti-Prostitution Law introduced in 1988 included a minimum penalty of three months and a maximum of two years for women guilty of prostitution. Coercion is not recognized as a legal defense.<sup>111</sup>

Under Penal Code No. 111 of 1969 (with amendments), rape is a private offense, and no action can be brought by the state without the consent of the complainant or a legal guardian. Article 393 permits consideration of the victim’s sexual history in rape cases and does not stipulate a minimum penalty. Paragraph 398 excuses perpetrators in cases of rape and sexual assault if he marries his victim, even after the sentence has been imposed.<sup>112</sup>

The penal code treats so-called honor killings differently from other murders by providing for mitigated sentences when issues of honor are involved.<sup>113</sup> Article 130 of the penal code allows penalties of as little as six months in prison for the killing of a wife or female relative for honor-related reasons.

While the usual penalty for murder is death or life imprisonment, article 409 of the penal code makes an exception by reducing the penalty in cases when a man murders his wife or female relative after catching her in an act of adultery.

In the early 2000s, the Kurdish region suspended laws providing for mitigated sentences in relation to honor crimes but these laws remain in effect in the rest of the country.<sup>114</sup>

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<sup>111</sup> Combating Prostitution Law No. 8 of 1988

<sup>112</sup> Iraqi Penal Code No. 111 of 1969 (with amendments).

<sup>113</sup> According to paragraph 128(1), “Legal excuse either discharges a person from a penalty or reduces that penalty. Excuse only exists under conditions that are specified by law. Notwithstanding these conditions, the commission of an offence with honorable motives or in response to the unjustified and serious provocation of a victim of an offence is considered a mitigating excuse.”

<sup>114</sup> In April 2000 the Kurdish authority controlled by the Patriotic Union of Kurdistan issued Decree No. 59: “The killing or abuse of women with the pretext of cleansing the shame is not considered to be a mitigating excuse. The court may not apply articles 130 and 132 of the Iraqi Penal Code number 111 of the year 1969 as amended to reduce the penalty of the perpetrator.” In 2002 the Kurdish authority controlled by the Kurdistan Democratic Party issued Law No. 14: “The perpetration of a crime

Article 41 of the penal code states that the punishment of a wife by her husband is considered a legal right and is categorized with such acts as “the disciplining by parents and teachers of children.”<sup>115</sup>

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with respect to women under the pretext of honorable motives shall not be considered an extenuating legal excuse for the purposes of applying the rules of articles 128, 130 and 131 of the Penal Code, number 111, 1969, amended.”

<sup>115</sup> Iraqi Penal Code No. 111 of 1969 (with amendments), Article 41.

## II. Freedom of Expression

“Carrying an AK47 in Baghdad is a lot easier than carrying a camera.”

– Freelance journalist, Baghdad, April 6, 2010

On May 4, 2010, assailants abducted Sardasht Osman, a 23-year-old freelance journalist and student, at the entrance of his college in Arbil.<sup>116</sup> His tortured body, with two bullets in his head, was found a day later on a road near Mosul.

Friends and family say they believe Osman, who freelanced for different publications, died because he wrote critical articles about the region’s two governing parties, their leaders, and the region’s ingrained patronage system.<sup>117</sup> A family member who saw his body said that he had been shot in the mouth, which he and other local Kurdish journalists told Human Rights Watch they interpreted as a message to the media to “be quiet.”<sup>118</sup>

Though fewer Iraqi journalists in 2010 shared Sardasht Osman’s fate than did in the period between 2003 and 2008, Iraq still remains one of the most hazardous places in the world to work as a journalist. Murders, assaults, and threats continue against writers for doing their jobs. Government officials, political party figures, and militias may all be responsible for the violence, intended to silence some and intimidate the rest. New obstacles to the free exchange of information have emerged in the period since 2007: the rising number of libel suits lodged by government officials against journalists, and increasingly restrictive regulations that constrain their professional activity. Legislation intended to create additional protections for journalists has been stalled for more than a year and is unlikely to move forward any time soon.

Iraq is obligated to respect the right to freedom of expression of all persons under international law and Iraq’s constitution. However, its national laws and regulations are inconsistent with these obligations. As Human Rights Watch has documented in this report,

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<sup>116</sup> “Iraqi Kurdistan: Journalists Under Threat,” Human Rights Watch news release, October 29, 2010, <http://www.hrw.org/en/news/2010/10/28/iraqi-kurdistan-journalists-under-threat>.

<sup>117</sup> Sam Dagher, “Abducted Kurdish Writer Is Found Dead in Iraq,” *New York Times*, May 6, 2010; <http://www.nytimes.com/2010/05/07/world/middleeast/07erbil.html> (accessed September 11, 2010); Sam Dagher, “Killing of Journalist Inflames Iraqi Kurds,” *New York Times*, May 10, 2010; <http://www.nytimes.com/2010/05/11/world/middleeast/11erbil.html> (accessed September 11, 2010).

<sup>118</sup> Human Rights Watch telephone interview with a member of Osman’s family, October 20, 2010.

the Iraqi government can use these laws to revoke or suspend broadcasting licenses and bring charges against individuals.

Two pieces of legislation designed to facilitate the work of journalists are stalled in Iraq's parliament, the Council of Representatives: the Access to Information Law, which ensures the right of journalists to obtain public information, and the Journalists' Protection Law, which aims to protect media workers and compensate them for injuries sustained while working. Local press freedom advocates and journalists expressed concerns that the Journalists' Protection Law should apply broadly and protect all journalists including those working in new media. The law currently defines "journalist" narrowly as someone who works for an established news outlet and is affiliated with the Iraqi Journalists' Syndicate.<sup>119</sup>

## Background

Prior to 1968, Iraq's media was relatively free compared with other countries in the Middle East. The Ba'ath party's takeover of the government that year led to increasing restrictions on media, which intensified after Saddam Hussein assumed the presidency in 1979. In 1992, Saddam Hussein's son Uday, who had no relevant experience as a journalist or publisher, became head of the Iraqi Journalist Union, which all Iraqi journalists were required to join in order to practice their profession. Official government propaganda dominated media coverage in Iraq until the US-led occupation in 2003.<sup>120</sup>

In the months that followed the invasion, Iraq experienced a media boom, as new publications and television and radio stations sprung up across the country. Iraqi media analysts estimated that more than 200 newspapers and 90 television and radio stations were operating in Iraq one year after the fall of Saddam. Iraqis could also access new sources of information via the Internet and satellite dishes, which the previous government had tightly controlled.<sup>121</sup>

It was not long before government restrictions appeared. Within weeks of the invasion, the US-led Coalition Provisional Authority (CPA) issued Order 14, which prohibited media from inciting "violence against any individual or group," inciting "civil disorder," or advocating "alterations to Iraq's borders by violent means."<sup>122</sup>

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<sup>119</sup> Iraq Journalists' Protection Law, Draft, April 2010.

<sup>120</sup> Freedom House, "Liberated and Occupied Iraq: New Beginnings and Challenges for Press Freedoms," August 2004, [http://www.freedomhouse.org/uploads/special\\_report/34.pdf](http://www.freedomhouse.org/uploads/special_report/34.pdf) (accessed January 10, 2011).

<sup>121</sup> Ibid.

<sup>122</sup> Coalition Provisional Authority Order 14, "Prohibited Media Activity," June 10, 2003.

In the years since the occupation, journalism became a dangerous occupation in Iraq. According to the New York-based Committee to Protect Journalists, Iraq was the deadliest country in the world for journalists for six consecutive years, between 2003 and 2008.<sup>123</sup>

More than 145 journalists have been killed in Iraq since 2003, including at least 90 who were targeted for murder.<sup>124</sup> Sixteen of the slain journalists died as a result of fire by US forces in Iraq.<sup>125</sup> US troops also detained journalists, some on the perception that they were either engaged in or supporting the insurgency.<sup>126</sup> Although there has been a decline in media fatalities and abductions during the past two years, consistent with an overall drop in violence in Iraq, attacks continue. Nongovernmental militias, state forces, and political party-linked assailants have all been linked to these attacks. No matter who the perpetrators may be, police as a rule fail to thoroughly investigate such attacks, and the assailants are rarely if ever held to account. The frequent violence, committed with impunity, severely constrains freedom of expression.

## Violence against Journalists

### *Attacks by Unknown Armed Groups*

On July 26, 2010, a suicide car bomber detonated his vehicle in front of the Al Arabiyya satellite television station, killing six people and destroying the Baghdad bureau. The Islamic State of Iraq, an umbrella group associated with al Qaeda in Mesopotamia, later claimed responsibility for the attack on the “corrupted” channel, stating on a website that

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<sup>123</sup> Committee to Protect Journalists, “For Six Straight Year, Iraq Deadliest Nation for Press,” December 18, 2008, <http://cpj.org/reports/2008/12/for-sixth-straight-year-iraq-deadliest-nation-for.php> (accessed January 10, 2010).

<sup>124</sup> Committee to Protect Journalists, “Attacks on the Press 2009: Iraq,” February 16, 2010, <http://cpj.org/2010/02/attacks-on-the-press-2009-iraq.php> (accessed September 11, 2010).

<sup>125</sup> The Committee to Protect Journalists has not found evidence to conclude that US troops targeted the 16 slain journalists and has classified the cases as crossfire. CPJ, “Journalists in Danger: A statistical profile of media deaths and abductions in Iraq 2003-09,” July 23, 2008, <http://cpj.org/reports/2008/07/journalists-killed-in-iraq.php> (accessed October 1, 2010).

<sup>126</sup> One such case involved journalist Ibrahim Jassim, whom US forces freed on February 10, 2010, after holding him for 17 months without charge. In September 2008, US and Iraqi forces smashed in the doors of his house in Mahmudiya town, south of Baghdad, and detained him first at Camp Bucca and then Camp Cropper. US authorities never charged Ibrahim, who worked for Reuters as a freelance TV cameraman and photographer, and did not disclose any evidence against him. Despite a December 2008 ruling by the Iraqi Central Criminal Court that there was insufficient evidence to hold Ibrahim, the US military defied the ruling and refused to release him because, they claimed, classified intelligence reports indicated he was a security threat. When we met with Jassim in Baghdad two months after his release, he said he never previously had had any run-ins with US forces, even travelling with them on assignment as an embedded journalist. He said he has no idea why US forces detained him. “During my interrogations, the officers would threaten that if I wasn’t forthcoming, they would release me to the Iraqi army who would take me to an Iraqi detention facility and torture me there.... Once I was asked by one of my interrogators whether I thought Americans were unjust. I responded, ‘Yes,’ according to this experience.” Human Rights Watch Interview with Ibrahim Jassam, Baghdad, April 22, 2010. See also “Ibrahim Jassam, Iraqi Photographer For Reuters, Released By US Military,” Associated Press, February 2, 2010, [http://www.huffingtonpost.com/2010/02/10/ibrahim-jassam-iraqi-phot\\_n\\_456598.html](http://www.huffingtonpost.com/2010/02/10/ibrahim-jassam-iraqi-phot_n_456598.html) (accessed September 11, 2010).

the operation aimed to hit the “mouthpieces of the wicked and evil.” The statement continued: “We will not hesitate to hit any media office and chase its staffers if they insist on being a tool of war against almighty God and his Prophet.”<sup>127</sup>

Assailants previously targeted Al Arabiyya, one the most popular networks in the Middle East but perceived by some as being pro-Western. On September 9, 2008, the network’s Iraq bureau chief, Jawad Hattab, escaped an attempted assassination when he discovered an explosive device under the seat of his car as he prepared to leave home for work. In October 2006, a car bomb targeting Al Arabiyya’s previous Baghdad bureau killed seven and wounded 20. In February 2006, armed men kidnapped and killed Atwar Bahjat, an Al Arabiyya anchorwoman, Khaled Mahmoud Al Falahi, a cameraman, and Adnan Khairallah, a technician, in Samarra.

Since 2003, militias have repeatedly targeted journalists whom they claim are promoting immorality or fraternizing with occupation forces. One journalist in Baghdad told us he was abducted and tortured after someone leaked a 10-minute video of him with other Iraqi journalists mingling at a function with US forces. Posted online, the banner above the video read: “Iraqi journalists who collaborate with American forces.” In August 2006, as he was leaving to go to work, a car pulled up next to him and he heard one of the occupants say, “This is one of them.” Masked men jumped out of the car, beat him on his face and head, and dragged him into their car. After the abductors took him to a safe house, one of the kidnappers told him, “You seem like a good person, why are you always against your religion and standing with the Americans?” He asked who they were and they replied, “The group of honor.” Over the next five days, he said, his abductors tormented him. They repeatedly raped him, burned him with cigarettes, and deprived him of water and food before they released him.<sup>128</sup>

Often it has been unclear who is behind specific attacks targeting journalists, as in the cases of a spate of attacks against television journalists in Baghdad and Mosul in September 2010. On September 27, 2010, a bomb placed underneath Alaa Mohsen’s car exploded and badly injured him as he was about to leave for work in Baghdad. Mohsen is a television presenter for Al-Iraqiyya, part of the state-run Iraqi Media Network.<sup>129</sup> On September 8, armed men in a car shot and killed Sabah al-Khayat, a television presenter, as he was leaving his house in

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<sup>127</sup> “Al Qaeda Group Claims Iraq TV Channel Bomb,” Associated Press, July 29, 2010, <http://www.cbsnews.com/stories/2010/07/29/world/main6723631.shtml> (accessed September 11, 2010).

<sup>128</sup> Human Rights Watch interview with a journalist (name withheld), Baghdad April 24, 2010.

<sup>129</sup> Reporters Without Borders, “Journalist seriously injured in targeted bomb attack, several others assaulted,” September 29, 2010, [http://www.ifex.org/iraq/2010/09/29/mohsen\\_injured/](http://www.ifex.org/iraq/2010/09/29/mohsen_injured/) (accessed September 30, 2010).

Mosul. Al-Khayat had presented a program on mosques and shrines for Al-Mosuliyya satellite television.<sup>130</sup>

The day before, on September 7, unknown gunmen shot and killed prominent anchorman Riad al-Saray as he was leaving his house in western Baghdad. Al-Saray, known for his attempts to narrow sectarian differences in Iraq, presented political and religious programs for Al-Iraqiyya.<sup>131</sup> At least 14 other Iraqi Media Network staffers have been killed since 2003, the highest death toll for any media organization in Iraq during that period.<sup>132</sup>

Mu'aid al-Lami, head of the Iraqi Journalists' Syndicate, which represents 12,000 journalists, survived two assassination attempts by unknown assailants in less than two years.<sup>133</sup> On September 20, 2008, he survived a bomb attack near the organization's office. On March 12, 2010, gunmen opened fire on his car, killing his driver. He continues to receive death threats warning him to quit his job, he said.<sup>134</sup> His predecessor, 74-year-old Shihab al-Tamimi, was shot by unidentified gunmen on February 23, 2008, as he was leaving the association's Baghdad office and died from his wounds three days later. Al-Lami estimates that 1,000 journalists have fled Iraq since 2003, mainly because of the security situation. Al-Lami and other press defenders said that authorities do not investigate threats against media workers and perpetrators are rarely brought to justice.

### *Violence linked to State and Political Party-Affiliated Forces*

In a satirical web article in December, which fellow journalists believe sealed his fate, Sardasht Osman broke taboos of the region's conservative culture by referring to a female family member of Massoud Barzani, the region's president and leader of the Kurdistan Democratic Party (KDP). In the article, "I Am in Love with Barzani's Daughter," Osman pondered how he could rise from his poor surroundings by marrying one of Barzani's daughters.<sup>135</sup> Five months later, Osman was shot to death.

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<sup>130</sup> Ammar Karim, "Five killed in attacks as Baghdad bans motorcycles" Agence France-Presse, September 8, 2010. <http://www.google.com/hostednews/afp/article/ALeqM5h8ca3pkvdNzemArQWlawQhqvSjg> (accessed September 11, 2010).

<sup>131</sup> "Gunmen kill prominent Iraqi TV presenter Riad al-Saray," BBC, September 7, 2010. <http://www.bbc.co.uk/news/world-middle-east-11217922> (accessed September 11, 2010).

<sup>132</sup> Committee to Protect Journalists, "Al Iraqiya anchorman gunned down in Iraq," September 7, 2010, <http://cpj.org/2010/09/al-iraqiya-anchorman-gunned-down-in-iraq.php> (accessed September 11, 2010).

<sup>133</sup> Human Rights Watch interview with Mu'aid al-Lami, Baghdad, April 5, 2010.

<sup>134</sup> Ibid.

<sup>135</sup> Sam Dagher, "Abducted Kurdish Writer Is Found Dead in Iraq."

Bashdar Osman, Sardasht Osman's brother, told Human Rights Watch that after the publication of that article, his brother received multiple threats by text message and telephone in early January from a person or persons the family believed worked for KRG or KDP security forces. The threats all referenced Sardasht Osman's recent writings and said that he "would pay" for his insults. Sardasht Osman "called the police chief of Arbil and provided the telephone number from which threats were received, but he refused to help," Bashdar Osman said. The police chief "only responded by saying Arbil was safe, and that no one could hurt him."<sup>136</sup>

Bashdar Osman said his brother became more frightened as the weeks passed and became visibly rattled whenever he saw government or security vehicles. "He thought he would be killed at any time by a gun with a silencer," Bashdar Osman said.<sup>137</sup>

Khellan Bakhtyar, a close friend of Osman who often co-wrote articles with him, said that Osman told him that persons had threatened him with violence if he did not stop writing "disrespectful" articles. Bakhtyar said that Osman believed the threats were from government intelligence agents. "It is crossing a red line to write about Barzani or his family," Bakhtyar told Human Rights Watch. "If you are not sued or arrested, something worse can happen."<sup>138</sup>

In their last collaboration published in May 2010, Osman and Bakhtyar criticized a senior leader of the Patriotic Union of Kurdistan (PUK), the region's other leading party. Bakhtyar said that after Osman was murdered, Bakhtyar organized protests in his friend's honor. "I was called by the Asayish [the Kurdistan Regional Government's intelligence agency]," he told Human Rights Watch. "They told me: 'You are playing a dangerous game. If you happen to be killed by someone, it is not our responsibility. We have warned you.'" Bakhtyar left Iraq in early September 2010, and as of December 2010 he was applying for political asylum in Europe.<sup>139</sup>

In response to Osman's murder, 75 Kurdish journalists, editors, and intellectuals issued a statement that held the regional government responsible for Osman's death: "This work is beyond the capability of one person or one small group. We believe the Kurdistan Regional

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<sup>136</sup> Human Rights Watch telephone interview with Bashdar Osman, October 20, 2010.

<sup>137</sup> Ibid.

<sup>138</sup> Human Rights Watch telephone interview with Khellan Bakhtyar, October 9, 2010.

<sup>139</sup> Ibid.

Government and its security forces are responsible first and foremost and they are supposed to do everything in order to find this evil hand.”<sup>140</sup>

While taking part in a protest in Sulaimaniyya in the days following Osman’s murder, the editor of an influential magazine said he received a chilling text message: “We will kill you like a dog.”<sup>141</sup>

Kamal Chomani, another journalist who wrote and translated several articles about Osman’s death, told Human Rights Watch that he received an anonymous email in August that read: “Give up what you are doing. If you don’t think of yourself, then think about your parents. We can do whatever we want.”<sup>142</sup>

On September 15, 2010, an inquiry consisting of unnamed persons appointed by Barzani concluded that an Islamist armed group, Ansar al-Islam, was responsible for Osman’s abduction. The committee’s 430-word statement did not substantiate its findings beyond referring to a confession from one of the alleged perpetrators. The committee did not interview Osman’s family or those close to him.<sup>143</sup>

In a rare disavowal, Ansar al-Islam denied responsibility for the killing. “If we kill or kidnap someone, we will announce it ourselves,” the group said in a statement released on September 21. “We don’t need anybody to lie for us.”<sup>144</sup>

The committee’s allegation that Osman was connected to Ansar al-Islam has stirred anger in his family and among others close to him. “Sardasht was a secular, liberal man, not in any way an Islamic fundamentalist,” Bakhtyar said. “His writing was about abuses of regional power and nepotism in the government, nothing Ansar al-Islam talks about.”<sup>145</sup>

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<sup>140</sup> Sam Dagher, “Abducted Kurdish Writer Is Found Dead in Iraq,” *New York Times*, May 6, 2010; <http://www.nytimes.com/2010/05/07/world/middleeast/07erbil.html> (accessed September 11, 2010).

<sup>141</sup> Sam Dagher, “Killing Taints Iraqi Kurdistan’s Image,” *New York Times*, May 18, 2010, <http://www.nytimes.com/2010/05/19/world/middleeast/19iraq.html> (accessed September 11, 2010).

<sup>142</sup> Human Rights Watch telephone interview with Kamal Chomani, October 7, 2010.

<sup>143</sup> “Iraqi Kurdistan: Journalists Under Threat,” Human Rights Watch news release, October 29, 2010, <http://www.hrw.org/en/news/2010/10/28/iraqi-kurdistan-journalists-under-threat> (accessed November 9, 2010).

<sup>144</sup> Namo Abdulla, “Who Killed Zardasht Osman?” *New York Times*, October 6, 2010, <http://atwar.blogs.nytimes.com/2010/10/06/who-killed-zardasht-osman/> (accessed November 9, 2010).

<sup>145</sup> Human Rights Watch telephone interview with Khellan Bakhtyar, October 9, 2010.

Since the release of the statement, members of Osman's family say they have been threatened by government forces and KDP members after speaking out against the committee's findings.<sup>146</sup>

For several journalists who spoke with Human Rights Watch, Osman's murder was reminiscent of the July 2008 killing of Soran Mama-Hama, an investigative reporter with *Livin* magazine, who had also written articles critical of Kurdish authorities. He was assassinated outside his parents' home in a Kurdish-controlled section of Kirkuk. In one article, Mama-Hama had written about the suspected involvement of Kurdish officials, including police and security officials, in prostitution rings.<sup>147</sup>

## Harassment, Threats, and Assaults against Journalists

As the security situation has gradually improved after 2007 and fatality rates for journalists have decreased, media workers today find themselves encountering new risks to their work—they are regularly harassed, intimidated, threatened, arrested, and physically assaulted by security forces loyal to the government or political parties.<sup>148</sup> Journalists in Baghdad, Basra, and Tikrit recounted numerous abuses they had personally experienced.

"Before 2003, I lived in Iraq and we used to wish for freedom including freedom of expression," said al-Lami from the Journalists' Syndicate. "Today there is a wider space for freedom of expression. But journalists are still in danger if they expose corruption or government mistakes. We believe we are the fourth pillar, but the government thinks we belong to them. There is a conflict between those seeking freedom and those wanting to drag us back."<sup>149</sup>

Ziad al-Ajili, head of the Journalistic Freedoms Observatory (JFO), an Iraqi press freedom group, has experienced this intimidation first hand. On his way to a JFO ceremony in

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<sup>146</sup> Human Rights Watch telephone interview with a member of Osman's family, October 20, 2010.

<sup>147</sup> Human Rights Watch interview with the staff of *Livin* (names withheld), Sulaimaniyya, March 2009.

<sup>148</sup> A few reported examples:

- On September 14, 2009, bodyguards from the Baghdad Provincial Council severely beat a group of 10 journalists and photographers from Al-Iraqiyya television as they were on their way to cover a council meeting. The bodyguards forced the group out of their car and beat them with rifle butts, hands, and clubs.
- On April 17, 2010, police reportedly attacked at least eight Kurdish journalists in Sulaimaniyya when they went to cover a student demonstration outside the department of education building. According to the journalists, the police seized and destroyed three cameras.
- On August 11, 2010, Kurdish security forces, including police and Asayesh officers (KRG secret police), allegedly harassed a group of journalists—and opened fire on one—after the journalists covered a demonstration by villagers over water shortages.

<sup>149</sup> Human Rights Watch interview with Mu'aid al-Lami, Baghdad, April 5, 2010.

December 2009 to honor journalists who exposed corruption, Iraqi security forces from Baghdad Operations Command stopped his vehicle—which was known to security forces since it was the only maroon colored Humvee in the country. They told him they had received a report that his vehicle was suspicious. Having good contacts within the security forces, he made some calls and secured his release. Once he arrived at the Mansour hotel in Baghdad for the ceremony, six military Humvees with 35 soldiers requested that hotel security bring him out. “They were trying to humiliate me in front of the journalists and officials. Their message was: “Stop what you are doing or we will pull your ear [punish you].”<sup>150</sup>

Journalists who uncover corruption or criticize senior government officials are at particular risk of abuse.

Two television presenters, famous in Iraq for provocative shows that criticize the government, said they had been beaten by security officials on different occasions over the past two years.<sup>151</sup> Human Rights Watch viewed one video filmed by his cameraman in which Iraqi security officials punched one of the presenters and attempted to drag him into a van during a taping on a busy Baghdad street in 2009.

Since the two presenters are well known, security forces on the streets of Baghdad can easily recognize them. In the fall of 2009, they said police detained the pair for allegedly not properly stopping at a Baghdad checkpoint. One officer slapped the passenger on the head and shouted, “You Ba’athist!” Six or seven police dragged them out of the car, kicking and beating them. The police arrested and took them to a police station. Although the police officially charged them with running a checkpoint, the line of questioning during their interrogation was political. An officer spat on one of the journalists and asked them, “Why do you incite uprisings against the government?” and “Why do you glorify Saddam?” The police dropped the charges and released the pair after their television station intervened.<sup>152</sup>

Another journalist, a television presenter in Baghdad, told us that he was inundated with death threats via text messages after he insulted a religious political party on air.<sup>153</sup> He showed us 21 of the dozens of threatening text messages he had received. One text, dated September 24, 2009, read: “We will behead those who contribute to the perversion and

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<sup>150</sup> Human Rights Watch interview with Ziad al-Ajili, Baghdad, April 3, 2010.

<sup>151</sup> Human Rights Watch interview with two television presenters (names withheld), Baghdad, April 4, 2010.

<sup>152</sup> Ibid.

<sup>153</sup> Human Rights Watch interview with a television presenter (name withheld), Baghdad, April 4, 2010.

corruption of the lands of Islam.” Another text, received four days later, read: “Dig your grave, sew your death shroud, and write your will. Be prepared for your fate of death.”<sup>154</sup>

One Basra journalist told us that he continues to live in hiding after he published a 2006 article on corruption at the highest levels of Basra’s city council.<sup>155</sup> He received death threats in the following months, including a phone call in which the caller told him, “Your end is near, enjoy your last days.” After assailants shot at his house, he moved to a different neighborhood and kept a low profile. Police offered him protection but he refused, believing it makes him more of a target. “I’ve paid a high price for what I’ve done,” he said.<sup>156</sup>

## Legal and Regulatory Barriers to Free Expression

### *Restrictions on Photography*

According to numerous journalists Human Rights Watch interviewed in Baghdad and Basra, Iraqi security forces have frequently prevented media from filming or taking photographs in public. Elections in particular raised authorities’ sensitivities, and were accompanied by greater restrictions on photographers’ freedoms. Sites of terror attacks, too, were deemed too sensitive for free access. The problem became worse after the Ministry of Interior issued an order on May 13, 2007, banning photographers for an hour from the scenes of bombings, ostensibly to allow security forces enough time to secure affected areas and help the injured.<sup>157</sup>

During the January 2009 provincial elections, authorities detained some journalists for hours; others were beaten, had their equipment destroyed, and were prevented from entering polling stations. In Basra, one photographer, despite having proper accreditation, had to wait an hour and a half at the polling station before he was let in. “When I finally got in, I took photographs for 40 seconds before I was approached by the person in charge, who asked me, ‘Who let you in?’ He waved to the police officers to kick us all out.” The police confiscated his camera and, he said, deliberately broke it before returning it to him.<sup>158</sup>

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<sup>154</sup> Ibid.

<sup>155</sup> Human Rights Watch interview with a journalist (name withheld), Basra, April 10, 2010.

<sup>156</sup> Ibid.

<sup>157</sup> Gabriel Haboubi, “Iraqi Interior Ministry bans cameras from sites of bomb attacks,” *Jurist*, May 14, 2007, <http://jurist.law.pitt.edu/paperchase/2007/05/iraqi-interior-ministry-bans-cameras.php> (accessed September 11, 2010).

<sup>158</sup> Human Rights Watch interview with a photographer (name withheld), Basra, April 12, 2010.

In the lead-up to Iraq's parliamentary elections in March 2010, a cameraman in Basra working on a feature story about female candidates told Human Rights Watch that police detained him for hours because he filmed campaign posters.<sup>159</sup> "After the police stopped me, I explained to him who I was and what I was filming," he said. "But he kept asking if I had a letter authorizing me to film the streets. I laughed, saying I didn't know I needed official permission to do my job. I was detained and released after three hours when the police media office intervened. At that point it was too late to continue filming. The whole episode deterred me from filming outside again."

While some journalists said they understood the security rationale behind security forces' preventing filming of checkpoints and sensitive military installations, they do not understand why they were prevented from filming areas devastated by bombings, for example. Journalists suspected that government officials are trying to prevent photographers and cameraman from filming events that might tarnish the government's reputation. Journalists complained that it is now extremely difficult if not impossible to photograph bomb scenes until security forces have "sanitized" the area first. Security forces rough up journalists who attempt to take pictures and confiscate their cameras and flash cards.<sup>160</sup>

"The biggest problem that journalists have to deal with in Iraq is the dictatorship mindset of security officials in Iraq," said Ziad from the JFO.

The police and the army act terrified if they see a camera. Whenever they see a camera, they demand that journalists get permission from Baghdad Operations Command [a security task force answering directly to the Prime Minister's Office]. Iraq is a police state and the police here do not understand freedom of expression.<sup>161</sup>

According to *New York Times* photographer Joao Silva, a veteran of war zones, there is a clear government policy to keep photographers away from bomb scenes.<sup>162</sup>

The Iraqis have learned the power of photographic images, and they know that if there are no photographs of a bomb, it has far less impact abroad. We

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<sup>159</sup> Human Rights Watch interview with a cameraman (name withheld), Basra, April 12, 2010.

<sup>160</sup> Human Rights Watch interviews with journalists (names withheld), Baghdad, April 3, and Basra, April 12, 2010.

<sup>161</sup> Human Rights Watch interview with Ziad al-Ajili, Baghdad, April 3, 2010.

<sup>162</sup> Steven Farrell, "See No Evil," *New York Times*, April 7, 2010, <http://atwar.blogs.nytimes.com/2010/04/07/see-no-evil/> (accessed September 11, 2010).

still try to go, but usually the police stop us before we get near enough to the scene to photograph it. They will let a reporter go up close, but no cameras. Sometimes you get lucky and manage to get an image. And on the really big explosions, like at the Hamra Hotel in January [2010] and the government ministries last year, they are just too big to keep everyone away. But usually they are very careful not to let cameras near. It's hit and miss, but there is definitely a culture of "See No Evil."

Human Rights Minister Salim told us it is important for security forces to limit access to areas hit by terrorists because those areas are crime scenes with potential evidence.

Iraq is not a normal country—we have significant security problems, terrorists are killing people every day. Our laws and our constitution protect journalists but journalists have to be reasonable. When bombings occur, journalists could potentially contaminate crime scenes, so it is understandable that security forces would limit their entry to bomb scenes. Security forces aren't able to do their work if there are 100 people milling around. It's also a dangerous area because sometimes there are multiple explosions, so it's also for [the journalists] own security that they are removed.<sup>163</sup>

Journalists told us that security forces prevented them from filming even non-contentious public sites. "In Basra, security forces act with complete disdain and disrespect for journalists," one said.<sup>164</sup> He said that even after he had received all the proper authorizations over a month and a half earlier to film oil fields in the south for a story on oil field investment, the government security force guarding the facilities detained and humiliated him and his crew. After roughing them up, the security guards confiscated their camera and equipment and deleted all their footage.

Another cameraman for a news show in Basra said security forces frequently harassed him when filming in public.<sup>165</sup> In one incident in early 2010, he filmed one of the station's correspondents in front the Provincial Council building, which they used as a backdrop. As they were packing up, police approached them, demanding to know what they were filming and whether they had proper authorization. "We showed them our badges and told them we didn't need authorization because we were not planning to shoot inside the provincial

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<sup>163</sup> Human Rights Watch interview with Human Rights Minister Wijdan Michael Salim, Baghdad, April 22, 2010.

<sup>164</sup> Human Rights Watch interview with a journalist (name withheld), Basra, April 12, 2010.

<sup>165</sup> Human Rights Watch interview with a cameraman (name withheld), Basra, April 12, 2010.

council building. The next thing we knew, the police detained us and confiscated my video camera until the media office instructed them to release us.”

### *Civil and Criminal Defamation Suits*

The government has become more effective at clamping down on negative scrutiny by using the country’s broad criminal and civil libel laws to silence those who criticize members of the government. While the constitution broadly provides for the right to free expression (provided it does not violate public order and morality), the penal code authorizes fines and imprisonment for any person who publicly insults the Council of Representatives, the government, or public authorities.<sup>166</sup>

Additionally, the Law of Publications bans materials that are “offensive” or “violate general moral values.”<sup>167</sup> Under Iraq’s civil code, a person, including a journalist, is liable for “moral injury,” which includes “any encroachment (assault) on the freedom, morality, honor, reputation, social standing, or financial position (credibility) of others.”<sup>168</sup> There is no cap on the amount that can be demanded or awarded.

Hassan Shaaban, a human rights and media lawyer who is legal counsel to the JFO, told Human Rights Watch that because the civil code is so vague, judges have enormous discretion in determining what constitutes a moral injury.<sup>169</sup>

Hasshim al-Mosawi, legal counsel at the Iraqi Journalist Rights Defense Association, whose 14 lawyers have tried 25 cases since it was founded in 2006, said that without a unified law regulating media, judges will be able to continue relying on the vague and outdated provisions of different pieces of law when trying a civil or criminal suit. “This is why [the judges] are jumping from this to that law. If they do not find a journalist guilty under one law, they can go to another. It leaves too much up to the judge’s opinion. He can bend the text as he likes, because the law is not clear. The judge can define the crime with one law and then extract the punishment with another.”<sup>170</sup>

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<sup>166</sup> Penal Code No. 111 of 1969 (with amendments). Under a 2008 law passed by the Kurdistan Regional Government, imprisonment is no longer a penalty for publication-related offenses. However, enforcement of the law has not been consistent. Journalists in the KRG continue to be tried, convicted, and imprisoned under the 1969 penal code.

<sup>167</sup> Iraqi Law of Publications No. 206 of 1968, articles 16-21.

<sup>168</sup> Iraqi Civil Code No. 40 of 1951 (with amendments).

<sup>169</sup> Human Rights Watch interview with Hassan Shaaban, Baghdad, November 10, 2010.

<sup>170</sup> Human Rights Watch interview with Hasshim Al-Mosawi, Baghdad, November 14, 2010.

Al-Mosawi said that in the first 10 months of 2010, government or party officials had filed 55 lawsuits in central Iraq and Kurdistan, up from 35 in 2009.

The Journalists' Syndicate's al-Lami said that his organization is helping journalists challenge more than 30 lawsuits launched by the government. "Before 2008 things were different—killing was the preferred method of silencing journalists in Iraq. Today it's with lawsuits."<sup>171</sup>

Most recently, the Kurdistan Democratic Party—headed by KRG President Masoud Barzani—filed a one billion dollar defamation lawsuit against opposition weekly *Rozhnama* after a July 20, 2010, article accused the KDP and the Patriotic Union of Kurdistan of profiting from illegal oil smuggling to Iran.<sup>172</sup>

Iraqi officials have not limited themselves to local media. In February 2009, a lawyer for Prime Minister Nuri al-Maliki filed a one-billion-dinar (US\$860,000) lawsuit against Ayad al-Zamli, owner of the German-based Arabic-language website Kitabat, and one of the website's writers, in connection with an article describing alleged nepotism in the Prime Minister's Office. After a local and international outcry, al-Maliki withdrew the lawsuit.<sup>173</sup>

In May 2009, the Iraqi National Intelligence Service (INIS) filed a defamation complaint against the London-based *Guardian* newspaper over an article documenting what it said were increasingly autocratic practices of the prime minister. In November, an Iraqi court ordered the *Guardian* to pay damages of 100 million dinars (\$85,000).<sup>174</sup>

### *New Regulatory Barriers and Legislative Inaction*

Iraq's Communications and Media Commission began enforcing new regulations issued ahead of the March 7 parliamentary elections ostensibly to silence broadcasters who encourage sectarian violence. The regulations suffer from several drafting defects that encroach on the freedoms of Iraq's broadcast media.<sup>175</sup> A review of the regulations by Human Rights Watch found that the content-based restrictions are underdeveloped, vague, and

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<sup>171</sup> Human Rights Watch interview with Mu'aid al-Lami, Baghdad, April 5, 2010.

<sup>172</sup> Committee to Protect Journalists, "Barzani's KDP targets paper that alleged oil smuggling," August 5, 2010, <http://cpj.org/2010/08/barzanis-kdp-targets-paper-that-alleged-oil-smuggl.php> (accessed September 11, 2010).

<sup>173</sup> Committee to Protect Journalists, "Attacks on the Press 2009: Iraq," February 16, 2010, <http://cpj.org/2010/02/attacks-on-the-press-2009-iraq.php> (accessed September 11, 2010).

<sup>174</sup> Martin Chulov, "Iraqi court rules Guardian defamed Nouri al-Maliki," *The Guardian*, November 10, 2009, <http://www.guardian.co.uk/world/2009/nov/10/guardian-nour-al-maliki-iraq> (accessed September 11, 2010).

<sup>175</sup> "Iraq: Suspend Restrictive Broadcast Rules," Human Rights Watch news release, April 12, 2010, <http://www.hrw.org/en/news/2010/04/09/iraq-suspend-restrictive-broadcast-rules> (accessed September 11, 2010).

susceptible to abuse. The regulations stipulate: “the [media] establishment should not broadcast any material that incites violence [or] sectarianism” without giving any clear guidelines as to what that encompasses.<sup>176</sup>

The regulations also stipulate that all broadcasters and their journalists must seek permission from the commission to operate in Iraq but provide little information on the criteria the government would use in issuing licenses. The regulations give the CMC the power to close, suspend, fine, and confiscate equipment for first-time minor violations of the licensing terms.<sup>177</sup>

One media outlet has already fallen victim. On November 1, 2010, the CMC ordered the shutdown of the Baghdad and Basra offices of Al-Baghdadiyya, according to staff interviewed by the Committee to Protect Journalists. The decision came a day after the Cairo-based satellite channel broadcast demands from gunmen who had attacked a Baghdad church, an attack which resulted in the death of 44 parishioners and two priests. A statement by the CMC following the closure accused the station of being a mouthpiece for the gunmen whose demands amounted to “incitement to violence.” It said the station’s coverage was not objective and had threatened military operations to rescue the hostages.<sup>178</sup>

## **International Standards Protecting Freedom of Expression**

Article 19 of the ICCPR imposes legal obligations on states to protect freedom of expression and information:

“Everyone shall have the right to hold opinions without interference; everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”<sup>179</sup>

The ICCPR permits governments to impose certain restrictions or limitations on freedom of expression only if such restriction is provided by law and is necessary: (a) for respect of the

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<sup>176</sup> Ibid.

<sup>177</sup> Ibid.

<sup>178</sup> Committee to Protect Journalists, “Iraq shuts Al-Baghdadia after bloody church attack,” November 2, 2010, <http://cpj.org/2010/11/iraq-shuts-down-al-baghdadia-tv-after-bloody-church.php> (accessed November 6, 2010).

<sup>179</sup> ICCPR, art. 19.

rights or reputations of others; or (b) for the protection of national security or of public order (ordre public), or of public health or morals.<sup>180</sup>

Iraqi authorities regularly declare that broadcasts are “inciting violence and sectarianism” as the rationale for restricting media. The tension between the right to free expression and information on the one hand, and national security on the other, has been the subject of much inquiry by courts, international bodies, and scholars. The UN Human Rights Committee, which monitors state compliance with the ICCPR, has stated that “the legitimate objective of safeguarding and indeed strengthening national unity under difficult political circumstances cannot be achieved by attempting to muzzle advocacy of multiparty democracy, democratic tenets and human rights.”<sup>181</sup> A group of experts in international law, national security, and human rights issued the Johannesburg Principles on National Security, Freedom of Expression and Access to Information on October 1, 1995.<sup>182</sup>

Over time, the international legal community has come to widely recognize these principles as an authoritative interpretation of the relationship between these rights and interests, reflecting the growing body of international legal opinion and emerging customary international law on the subject. The principles set out guidelines on restrictions on free speech, including the principle that governments must use the least restrictive means possible in prohibiting speech that is contrary to legitimate national security interests.<sup>183</sup> According to the principles, national security interests do not include “protect[ing] a government from embarrassment or exposure of wrongdoing.”<sup>184</sup>

Some restrictions on free speech—such as criminalizing incitement to violence—are permitted under international law, but such restrictions must meet several high hurdles. First, restrictions must be prescribed by law, and they must be accessible, clear, narrowly drawn,

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<sup>180</sup> Ibid., art. 19(3).

<sup>181</sup> UN Human Rights Committee, *Womah Mukong v. Cameroon*, Communication No. 458/1991, U.N. Doc. CCPR/C/51/D/458/1991 (1994), para. 9.7.

<sup>182</sup> The Johannesburg Principles set out standards for the protection of freedom of expression in the context of national security laws. They were adopted on October 1, 1995, by a group of experts in international law, national security, and human rights convened by the International Centre Against Censorship, in collaboration with the Centre for Applied Legal Studies of the University of the Witwatersrand, in Johannesburg. They have been endorsed by the UN Special Rapporteur on Freedom of Opinion and Expression and referred to by the Commission in their annual resolutions on freedom of expression every year since 1996. See *The Johannesburg Principles on National Security, Freedom of Expression and Access to Information (Johannesburg Principles)*, adopted on October 1, 1995, <http://www1.umn.edu/humanrts/instree/johannesburg.html> (accessed September 10, 2010).

<sup>183</sup> Johannesburg Principles, prin. 1.3.

<sup>184</sup> Ibid., prin. 2.

and subject to judicial scrutiny.<sup>185</sup> Second, the restriction must have both the genuine purpose and the demonstrable effect of protecting national security.<sup>186</sup> Third, the restriction must apply only where the expression poses a serious threat, is the least restrictive means available, and is compatible with democratic principles.<sup>187</sup>

Various human rights bodies and courts around the world have determined that protection of freedom of expression must include tolerance of criticism of public officials.<sup>188</sup> As the African Commission stated, “People who assume highly visible public roles must necessarily face a higher degree of criticism than private citizens; otherwise public debate may be stifled altogether.”<sup>189</sup>

## National Standards on Freedom of Expression

Iraq’s Constitution has several provisions related to freedom of expression:

- Article 38 guarantees “in a way that does not violate public order and morality “all means of freedom of expression<sup>190</sup> as well as freedom of press, printing, advertisement, media, and publication.<sup>191</sup>
- Article 46 allows restrictions on the right to freedom of expression “by law or on the basis of it, and insofar as that limitation or restriction does not violate the essence of the right or freedom.”
- Article 102 establishes the Communications and Media Commission, the regulatory body for broadcasting and telecommunications, as a “financially and administratively independent institution” and specifies that it shall be “attached to” Iraq’s parliament, known as the Council of Representatives.

Defamation is a criminal and civil offense in Iraq and both codes contain vague and underdeveloped provisions that restrict the right to freedom of expression.

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<sup>185</sup> Ibid., prin. 1.1.

<sup>186</sup> Ibid., prin. 1.2.

<sup>187</sup> Ibid., prin. 1.3.

<sup>188</sup> European Court of Human Rights, *Lingens v. Austria*, judgment of July 8, 1986, application no. 9815/82, [www.echr.coe.int](http://www.echr.coe.int) (accessed December 21, 2010), para. 42.

<sup>189</sup> Media Rights Agenda, Constitutional Rights Project, *Media Rights Agenda and Constitutional Rights Project v. Nigeria*, 105/93, 128/94, 130/94, 152/96, [http://www.achpr.org/english/activity\\_reports/activity12\\_en.pdf](http://www.achpr.org/english/activity_reports/activity12_en.pdf) (accessed September 6, 2010), para. 74.

<sup>190</sup> Constitution of the Republic of Iraq, Article 38(A).

<sup>191</sup> Ibid., Article 38(B).

Under the 1951 civil code, a journalist is liable for “moral injury,” including “any encroachment (assault) on the freedom, morality, honor, reputation, social standing, or financial position (credibility) of others.”<sup>192</sup>

Under the 1969 penal code, it is a crime to:

- Insult the Arab community, the Iraqi people (including any part of the population), the national flag, or any state emblem;<sup>193</sup>
- Publicly insult the President or his representative;<sup>194</sup>
- Publicly insult any public institution (including parliament or a court) or official;<sup>195</sup>
- Publicly insult a foreign country, flag or national emblem, or international organization with an office in Iraq;<sup>196</sup>
- Insult or threaten a public servant or body in the course of its work;<sup>197</sup>
- Attack the creed of a religious minority, or insult a symbol or person which/who is an object of sanctification, worship, or reverence;<sup>198</sup>
- Defame another, and if the defamation is published in the media it is considered an aggravating offense;<sup>199</sup>
- Insult another, including directing abuse which compromises their honor or status or offends them. Publication of such abuse in the media is an aggravating circumstance.<sup>200</sup>

The penal code contains other restrictions outside of defamation. It is also a crime to:

- Broadcast or disclose secrets relating to the defense of the state;<sup>201</sup>
- Willfully broadcast, in times of war, false or biased information, statements, or rumors that may spread panic or lower the morale of the population;<sup>202</sup>

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<sup>192</sup> Iraqi Civil Code No. 40 of 1951 (with amendments).

<sup>193</sup> Iraqi Penal Code, Article 202;

<sup>194</sup> Article 225.

<sup>195</sup> Article 226.

<sup>196</sup> Article 227.

<sup>197</sup> Article 229.

<sup>198</sup> Article 372.

<sup>199</sup> Article 433.

<sup>200</sup> Article 434.

<sup>201</sup> Article 178(2)

<sup>202</sup> Article 179.

- Willfully broadcast abroad false or biased information concerning the internal situation in Iraq that would undermine financial confidence or tarnish Iraq's international standing ;<sup>203</sup>
- Publish or broadcast any governmental material the publication of which has been prohibited;<sup>204</sup>
- Maliciously obtain materials that incite constitutional change or that promote banned ideologies with the aim of publishing them;<sup>205</sup>
- Willfully broadcast (or intent to willfully broadcast) false and ill-intentioned news, statements, or rumors, or disseminate inciting propaganda if this disturbs public security, intimidates people, or inflicts harm on public interest;<sup>206</sup>
- Publish by any means false information if this disturbs the public peace;<sup>207</sup>
- Possess (with the aim of publication, trade, or distribution) materials that endanger public security or tarnish the country's reputation;<sup>208</sup>
- Publish proceedings of parliament's secret sessions or, if done maliciously or inaccurately, parliament's open sessions;<sup>209</sup>
- For a public official or agent, to knowingly release information obtained in the course of duty or relating to a contract or transaction to a person from whom s/he is required to withhold it, if this results in harming state interests;<sup>210</sup>
- Possess for publication any material "that violates the public integrity or decency";<sup>211</sup>
- Divulge secrets obtained through employment or professional activities, except when the aim is to report or prevent a crime;<sup>212</sup> and
- Publish private information or a picture where this causes offense.<sup>213</sup>

The Coalition Provisional Authority further extended the range of prohibited actions through CPA Order 14, which prohibited the publication of any material that incites violence, civil

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<sup>203</sup> Article 180.

<sup>204</sup> Article 182.

<sup>205</sup> Article 208.

<sup>206</sup> Article 210.

<sup>207</sup> Article 211.

<sup>208</sup> Article 215.

<sup>209</sup> Article 228.

<sup>210</sup> Article 327.

<sup>211</sup> Article 403.

<sup>212</sup> Article 437.

<sup>213</sup> Article 438.

disorder, rioting or damage to property, or advocating the return of the Ba'ath Party, among other things.<sup>214</sup>

The Communications and Media Commission implemented broadcast media regulations ahead of the March 7, 2010 elections, as described above.<sup>215</sup> Provisions included a blanket ban on broadcasting “any material that incites violence [or] sectarianism.”<sup>216</sup> The CMC has not provided any guidance toward the meaning of that concept. The regulations give the CMC the power to cancel licenses after certain first-time minor offenses.<sup>217</sup>

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<sup>214</sup> CPA/ORD/10 June 2003/14, Section 2.

<sup>215</sup> “Iraq: Suspend Restrictive Broadcast Rules,” Human Rights Watch news release, April 12, 2010.  
<http://www.hrw.org/en/news/2010/04/09/iraq-suspend-restrictive-broadcast-rules> (accessed September 11, 2010).

<sup>216</sup> Letter from Human Rights Watch to the Communication and Media Commission of Iraq, April 12, 2010,  
<http://www.hrw.org/en/news/2010/04/09/letter-communication-and-media-commission-iraq>.

<sup>217</sup> Ibid.

### III. Torture of Detainees

On December 19, 2009, during one of numerous security sweeps of Mosul, Iraqi soldiers kicked open the front door of Ahmad M.'s family home, arresting the 21-year-old for alleged terrorism.<sup>218</sup>

For months, no one in his family knew where he was taken or if he was still alive. Ahmad said that during the worst days of his ordeal at a secret government detention facility at Muthanna Airport, he wished he wasn't alive.

"During the first eight days they tortured me daily," he told us. "[The interrogators] would put a bag on my head and start to kick my stomach and beat me all over my body. They threatened that if I didn't confess, they would bring my sisters and mother to be raped. I heard him on the cell phone giving orders to rape my sisters and mother."<sup>219</sup>

In one torture session, Ahmed, who was blindfolded and handcuffed, said his tormentors stripped him and ordered him to stroke another detainee's penis. Then they forced him to the floor and forced the other detainee on top of him.

"It hurt when it started to penetrate me. The guards were all laughing and saying, 'He's very tight, let's bring some soap!' When I experienced the pain, I asked them to stop and said that I would confess. Although I confessed to the killings, I mentioned fake names since I never killed anyone. So the torture continued even after I confessed because they suspected my confession was false." He went on to say that one of the guards also forced him to have oral sex.<sup>220</sup>

Ahmad's story echoes that of many Iraqi detainees, who are routinely subjected to torture at facilities across the country. Following on the legacy of the judicial system under previous governments, courts continue to rely mainly on confessions, which interrogators extract with seemingly unlimited brutality. International investigators have repeatedly documented the persistence and widespread nature of torture in Iraq in recent years; little has changed in

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<sup>218</sup> Human Rights Watch interview with Ahmed M. (not his real name), Baghdad, April 26, 2010.

<sup>219</sup> Ibid.

<sup>220</sup> Ibid.

response to those reports.<sup>221</sup> Human Rights Watch's findings show that as of 2010, the practice remains as entrenched as ever, failing even to draw a critical response when evidence is produced by the Iraqi government itself.

## Background

Abuse and torture in detention facilities have a long history in Iraq. Under Saddam Hussein, torture was commonplace. His government sanctioned the widespread use of torture, the death penalty, and extrajudicial executions as tools of political repression, both in order to eliminate real or suspected opponents and to maintain a reign of terror over the population at large.<sup>222</sup> The extent of the horrors of his repressive rule started to come to light after 1991, when Kurds in northern Iraq gained a measure of self-rule. In former Iraqi police stations and prisons, Kurds discovered torture chambers and execution sites where, they say, thousands of political prisoners died under torture or were shot.<sup>223</sup>

After 2003, serious abuses occurred in facilities run by US and British forces. And US authorities transferred thousands of Iraqi detainees to Iraqi custody despite knowing that they faced a clear risk of torture. Military cables released in October 2010 by Wikileaks, mostly authored by low-ranking US officers in the field between 2004 and 2009, indicate that US commanders frequently failed to follow up on credible evidence that Iraqi forces killed, tortured, and mistreated their captives. According to the documents, US authorities investigated some abuse cases, but much of the time they either ignored the abuse or asked Iraqis to investigate and closed the file.<sup>224</sup>

The first pictures showing U.S. soldiers humiliating and torturing detainees at Abu Ghraib prison appeared in late April 2004.<sup>225</sup> An investigative report of U.S. Maj. Gen. Antonio Taguba found “numerous incidents of sadistic, blatant, and wanton criminal abuses”

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<sup>221</sup><sup>221</sup> See UNAMI, “Human Rights Report, 1 July-31 December 2009;” and Human Rights Watch, *The New Iraq? Torture and Ill-treatment of Detainees in Iraqi Custody*, vol. 17, no. 1(E), January 2005, <http://hrw.org/reports/2005/iraq0105/>.

<sup>222</sup> Human Rights Watch, *Iraq: The Death Penalty, Executions, and ‘Prison Cleansing,’* March 2003, <http://www.hrw.org/legacy/backgrounder/mena/iraq031103.htm>.

<sup>223</sup> Human Rights Watch, *Unquiet Graves: The Search for the Disappeared in Iraqi Kurdistan*, February 1, 1992, <http://www.hrw.org/en/reports/1992/02/01/unquiet-graves> (accessed September 11, 2010).

<sup>224</sup> “Iraq: Wikileaks Documents Describe Torture of Detainees,” Human Rights Watch news release, October 23, 2010, <http://www.hrw.org/en/news/2010/10/24/iraq-wikileaks-documents-describe-torture-detainees>.

<sup>225</sup> For a more detailed analysis of abuses at US detention facilities, see: Human Rights Watch, *Getting Away with Torture?: Command Responsibility for the U.S. Abuse of Detainees*, Vol. 7, no. 1(G), April 2005, <http://www.hrw.org/en/reports/2005/04/23/getting-away-torture-o>; Human Rights Watch, *The Road to Abu Ghraib*, June 2004, <http://www.hrw.org/en/reports/2004/06/08/road-abu-ghraib>, and Human Rights Watch, *No Blood, No Foul: Soldiers’ Accounts of Detainee Abuse in Iraq*, Volume 18, No. 3(G), July 2006, <http://www.hrw.org/en/reports/2006/07/22/no-blood-no-foul>.

constituting “systematic and illegal abuse of detainees” at Abu Ghraib.<sup>226</sup> Human Rights Watch, the International Committee of the Red Cross, and journalists have extensively documented extreme cases of torture and inhuman treatment at locations in Iraq other than Abu Ghraib.<sup>227</sup>

From 2003 to 2006, for example, US personnel and Iraqi detainees reported serious mistreatment of detainees by a special military and Central Intelligence Agency task force responsible for capturing or killing high-level combatants at Camp Nama. The task force regularly stripped detainees naked, subjected them to sleep deprivation and extreme cold, placed them in painful stress positions, humiliated, and beat them.<sup>228</sup> Human Rights Watch also documented abuse at Forward Operating Base (FOB) Tiger, near al-Qaim, in western Iraq on the border of Syria. Officials at the base held detainees, without food or water, in oppressively hot metal containers for more than 24 hours as temperatures exceeded 57

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<sup>226</sup> Investigative report on alleged abuses at US military prisons in Abu Ghraib and Camp Bucca, Iraq, by Maj. Gen. Antonio M. Taguba, “Article 15-6 Investigation of the 800th Military Police Brigade.” Taguba noted the following incidents of criminal abuse inflicted on several detainees:

- Punching, slapping, and kicking detainees; jumping on their naked feet;
- Videotaping and photographing naked male and female detainees;
- Forcibly arranging detainees in various sexually explicit positions for photographing;
- Forcing groups of male detainees to masturbate themselves while being photographed and videotaped;
- Arranging naked detainees in a pile and then jumping on them;
- Positioning a naked detainee on a box, with a sandbag on his head, and attaching wires to his fingers, toes and penis to simulate electric torture;
- Writing “I am a Rapist” (sic) on the leg of a detainee alleged to have forcibly raped a 15-year-old fellow detainee, and then photographing him naked;
- Placing a dog chain or strap around a naked detainee’s neck and having a female soldier pose with him for a picture;
- A male military police guard having sex with a female detainee;
- Breaking chemical lights and pouring the phosphoric liquid on detainees;
- Threatening detainees with a loaded 9-mm pistol;
- Pouring cold water on naked detainees;
- Beating detainees with a broom handle and a chair;
- Threatening male detainees with rape;
- Allowing a military police guard to stitch the wound of a detainee who was injured after being slammed against the wall in his cell;
- Sodomizing a detainee with a chemical light and perhaps a broom stick;
- Using military working dogs (without muzzles) to frighten and intimidate detainees with threats of attack, and in at least one case biting and severely injuring a detainee;
- Forcing detainees to remove their clothing and keeping them naked for several days at a time;
- Forcing naked male detainees to wear women’s underwear; and
- Taking pictures of dead Iraqi detainees.

<sup>227</sup> HRW, *Getting away with Torture*, p. 8.

<sup>228</sup> Through most of 2003 and 2004, the task force maintained a detention and interrogation facility within Camp Nama, at the Baghdad International Airport. The camp was off-limits to the International Committee of the Red Cross, as well as ordinary military personnel. The task force moved to another location near Balad in the summer of 2004. Human Rights Watch, *No Blood, No Foul: Soldiers’ Accounts of Detainee Abuse in Iraq*.

degrees Celsius. Interrogators then took the detainees for interrogations where they beat and subjected them to threats.<sup>229</sup>

British forces in southern Iraq also abused Iraqi detainees. In one incident, Baha Mousa, an Iraqi hotel worker, died while in British custody in Basra in 2003. A post-mortem examination showed that Mousa had at least 93 injuries to his body, including a broken nose and fractured ribs.<sup>230</sup> On December 21, 2010, the High Court in London refused an application for a full public inquiry into allegations of killings, torture, and inhuman and degrading treatment by British soldiers and interrogators in Iraq.<sup>231</sup>

Despite abuses meted out by US and British forces, the Coalition Provisional Authority attempted to introduce legal reforms that would have made it easier to prosecute perpetrators. The CPA suspended article 136 of the Criminal Procedure Code, which required the relevant minister to refer for prosecution cases of malfeasance committed in the course of official duties, a role usually assigned to an independent prosecutor. The persistent failure of the Minister of Interior or other relevant authorities to refer such cases for prosecution effectively blocked the pursuit of accountability for torturers. Under Iraq's constitution, all CPA laws remain valid unless specifically abrogated by new legislation. However, successive Iraqi governments, since the official end of the occupation in mid 2004, have continued to invoke article 136 to block prosecutions of alleged torture and official corruption.<sup>232</sup>

CPA and US government policies and have had an enormous impact on criminal justice, police, security, and counterterrorism institutions and personnel in Iraq. The CPA, under order number one ("De-Ba'athification of Iraqi Society"), fired top-ranking Ba'ath Party

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<sup>229</sup> Ibid.

<sup>230</sup> In March 2008, Des Browne, then the British Defence Secretary, acknowledged a serious violation of Article 2 and Article 3 (the right to life and freedom from torture and inhuman or degrading treatment) of the European Convention on Human Rights had taken place. In July 2008 the Ministry of Defence agreed to pay £2.83-million (\$4.5-million) in compensation to the family of Mousa and nine other men. The case also led to rare prosecutions of British soldiers in connection with ill-treatment. However only one person, Corporal Donald Payne, was convicted, after pleading guilty to the war crime of inhumane treatment, and sentenced to one-year imprisonment. The military court threw out all other charges against six other soldiers, including Payne's commanding officer. In July 2009, the United Kingdom launched a public inquiry into Mousa's death, the failure of the criminal investigation and prosecution, and the British military's treatment of Iraqi detainees, including how interrogation techniques previously banned by the UK in 1972 resurfaced in Iraq. See "Iraqis to get £3m in MoD damages," *BBC*, July 10, 2008, [http://news.bbc.co.uk/2/hi/uk\\_news/7500204.stm](http://news.bbc.co.uk/2/hi/uk_news/7500204.stm) (accessed November 8, 2010), and "Iraqi eyewitnesses: Mistreatment by UK troops," *BBC*, November 5, 2010, <http://www.bbc.co.uk/news/world-middle-east-11696329> (accessed November 8, 2010).

<sup>231</sup> "Iraqis lose torture claim probe bid," UKPA, December 21, 2010, [http://www.google.com/hostednews/ukpress/article/ALeqM5jDFcostjddDk\\_7H-jSugSUqk3oHg?docId=No258041292924540939A](http://www.google.com/hostednews/ukpress/article/ALeqM5jDFcostjddDk_7H-jSugSUqk3oHg?docId=No258041292924540939A) (accessed December 22, 2010).

<sup>232</sup> Constitution, art. 130. See also Walter Pincus, "There is Corruption in Iraq," *Washington Post*, June 25, 2007 (noting the reinstatement of the provision by prime ministers 'Ayad Allawi and Ibrahim al-Ja'afari, and its continued use under Prime Minister Nuri al-Maliki).

members from all government positions, resulting in a loss of institutional knowledge on the functioning of the police force and other government institutions.

The US has been training Iraq police since December 2003.<sup>233</sup> Since 2008, United States Forces (with Danish Forces) have sponsored a “human rights and ethics train-the-trainer” course in Baghdad. Graduates are supposed to pass on the training to police departments throughout the country.<sup>234</sup> With the December 2011 deadline for all American troops to leave the country quickly approaching, the US is shifting its entire program for Iraqi police training from the Defense Department back to the State Department, starting in October 2011.

### **Secret Facility at Muthanna Airport**

Starting in September 2009, security forces kept some 430 Iraqi men hidden away at a secret facility in the old Muthanna airport in West Baghdad, run by the Baghdad Operations Command, one of several regional security commands set up by Prime Minister Nuri al-Maliki that answer directly to his office.

After the Human Rights Ministry discovered the Muthanna facility’s existence, inspected it in March 2010, and reported the abuses to the prime minister, authorities transferred or released all the men, moving 300 of them to Al Rusafa prison. Until then, the detainees had no access to their families or lawyers. They did not even receive a case number, never mind formal charges. An investigative judge questioned many of them individually in a room just down the hall from one of the torture chambers.

The Iraqi Army had detained them between September and December 2009 during sweeps in and around Mosul, a stronghold of Sunni armed groups, accusing the men of aiding and abetting terrorism and forcing them to sign confessions. Even after they confessed, many told us, torture persisted.

As soon as Human Rights Watch entered the wing of the Al Rusafa facility housing these detainees, dozens of them pressed against the bars of 19 overcrowded cage-like cells and began re-enacting the abuses that interrogators at Muthanna had subjected them to. They lifted their shirts and pant legs to reveal bruising, scabs, and disfigurements. Each of the 42

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<sup>233</sup> Robert Perito, “Policing Iraq: Protecting Iraqis from Criminal Violence,” United States Institute of Peace, June 2006, <http://www.usip.org/publications/policing-iraq-protecting-iraqis-criminal-violence> (accessed December 22, 2010).

<sup>234</sup> Twenty-one officers graduated from the course in August 2010. “Newest Iraqi Police ethics, human rights trainers graduate,” United States Forces news release, August 12, 2010, <http://www.usf-iraq.com/news/press-releases/newest-iraqi-police-ethics-human-rights-trainers-graduate> (accessed December 22, 2010).

inmates we interviewed there in April wanted to share his story, and each story was horrifically like the ones before.

The men's stories were credible and consistent. They described in detail how their torturers kicked, whipped, and beat them, asphyxiated them, subjected them to electric shocks, burned them with cigarettes, and pulled out their fingernails and teeth. The prisoners said that interrogators sodomized some detainees with sticks and pistol barrels. Some young men said they had been forced to perform oral sex on interrogators, and guards and that interrogators forced detainees to molest one another. If the detainees still refused to confess, interrogators would threaten to rape the women and girls in their families.

Most of the 300 displayed fresh scars and injuries they said were a result of routine and systematic torture they had experienced at the hands of interrogators at Muthanna. Huge scabs on their legs matched their accounts of being suspended upside down with their lower legs trapped between bars. Deep welts on their backs were consistent with cable whipping.

The detainees lacked sufficient medical and psychological treatment for the torture they endured. One 24-year-old detainee, who displayed severe leg injuries, said his front teeth had been smashed during one of his interrogation sessions in the secret prison. After he had been arrested on September 30, 2009, in Mosul, an interrogator told him that they would rape his mother and sister if he did not confess. He confided that he had been repeatedly sodomized with a stick and a pistol, and now frequently wet his bed and had trouble sleeping.<sup>235</sup>

Another detainee, a pediatrician, described what had happened after he saw one of his cellmates dragged out for a torture session on January 18, 2010. When they brought the man back to the cell, the pediatrician noticed swelling above his cellmate's liver and suspected internal bleeding. He told the guards that the man needed immediate medical attention. The guards took the tortured man out but returned him an hour later saying that he was fine. The man died in the cell an hour later.<sup>236</sup>

In many cases, torture sessions lasted for hours. "The guards would come into our cell and grab three or four detainees at a time," said one detainee. "They would walk us to the interrogation room to begin the abuse. They would beat us for hours and so badly that we

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<sup>235</sup> Human Rights Watch interview with Detainee I (name withheld), Baghdad, April 26, 2010.

<sup>236</sup> Human Rights Watch interview with Detainee B (name withheld), Baghdad, April 26, 2010.

could not stand up so they would have to drag us back to our cells. They would let us recover for three days before the cycle of torture began anew.”<sup>237</sup>

Although torture was mainly used to elicit confessions, in some cases it also served as punishment. One detainee told us that after he spoke to an inspection team from the Human Rights Ministry in March, guards beat him severely. He was captured along with 33 others in Mosul on the night of September 17, 2009, he said. Interrogators would tie his arms behind his back and blindfold him before hanging him upside down to administer a beating. “They would suffocate me with a bag until I passed out and would wake me with an electric shock to my genitals.”<sup>238</sup>

At Muthanna, a detainee’s age, nationality, or medical condition were no impediments to the harsh treatment interrogators meted out. On December 7, security forces arrested a former general in the Iraqi army, now a British citizen who is confined to a wheelchair (unrelated to the arrest and abuse), after he returned to Mosul from London to find his detained son. The general’s jailers refused him medicine for his diabetes and high blood pressure. “I was beaten up severely, especially on my head,” he told us. “They broke one of my teeth during the beatings.... They applied electricity to my penis and sodomized me with a stick. I was forced to sign a confession that they wouldn’t let me read.”<sup>239</sup>

Security forces arrested one detainee with his brother in Mosul on December 16. He described how his interrogators strung him upside down and severely beat him with his eyes blindfolded and his hands tied behind his back. He suffered broken ribs from the beatings and urinated blood for days. The interrogators threatened to rape his wife if he did not confess. One time he was stripped naked and told to penetrate another naked inmate lying on the floor or otherwise be raped by two male guards.

In another case, the Iraqi army arrested a 59-year-old father and his 29-year-old son at their house in Mosul on September 30. Both described sessions in which interrogators hung them upside down and beat them. During one session, an interrogator stripped the father naked in front of his son. The interrogator told the son they if he did not confess they would rape his father. The father was told that if he did not confess they would kill his son. The son said that the guards subsequently sodomized him with a broomstick.

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<sup>237</sup> Human Rights Watch interview with Detainee C (name withheld), Baghdad, April 26, 2010.

<sup>238</sup> Human Rights Watch interview with Detainee A (name withheld), Baghdad, April 26, 2010.

<sup>239</sup> Human Rights Watch interview with Detainee D (name withheld), Baghdad, April 26, 2010.

The torture uncovered at Muthanna was extraordinary only in its severe, routine, and systematic nature. Across Iraq, lawyers, human rights advocates, and former detainees told us that torture and ill-treatment remained a serious problem in many Iraqi detention facilities and jails. A Ministry of Human Rights prisons report indicated that in 2009 the ministry documented 574 separate allegations of torture in Iraqi facilities—primarily in Ministry of Interior facilities—as well as four suspicious deaths.<sup>240</sup>

“Prisons are one of the great tragedies of modern Iraq and are nothing more than factories of torture and mistreatment. Things are getting worse and we are now back to Saddam’s time. But now we are more artistic in how we do it,” a defense lawyer and leader of a jurist association in Basra told Human Rights Watch.<sup>241</sup> “Iraqi guards are creative artists in how they torture ... they don’t just limit themselves to physical torture but embrace mental torture as well. Prisoners are isolated for such long periods so long that they lose sense of time, and no lawyer is able to help them no matter what.”

Although all the detainees at Muthanna were Sunni Arabs, it appears that Iraqi security forces targeted them not for their religious denomination but because the men were presumed to affiliated with militia groups in Mosul, which remains one of the most dangerous places in Iraq. Former Shia detainees from Basra and Sadr City told us they were tortured on suspicion of belonging to the Jaish al-Mahdi, led by Muqtada al-Sadr. Human Rights Watch also interviewed activists from minority groups tortured by the Kurdistan Regional Government security forces—they said this owed not to their minority status but because they challenged KRG rule in the disputed areas. In Iraq, torture by government security forces appears to be more a product of a flawed criminal justice system than a tool of ethnic repression.

## Reliance on Confessions

Torture and other forms of abuse carried out in Iraqi detention facilities to obtain confessions have been well-documented since 2004.<sup>242</sup> Investigative hearings and trials in Iraq rely heavily on confessions and the testimony of witnesses and secret informants rather than physical evidence.<sup>243</sup> Iraqi human rights advocates we interviewed said they have

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<sup>240</sup> The report documented 326 allegations of torture at MOI facilities, 152 cases at MOD facilities, 14 cases at Ministry of Labor and Social Affairs (MOLSA) facilities, one case at MOJ facilities, and 12 in Peshmerga facilities in the Kurdistan region in 2009.

<sup>241</sup> Human Rights Watch interview with a defense lawyer (name withheld), Basra, April 12, 2010.

<sup>242</sup> See UNAMI, “Human Rights Report, 1 July-31 December 2009”; and Human Rights Watch, *The New Iraq? Torture and Ill-treatment of Detainees in Iraqi Custody*.

<sup>243</sup> Human Rights Watch, *The Quality of Justice: Failings of Iraq’s Central Criminal Court*, December 14, 2008, <http://www.hrw.org/en/reports/2008/12/14/quality-justice-o> (accessed September 11, 2010).

serious concerns about fairness at court proceedings, given how prevalent abuse is in detention facilities and the evidentiary weight the justice system gives to confessions as well as information from secret informants.

A criminal defense lawyer in Baghdad told Human Rights Watch that most of the 25 clients she represented over the last year said they signed confessions in order to stop their torture.<sup>244</sup> “Most of my clients have been exposed to torture,” she said. “Most of the times, they can’t speak the details because they are too embarrassed about what happened to them. The interrogators use lots of cultural taboos and dirty methods to get what they want.”

A former detainee at another facility told us he was arrested in January 2009 at his parents’ house in Sadr City on suspicion of forging documents for the Jaish al-Mahdi.<sup>245</sup> Although the incident happened more than a year ago, he showed us a huge welt on his back from blows he said he received from a rifle butt during this detention. He said that for four days security forces held him in an army detention facility with his hands tied behind his back; he was blindfolded the entire time with the exception of when he went to the bathroom. If he had to relieve himself outside of the allotted times, the guard instructed him to urinate in his clothes. Interrogators would lay him face down on the ground, lift his feet, and beat the soles with a wooden stick. They also kicked and punched him all over his body, including his head. “The blindfold they wrapped around my head was a blessing in disguise because it was a thick fabric and absorbed some of the force from the blows,” he said<sup>246</sup>

On other occasions, he said, interrogators gave him electric shocks or drenched him with freezing water after they stripped him and dragged him outside, during winter. Interrogators questioned him about his “pious” beard, which he said he had grown to mourn the passing of an uncle. “They burned it with a lighter,” he said.<sup>247</sup>

He said that interrogators forced his fingerprint on a confession that he did not read. In an adjacent cell, he could hear the screams of his detained nephew. After the abuse, the nephew falsely confessed that his uncle had kidnapped and killed numerous Iraqi security officials and Sunni Arabs. The judge did not believe the confessions, and released the uncle.<sup>248</sup>

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<sup>244</sup> Human Rights Watch interview with a criminal defense lawyer (name withheld), Baghdad, April 3, 2010.

<sup>245</sup> Human Rights Watch interview with a former detainee (name withheld), April 2, 2010.

<sup>246</sup> Ibid.

<sup>247</sup> Ibid.

<sup>248</sup> Ibid.

This detainee, the uncle, said his family paid officials thousands of dollars as a bribe, not for his release but simply to have his case expedited. Detainees with lesser means may spend years in custody without charge or trial. “The way to push forward cases is to bribe officials,” said a prisoners’ advocate in Baghdad who volunteers at an NGO hotline for detainees. “Those who have nothing find their case stuck.”<sup>249</sup>

According to the Ministry of Human Rights, more than 30,000 detainees and prisoners remain in the custody of the Ministry of Interior, Ministry of Justice, Ministry of Defense, or Ministry of Labor and Social Affairs.<sup>250</sup> Government-run detention facilities struggle to accommodate the large number of detainees, and serious delays in the judicial review of detention has exacerbated overcrowding.

## Government Inaction and Denials

To date, the government’s response to torture allegations has been dismal. Although there are indications that authorities took some disciplinary action, including court referrals, against security forces accused of abuse and undertook judicial follow-up in some torture cases, there is little indication that the government has taken enough serious measures to put an end to the practice.<sup>251</sup>

Despite the overwhelming evidence, including from its own Human Rights Ministry, that torture was routine and systematic at Muthanna, officials have not thoroughly investigated or prosecuted the officials responsible.<sup>252</sup> Prime Minister al-Maliki characterized the torture accounts at Muthanna as “lies” and “a smear campaign.”<sup>253</sup> He told state-run Al-Iraqiyya television that the detainees inflicted the scars on themselves “by rubbing matches on some of their body parts.”<sup>254</sup> Instead of ordering an independent inquiry, the prime minister

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<sup>249</sup> Ibid.

<sup>250</sup> UNAMI, “Human Rights Report : 1 January – 30 June, 2009,” and Iraqi Human Rights Ministry, “Prisons and Detention Facilities of Federal Central Government,” 2010.

<sup>251</sup> According to Iraq’s submission to the 2010 Universal Periodic Review, authorities have referred to the courts 724 cases of abuse uncovered by the Ministry of Human Rights between 2007 and 2009. “National report submitted in accordance with paragraph 15 (A) of the annex to Human Rights Council Resolution 5/1,” Government of Iraq submission to the Universal Periodic Review, January 18, 2010, A/HRC/WG.6/7/IRQ/1, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/173/37/PDF/G0917337.pdf?OpenElement> (accessed December 22).

<sup>252</sup> Following exposure of the secret prison, Iraqi authorities announced on April 23 that they had detained three officers of the military unit that ran the facility to interrogate them. As of October, authorities had not announced any charges. Khalid al-Ansary, “Iraq Closes Secret Prison, Arrests 3 Officers,” Reuters, April 23, 2010, <http://www.alertnet.org/thenews/newsdesk/LDE63MoW8.htm> (accessed September 11, 2011).

<sup>253</sup> Sam Dagher, “Report Details Torture at Secret Baghdad Prison,” *New York Times*, April 27, 2010, <http://www.nytimes.com/2010/04/28/world/middleeast/28baghdad.html> (accessed September 11, 2011).

<sup>254</sup> Ibid.

suspended the work of the Ministry of Human Rights' prison inspection team, who first uncovered the abuse.

The government, by failing to launch a proper investigation in the face of such egregious abuses, and by reprimanding its own investigators who uncovered abuse, only bolsters impunity and sends a message to torturers that they are above the law.

## International Standards Prohibiting Torture

The Government of Iraq has legal obligations under international human rights treaty law and customary law that govern the treatment of detainees. The prohibition against torture and other mistreatment is a longstanding and fundamental norm of customary international law.<sup>255</sup>

Iraq is bound by the treaty obligations of previous Iraqi governments.<sup>256</sup> Most notable among these are those laid out by the ICCPR, which requires that detainees be treated with respect for their "inherent dignity,"<sup>257</sup> and mandates that detainees shall "not be subjected to torture or to cruel, inhuman or degrading treatment or punishment."<sup>258</sup>

Similar prohibitions are found in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), which Iraq is in the final process of ratifying,<sup>259</sup> and other treaties.<sup>260</sup> The Convention against Torture specifically prohibits using as evidence in any proceeding "any statement which is established to have been made as a result of torture."<sup>261</sup>

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<sup>255</sup> See, for example, Manfred Nowak, *U.N. Covenant on Civil and Political Rights: CCPR Commentary* (Kehl: NP Engel, 2nd ed., 2005), pp. 157-58.

<sup>256</sup> See Vienna Convention on the Law of Treaties, opened for signature May 23, 1969, 115 U.N.T.S. 331, [http://untreaty.un.org/ilc/texts/instruments/english/conventions/1\\_1\\_1969.pdf](http://untreaty.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf) (accessed September 6, 2010), section 3 (international agreements are not terminated by a change in government).

<sup>257</sup> ICCPR., art. 10(1).

<sup>258</sup> *Ibid.*, art. 7.

<sup>259</sup> In June 2009, the Official Gazette published legislation that Iraq's parliament passed in 2008 to ratify the Convention. However, as of August 2010, the Iraqi government had not deposited the registration of the ratification at the secretariat of the UN.

<sup>260</sup> See, for example, the Convention on the Rights of the Child, art. 37(a).

<sup>261</sup> Convention against Torture, art. 15. The only exception is a statement against a person accused of torture as evidence that the statement was made.

## National Standards Prohibiting Torture

The Constitution, under Article 37 (c), prohibits “all forms of psychological and physical torture and inhumane treatment.” Article 37 also states, “Any confession made under force, threat, or torture shall not be relied on, and the victim shall have the right to seek compensation for material and moral damages incurred in accordance with the law.”

Similar to the constitution, Iraq’s Criminal Procedure Code bans the use of “any illegal methods to influence the accused and extract a confession.”<sup>262</sup> It also provides for criminal liability for torture or other instances of abuse in custody. Article 333 of the Penal Code criminalizes the actions of any public official or agent who tortures or orders the torture of a person accused of a crime, witness, or informant in order to compel a confession.<sup>263</sup>

Nevertheless, as noted above, Article 136(b) of the Criminal Procedure Code contains a major legal obstacle to prosecuting government officials who have engaged in or authorized abuse of detainees.<sup>264</sup> This article requires that where the alleged offenses took place in the course of or arising from official duty, the “responsible minister” (for example, the interior minister in cases involving police) must permit referral of the accused official for trial.<sup>265</sup> The article continues to be invoked to block prosecutions, despite having been suspended by CPA head L. Paul Bremer in January 2004 when he established the integrity commission as an independent agency to carry out corruption investigations.<sup>266</sup>

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<sup>262</sup> Iraqi Criminal Procedure Code of 1971, article art. 127: “Mistreatment, threats, injury, enticement, promises, psychological influence or use of drugs or intoxicants are considered illegal methods.”

<sup>263</sup> Iraqi Penal Code No. 111 of 1969 (with amendments), art. 333. Torture includes the use of force and threats of force.

<sup>264</sup> Iraqi Criminal Procedure Code, art. 136(b).

<sup>265</sup> Ibid.

<sup>266</sup> Walter Pincus, “There is Corruption in Iraq,” *Washington Post*, June 25, 2007, <http://www.washingtonpost.com/wp-dyn/content/article/2007/06/24/AR2007062401301.html> (accessed December 22, 2010).

## **IV. Marginalized Communities**

A series of wars and continuing violence over the past three decades have displaced millions of Iraqis inside the country, many impoverished and living in miserable conditions. For Iraq's religious minority communities, especially non-Muslims, the lack of security and the rise of religious extremism have brought attacks that have led members to emigrate in disproportionate numbers. The armed strife, along with an abundance of abandoned landmines and cluster munitions, has created a disproportionately high number of disabled persons in a country whose health and rehabilitation institutions, including hospitals, have languished from more than a decade of harsh sanctions as well as political strife and corruption.

Despite the dire situation in which marginalized communities in Iraq find themselves, persistent inaction by the government, along with inadequate responses when it does act, has exasperated matters. Although the government has passed laws (including constitutional safeguards) to protect its marginalized communities, and has instituted significant assistance programs, it is still failing its most vulnerable citizens. Many of the government's assistance programs are non-operational or sub-operational, and vastly insufficient to meet the needs of target populations, despite Iraq's international and domestic commitments. The government needs to urgently address, in a significant and meaningful way, the needs of persons victimized by years of conflict, in some cases going back several decades. Iraq's efforts to protect the rights and meet the basic needs of its most marginalized citizens will be an indicator of the country's commitment to human rights and the rule of law.

### **Internally Displaced Persons**

Zainab A., a 36-year-old widow and mother of four, lost her Sunni Arab husband to a car bomb in the town of Abu Ghraib in 2006. After his death, the neighborhood elder warned Zainab that she, a Shia, was in imminent danger living in a Sunni neighborhood. According to Zainab, the elder told her, "Yes, I know your sons are Sunni, but you are still in danger. We are not able to protect you." Zainab had already paid her rent six months in advance and had no money but women from the community, concerned for her safety, also advised her to leave. Terrified after armed assailants began killing neighbors, Zainab and her four children moved to a squatter settlement in nearby Baghdad. Despite not having much of their own, Zainab's new neighbors donated money and raw materials so that she could build a small

shack for her family. She survives on handouts from her neighbors and has no plans to return to Abu Ghraib.<sup>267</sup>

Iraq is home to about two million internally displaced persons, about 1.5 million of whom were displaced since 2006.<sup>268</sup> About 500,000 of these 1.5 million live as squatters in slum areas, without basic services, including garbage collection, water, and electricity.<sup>269</sup> In 2009, the government issued a directive calling upon all squatters to vacate public buildings and lands. Although the government postponed enforcement of the directive, IDPs remain at risk of eviction from public areas.<sup>270</sup>

Economic pressures and difficulties maintaining legal status in Syria, Jordan, and Lebanon, along with a somewhat improved security situation in Iraq are slowly inducing Iraqi refugees to return. However, UNHCR estimates that about 1.5 million Iraqis still live outside the country. The government remains without a workable plan for the return to their homes of Iraqis displaced internally or who had fled to neighboring countries, or for other durable solutions such as integration in places they now live or relocation or resettlement for those unable or unwilling to return. Although the government has pledged about \$78 million for the reconstruction of destroyed homes, the disbursement of these funds is lagging.<sup>271</sup> In Baghdad returnees are seldom able to reclaim their former homes. In rural communities many find their houses destroyed or in disrepair, and they lack access to income and basic services.

Some IDPs have had to relocate numerous times. In 2006, the day after assailants killed Abed Mahsan's Shia neighbor and two hours after they threatened Mahsan's life for living in a Sunni neighborhood, his family left their home north of Baghdad with only the possessions they could carry. Abed now lives in a desolate area of Baghdad away from others, in a tent lined with plastic election posters to keep water out. The family moves from

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<sup>267</sup> Human Rights Watch interview with Zainab A. (full name withheld), Baghdad, April 9, 2010.

<sup>268</sup> According to UNHCR, 1.2 million Iraqis were displaced before 2006 and 1.5 million since then. UNHCR Iraq, "Monthly Statistical Update on Return," October 2009, <http://www.uniraq.org/documents/Return%20Update%20IRAQ%20OCT%202009.pdf> (accessed September 11, 2010), p. 1. See also Internal Displacement Monitoring Centre, "Little new displacement but around 2.8 million Iraqis remain internally displaced," March, 2010. IDMC maintains an internet database on situation of internal displacement in Iraq available at <http://www.internal-displacement.org/countries/iraq> (accessed September 11, 2010).

<sup>269</sup> Elizabeth Campbell, "Iraq: Humanitarian Needs persist," Refugees International, March 17, 2010, [http://www.refugeesinternational.org/sites/default/files/031710\\_iraq.pdf](http://www.refugeesinternational.org/sites/default/files/031710_iraq.pdf) (accessed September 11, 2010).

<sup>270</sup> Ibid.

<sup>271</sup> Ibid.

place to place as he looks for work as a casual laborer. None of his six children attend school and the family has no running water or electricity.<sup>272</sup>

Many IDPs in Baghdad huddle together in squatter settlements under bridges, alongside railroad tracks, and among garbage dumps.<sup>273</sup> Human Rights Watch visited an IDP settlement in the Chikook suburb of northwest Baghdad, where some 12,000 Iraqis found refuge after fleeing their homes during the sectarian violence that enveloped the country in 2006. A clean-up campaign launched by UNHCR last year improved the area, but Iraqis in Chikook still live in appalling conditions.<sup>274</sup> Heaps of strewn out garbage lie in between compounds. The area still has no sewage system, safe drinking water, garbage collection, or other basic services.

Hassan moved to Chikook with his wife, five children, and a few possessions after fleeing his home in the town of Taji, 30 kilometers north of Baghdad, in 2006. Soon after the Samarra bombing in February 2006, armed men arrived at his door in Taji and gave him three days to leave, saying he belonged to the wrong sect. Like other IDPs we interviewed, he has no foreseeable plans to move back to his community. The only support he has received is from local NGOs, which provided the family with blankets. His biggest fear is that the government will evict him from his small house because he does not have permission to live there as a squatter.<sup>275</sup>

Community leaders complained that the government needs to do more to help the residents of Chikook. They fear that authorities will try to evict them since many consider the settlement to be an eyesore.<sup>276</sup> In the nearby squatter settlement of al-Batool, two kilometers from Chikook, community leaders said the government evicted 800 families (with compensation). They said that government pressure on residents to leave Chikook eased only after movie star Angelina Jolie visited the settlement in July 2009.

Iraq's government has been unable to uphold a number of the basic human rights in the Guiding Principles on Internal Displacement,<sup>277</sup> including the right to an adequate standard of living,<sup>278</sup> medical care,<sup>279</sup> and dignity and physical, mental, and moral integrity.<sup>280</sup>

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<sup>272</sup> Human Rights Watch interview with Abed Mahsan, Baghdad, April 9, 2010.

<sup>273</sup> Elizabeth Campbell, "Iraq: Humanitarian Needs persist."

<sup>274</sup> UNHCR, "Thousands of Iraqis benefit from UNHCR clean-up campaign in Baghdad," April 29, 2009, <http://www.unhcr.org/49f869742.html> (accessed September 11, 2010).

<sup>275</sup> Human Rights Watch interview with Hassan (full name withheld), Baghdad, April 9, 2010.

<sup>276</sup> Human Rights Watch interview with Chikook community leaders, (names withheld), Baghdad, April 9, 2010.

<sup>277</sup> The Guiding Principles on Internal Displacement (the Guiding Principles), adopted in September 1998 by the UN General Assembly, reflect international humanitarian law as well as human rights law, and provide a consolidated set of international

## Religious and Ethnic Minorities

While Iraqis from all ethnic communities and religious denominations suffered from violence in the years that followed the US-led occupation, smaller minority communities, especially non-Muslims, have been particularly vulnerable. Some armed groups have attacked members of the Christian (also known as Chaldo-Assyrian), Yazidi, and Shabak communities, labeling them “crusaders,” “devil-worshippers,” and “infidels,” respectively.<sup>281</sup> Attacks against minorities have had a profound effect by targeting their communities’ social infrastructure, leaving victims and others fearful to carry on with their everyday lives. Lacking militias and tribal structures to defend themselves, a disproportionate number have fled the country.<sup>282</sup>

Although the government publicly condemns violence against minority groups, it has not taken sufficient measures to bolster security in areas where minorities are particularly vulnerable to attacks, and community leaders say that attacks are almost never thoroughly investigated. Iraqi security forces rarely apprehend, prosecute, and punish perpetrators of such attacks, which has created a climate of impunity.

### *Sabian Mandaean*

Since 2003, the Sabian Mandaean—one of the world’s oldest religious groups— have fled the country en masse after targeted attacks against their community. Since then, almost 90 percent of their community has either fled Iraq or died.<sup>283</sup> An estimated 3,500 to 5,000 Sabians remain in Iraq today, compared with a reported 50,000 to 60,000 in 2003.<sup>284</sup> Now scattered in

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standards governing the treatment of the internally displaced. Although not a binding instrument, the Guiding Principles are based on international laws that bind states, and they have acquired authority and standing in the international community.

<sup>278</sup> Ibid., Principle 18.

<sup>279</sup> Ibid., Principle 19.

<sup>280</sup> Ibid., Principle 11.

<sup>281</sup> In November, 2009, Human Rights Watch released *On Vulnerable Ground*, a report documenting attacks by Sunni Arab extremist groups targeting Yazidis, Shabaks, and Assyrian Christians, and intimidation by KRG forces against minority political and civic associations in the disputed territories of northern Iraq. This chapter updates the findings of the 2009 report, includes recent developments in other parts of Iraq, and has a new section on the plight of the Sabian Mandaean. See Human Rights Watch, *On Vulnerable Ground: Violence Against Minority Communities in Nineveh Province’s Disputed Territories*, November 2009, <http://www.hrw.org/en/node/86357>.

<sup>282</sup> Although they only constitute about four per cent of Iraq’s population, minorities consist of between 15 and 64 percent of Iraqi refugees, depending on the country of refuge. See “Minorities living tormented days under sectarian violence,” IRIN, January 4, 2007, <http://www.irinnews.org/report.aspx?reportid=62981> (accessed December 22, 2010); and Chris Chapman and Preti Taneja, Minority Rights Group International, “Uncertain Refuge, Dangerous Return: Iraq’s Uprooted Minorities,” September 24, 2009, <http://www.minorityrights.org/8132/reports/uncertain-refuge-dangerous-return-iraqs-uprooted-minorities.html> (accessed December 22, 2010).

<sup>283</sup> United States Commission on International Religious Freedom, 2010 Annual Report: Iraq Chapter, May 2010, <http://www.uscirf.gov/images/ar2010/iraq2010.pdf>, (accessed September 11, 2010).

<sup>284</sup> Ibid.

small pockets around the world, Sabians are fearful that their global displacement will mean an end to their religion, language, and culture. The Sabians traditionally speak a variation of Aramaic, revere John the Baptist, and are indigenous to southern Iraq.

At the only Sabian Mandaean temple in Basra, community leader Naiel Thejel Ganeen told Human Rights Watch about the evening in 2006 that became the start of his enduring trauma.<sup>285</sup> Masked assailants carrying AK47s and pistols pulled over Ganeen, 55, while he was driving in Basra with his son. They forced his son to leave the car at gunpoint and abducted Ganeen in his own vehicle. He said his kidnappers kept referring to him as “*negis*” (impure) and said he had to pay them *jizya*.<sup>286</sup> His captors tortured him for nine days while keeping him blindfolded and bound in a dark cellar. His right arm is scarred from shrapnel from live rounds of ammunition shot by his kidnappers during a mock execution. Humiliated by what his kidnappers subjected him to, Ganeen refused to further discuss all the things they did to him over the nine days. On the last day, he said, after his kidnappers received a ransom of \$40,000, they threw him, blindfolded, in a trash heap. “The extremists considered us as part of the occupation though we’ve been in Iraq since before it was a country,” Ganeen said. “Most of our community has fled Iraq and will never return.”

Several Sabian Mandaean elders who listened as Ganeen told his story said they consider him lucky since he made it out alive, even though Ganeen says he is still haunted by the ordeal and continues to see a psychological counselor.

“The past seven years have been a calamity for Sabian Mandaeans—it’s devastating to see our community whittle away without any hope of returning,” said the community’s leader, Sheikh Sattar Jabbar al-Hulu.<sup>287</sup>

We met al-Hulu, wearing traditional, simple white garb and carrying a long cane, in Baghdad as he was preparing to preside over a purification ritual along the banks of the Tigris River. On the April 2010 day we met him, less than a dozen of his fellow Sabians came to participate in the ritual, which resembled a baptism. The men and women who participated in the ancient ceremony also wore white cloth, and walked slowly and barefoot into the muddy water in a scene that looked Biblical.

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<sup>285</sup> Human Rights Watch interview with Naiel Thejel Ganeen, Basra, April 11, 2010.

<sup>286</sup> *Jizya* is a head tax that early Islamic rulers demanded from their non-Muslim subjects in return for communal autonomy and military protection.

<sup>287</sup> Human Rights Watch interview with Sheikh Sattar Jabbar al-Hulu, Baghdad, April 25, 2010.

Since 2003, Sabian leaders estimate that scores of their community have perished, and they complained that there have been virtually no prosecutions for the murders. They said they have been targeted for a variety of reasons including their religion, their perceived wealth (many work as goldsmiths), and their inability to protect themselves without a militia of their own. Because their elders traditionally wear long beards, they have been attacked by Shia militants who have mistaken them for strictly observant Sunni Arabs (as many of the latter also grow long beards). One Sabian elder in Basra told us that armed militants attacked him and his bearded brother in their car in July 2006. “They dragged us out, kicking and punching us and shooting their weapons around us. They took us to a school where they were going to execute us because they said they suspected us of being Wahhabis.”<sup>288</sup> The Sabian elder was saved as an Iraqi army unit happened to drive into the area.

Along with violence, Sabian Mandaean whom we interviewed in Basra, Amara, and Baghdad say their communities have also suffered social and religious injustice, mainly from those “who try to ruin our standing and reputation by spreading false rumors about our religion. People here [in Iraq] are generally ignorant that we also believe that God is one. We face a lot of pressure to leave Iraq.”<sup>289</sup>

One Sabian community leader in Basra told us that Sabians were leaving Iraq even before 2003 but that there has been a “tenfold” increase since then. “Before—in Saddam’s time—we were all just Iraqis but now we are Christians, Sabians, Shia, Sunnis, Kurds, and so on. Our country and society have become fragmented.”<sup>290</sup>

According to another Sabian elder in Basra, there are no schools that teach their children in Aramaic. Sabian children must undertake Qur’anic studies at public schools. In history classes there are no references to Sabians, despite their being among the oldest communities in the country. Their girls and women also feel pressured to veil when in public, although their religion does not mandate this.<sup>291</sup>

Community leaders complained that they are unable to practice their religion freely and without fear. Governments at all levels have failed to prevent their exodus, they said. In

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<sup>288</sup> Wahhabis are adherents of a strict Sunni Islamic tendency that prevails in Saudi Arabia. Human Rights Watch interview with a Sabian Mandaean (name withheld), Amara, April 13, 2010.

<sup>289</sup> Human Rights Watch interview with five Sabian Mandaean leaders (names withheld), Basra, April 11, 2010.

<sup>290</sup> Ibid.

<sup>291</sup> Ibid.

2006, assailants using Ak-47s and other weapons attacked the Basra temple, damaging the structure.<sup>292</sup>

Sheikh Sattar said that some militant imams “have issued fatwas [religious edicts] against us, calling us infidels and people not of the book. These fatwas have encouraged extremists to target us for killings, forced conversions, kidnappings, and arbitrary taxes.”<sup>293</sup>

Although some imams have issued positive fatwas, Sattar said that members of his community face discrimination and hostility because of Muslim misconceptions about their religion. “People in our religion get harassed all the time. We can’t touch the food or fish of Muslims. Teachers don’t let Sabian students drink from or share the same cup of water with other students—they need to bring their own cups in order to drink.”

### *Chaldo-Assyrians*

Since 2003, armed groups proclaiming Islamist ideologies have opposed communities of different faiths living in their vicinity, especially ones with perceived ties to the supposedly Christian West and, by association, with the multinational forces in Iraq—they are perceived as accounting for a high proportion of the translators working for US forces, for example. These groups have repeatedly attacked the Chaldo-Assyrian community.<sup>294</sup>

The previous Ba’ath government permitted only Christians and Yazidis, whose religions do not prohibit alcohol use, to sell liquor. This made them easily identifiable as minorities because of their trade, which many observant Muslims frown upon. Militias have bombed, looted, and defaced liquor stores in Mosul and elsewhere.<sup>295</sup> Organized criminals sometimes faked a jihadist identity to mask a real motive of extortion and thievery. They regard Christians as rich and without protection, since Christians traditionally lack tribal or militia links.<sup>296</sup> Christians active in the jewelry and gold trade have been particular targets for kidnappings for ransom.

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<sup>292</sup> Ibid.

<sup>293</sup> Human Rights Watch interview with Sheikh Sattar Jabbar al-Hulu, Baghdad, April 25, 2010.

<sup>294</sup> Close to two-thirds of Iraqi Christians are Chaldeans (an Eastern rite of the Catholic Church), and close to one-third are Assyrians (Church of the East). The remainder of Iraqi Christians variously follow the Syrian Orthodox, Armenian Orthodox, Armenian Catholic (an Eastern rite of the Catholic Church), Anglican, or other Protestant faiths.

<sup>295</sup> According to the Christian and Other Religions Endowment Bureau in Iraq, approximately 95 percent of the country’s alcohol shops have closed following attacks and threats by Islamic extremists. See Preti Taneja, Minority Rights Group International, “Assimilation, Exodus, Eradication: Iraq’s minority communities since 2003,” February 11, 2007, <http://www.minorityrights.org/2802/reports/assimilation-exodus-eradication-iraqs-minority-communities-since-2003-arabic-edition.html> (accessed September 11, 2010).

<sup>296</sup> Ibid.

In late 2008 a systematic and orchestrated armed campaign of targeted killings and violence left 40 Chaldo-Assyrians dead and more than 12,000 displaced from their homes in Mosul.<sup>297</sup> Even before these attacks, Christians had been fleeing Iraq at much higher rates than other groups; their number fell to about 675,000 in 2008, from one million in 2003.<sup>298</sup> Assailants, most likely from groups professing radical Sunni Arab ideologies, targeted Christians in their homes, at work, and in places of worship.

In the three weeks leading up to the March 7, 2010 national elections, assailants killed 10 Christians in Mosul in attacks that appeared politically motivated.<sup>299</sup> The violence prompted 4,300 Christians to flee the city to the Nineveh Plains. Iraqi and Kurdish government officials condemned the attacks, and the Government of Iraq established an investigative committee, but almost a year after the attacks no perpetrators had been identified or arrested.<sup>300</sup>

On October 31, 2010, in one of the most devastating attacks against Christians, gunmen in explosive vests stormed Baghdad's Our Lady of Salvation Catholic Church, during Sunday Mass. The gunmen reportedly identified themselves as members of the Islamic State of Iraq, an al-Qaeda-linked group, and took more than a hundred hostages. Two priests and 44 worshippers were killed when Iraqi security forces stormed the building.<sup>301</sup>

The armed group promised more attacks, declaring Christians everywhere "legitimate targets."<sup>302</sup> In the weeks that followed, armed men shot dead Christians in Mosul and targeted Christian homes throughout Baghdad with mortar shells and homemade bombs, killing at least three and wounding 26.<sup>303</sup> According to the UN High Commissioner for

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<sup>297</sup> Human Rights Watch, *On Vulnerable Ground*.

<sup>298</sup> US Department of State, "International Religious Freedom Report 2008," <http://www.state.gov/g/drl/rls/irf/2008/108483.htm>. Other reports place the number of Christians remaining in Iraq even lower, at about 250,000 people. See "Iraq: Is it really coming right?" *Economist*, November 27, 2008, [http://www.economist.com/displayStory.cfm?story\\_id=12678343](http://www.economist.com/displayStory.cfm?story_id=12678343) (accessed September 11, 2010).

<sup>299</sup> Human Rights Watch, *On Vulnerable Ground*.

<sup>300</sup> United States Commission on International Religious Freedom, 2010 Annual Report: Iraq Chapter, May, 2010, <http://www.uscirf.gov/images/ar2010/iraq2010.pdf> (accessed September 11, 2010).

<sup>301</sup> Peter Bouckaert and Samer Muscati, "Iraq: Deadly Reminders of Unfinished Business," *The Huffington Post*, December 1, 2010, [http://www.huffingtonpost.com/peter-bouckaert/iraq-deadly-reminders-of\\_b\\_790683.html](http://www.huffingtonpost.com/peter-bouckaert/iraq-deadly-reminders-of_b_790683.html) (accessed December 20, 2010).

<sup>302</sup> John Leland "In Grief and Defiance, Baghdad's Christians Return to Scene of Attack," *New York Times*, November 7, 2010, <http://www.nytimes.com/2010/11/08/world/middleeast/08baghdad.html?scp=3&sq=iraq%20church&st=cse> (accessed November 8, 2010).

<sup>303</sup> Kristen Chick, "Iraqi Christians targeted in another slew of attacks," *The Christian Science Monitor*, November 10, 2010, <http://www.csmonitor.com/World/terrorism-security/2010/1110/Iraqi-Christians-targeted-in-another-slew-of-attacks> (accessed December 20, 2010).

Refugees, about 1,000 Christian families fled Baghdad and Mosul to northern Iraq after these latest attacks.<sup>304</sup>

The attack on Our Lady of Salvation was the latest in a continuing assault against Christian places of worship. On July 12, 2009, assailants bombed seven churches in Baghdad, killing four and injuring 18. In November and December 2009, assailants bombed five churches and a covenant in Mosul, killing seven and injuring 40.

Christian leaders say they are helpless as the government has failed to prevent attacks and protect their areas. Government investigations are rare and ineffective. In October 2008, Iraq's Ministry of Human Rights created a committee to investigate the Mosul attacks that killed 40 Christians.<sup>305</sup> The committee's unpublished report drew no conclusions as to who was behind the attacks, or whether Iraqi security forces could have prevented them, but did state that evidence indicated that the campaign was "targeted," "systematic," and "pre-arranged."<sup>306</sup> Similar to other attacks against minorities, no one was ever arrested, charged, or prosecuted, according to community leaders.

Two days before we visited Al-Hazin church in Amara, one of the oldest churches in southern Iraq, a church leader told us that thieves had broken into the complex and left a threat in the form of a bullet. "We can't say anything because we are afraid," a church leader told us. "In Iraq, human life is worthless, not even worth a penny. And what about the Christians? Their life is not even worth close to that."<sup>307</sup>

Chaldo-Assyrian women in Amara say they have started wearing hijabs and abayas (cloaks) after 2003 even though it is not part of their religion. In order to maintain good relations with Muslims, the Christian community in Amara does not smoke or eat in public during Ramadan. "We've had to adopt their traditions, we don't even celebrate during Christmas if it falls in Muharram."<sup>308</sup> In December 2009, Basra's Chaldean bishop called on Christians in southern Iraq to refrain from public Christmas celebrations because of its coinciding with Muharram.

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<sup>304</sup> "Christians flee central Iraq in thousands, UN reports," *BBC*, December 17, 2010, <http://www.bbc.co.uk/news/world-middle-east-12022146> (accessed December 19, 2010).

<sup>305</sup> Administrative order no. A/15178 dated October 14, 2008.

<sup>306</sup> Iraq Ministry of Human Rights Fact-Finding Committee, "Report on Displacement of Christian Families in Nineveh Governorate," undated, copy obtained and on file with Human Rights Watch.

<sup>307</sup> Human Rights Watch interview with a church leader, Amara, April 13, 2010.

<sup>308</sup> Muharram is the Shia holy month that marks the seventh-century death of Imam Hussein, a grandson of the Prophet Mohammed. Human Rights Watch interview with a church leader, Amara, April 13, 2010.

## Shabaks

Shabaks number between 200,000 and 500,000, and live mainly in the Nineveh Plains, an area contested between the Iraqi government and Kurdistan Regional Government.<sup>309</sup> Insurgent groups have targeted them because about 70 percent of Shabaks adhere to the Shia sect of Islam, which many Sunnis regard as heretical: for example, the Islamic State of Iraq distributed a flyer dated October 16, 2007, in Mosul that described Shabaks as “rejectors” of Islam and asserted that it is “an obligation to kill them and to displace them with no mercy.”<sup>310</sup> Since 2004, Shabak groups have reported to the UN that more than 750 members of their community have perished in armed attacks.<sup>311</sup> Unlike attacks against Christians, these have generally gone unnoticed by media outside of the country because of the community’s obscurity and lack of an influential diaspora.

In one of the worst attacks in Iraq since 2003, on August 11, 2009, two large flatbed trucks packed with bombs exploded simultaneously in the Shabak village of al-Khazna. The force of the blast destroyed the town, leaving 65 houses in heaps of rubble. The casualty toll was at least 35 killed and almost 200 wounded.<sup>312</sup>

Although no group claimed responsibility, the attack bore similarities to previous attacks by Sunni insurgent groups and al-Qaeda in Mesopotamia.

Since 2008, Shabak leaders who have opposed KRG policies in their territory have increasingly been targeted for attack, with Kurdish forces implicated in some of the incidents.<sup>313</sup>

On January 7, 2009, Shabak leader and former parliamentarian Hunain al-Qaddo told Human Rights Watch that he had survived an assassination attempt that day in the town of Ali Rish, in the Nineveh Plains.<sup>314</sup> Al-Qaddo said he was on his way with other Shabaks to participate in the Shia religious festival of Ashura when his convoy came under fire from men wearing

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<sup>309</sup> US Department of State, “International Religious Freedom Report 2008,” <http://www.state.gov/g/drl/rls/irf/2008/108483.htm> (accessed September 11, 2010).

<sup>310</sup> According to UN officials who have seen the flyer, as brought to the attention of Human Rights Watch.

<sup>311</sup> UNAMI, “Human Rights Report: 1 July – 31 December 2008,” pp. 15-16.

<sup>312</sup> Sam Dagher, “Minorities Trapped in Northern Iraq’s Maelstrom,” *New York Times*, August 15, 2009, <http://www.nytimes.com/2009/08/16/world/middleeast/16khazna.html> (accessed September 11, 2010); Ernesto Londoño and Dlovan Brwari, “Blasts Kill at Least 53 in Iraq,” *Washington Post*, August 11, 2009, <http://www.washingtonpost.com/wp-dyn/content/article/2009/08/10/AR2009081000333.html?hpid=topnews> (accessed September 11, 2010).

<sup>313</sup> Human Rights Watch, *On Vulnerable Ground*.

<sup>314</sup> Human Rights Watch telephone interview with Hunain al-Qaddo, August 19, 2009. See also Daniel W. Smith, “Security Forces Fire at MP’s Vehicle in Ninewa,” *IRAQSlogger.com*, January 8, 2009.

Kurdish security uniforms. When we met with him in Baghdad in April 2010, he said that the security situation for the Shabak community was continuing to deteriorate. “On the one hand, we are targeted by terrorists, and on the other, we are targeted by Kurdish security forces.”<sup>315</sup>

On March 7, 2010, Qusay Abbass, an elected member of Nineveh’s provincial council representing the Shabak quota seat, was hospitalized after *peshmerga* (KRG militia) shot him twice at a checkpoint near al-Khazna polling station.<sup>316</sup> Neither the Kurdistan nor Iraqi authorities announced any investigation into the incident. Months earlier, on August 16, 2009, an improvised explosive device targeted Abbass’s convoy as he drove to Mosul, lightly injuring him and two of his bodyguards.<sup>317</sup>

### *Yazidis*

The plight of the Yazidis, similar to that of the Shabaks, has gone largely unnoticed despite devastating attacks. Numbering between 550,000 and 800,000, Yazidis have deep roots in the Nineveh area, living mainly around Sinjar and with smaller communities in the Sheikhan region and in the Kurdish cities of Arbil, Dohuk, and Sulaimaniyya.<sup>318</sup> Yazidis practice a 4,000-year-old religion that centers on Maluk Ta’us, the Peacock Angel. Historically, they have been subject to sharp persecution owing to their beliefs and practices, which have been misconstrued as satanic.<sup>319</sup>

In the worst attacks against civilians anywhere in Iraq since 2003, on the evening of August 14, 2007, four simultaneous truck bombings killed more than 300 Yazidis and wounded more than 700 in the Sinjar district communities of Qahtaniya, Jazira, and Azair, and destroyed nearly 400 homes.<sup>320</sup>

Yazidis continue to be targeted. On August 13, 2009, two suicide bombers detonated vests packed with explosives in a popular café in Sinjar city, whose inhabitants are mainly Yazidi,

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<sup>315</sup> Human Rights Watch interview with Hunain al-Qaddo, Baghdad, April 3, 2010.

<sup>316</sup> “Assassination attempt on Mr. Qusay Abbas Shabak representative in Mosul Governorate,” *ShabakNews*, March 7, 2010, <http://www.shabaknews.com/> (accessed September 11, 2010).

<sup>317</sup> Human Rights Watch telephone interview with Qusay Abbass, August 20, 2009.

<sup>318</sup> Chris Chapman and Preti Taneja, Minority Rights Group International, “Uncertain Refuge, Dangerous Return: Iraq’s Uprooted Minorities,” September 24, 2009, <http://www.minorityrights.org/8132/reports/uncertain-refuge-dangerous-return-iraqs-uprooted-minorities.html> (accessed September 25, 2009); Minority Rights Group International, “World Directory of Minorities and Indigenous Peoples – Iraq Overview,” April 2008, <http://www.minorityrights.org/5726/iraq/iraq-overview.html> (last accessed November 9, 2010).

<sup>319</sup> *Ibid.*

<sup>320</sup> Campbell Robertson, “Followers of Ancient Faith Caught in Iraq’s Fault Lines,” *New York Times*, October 13, 2008, <http://www.nytimes.com/2008/10/14/world/middleeast/14yazidi.html> (accessed September 11, 2010).

killing at least 21 people and injuring 32.<sup>321</sup> After no response or help from the government after the attack, Yazidi residents in Nineveh surrounded five of their villages with sand barriers in a desperate attempt to protect themselves.<sup>322</sup>

## **Persons with Disabilities**

### *Physical Disabilities*

On February 11, 1986, at the height of the Iran-Iraq war, Falah Ali, a tank commander in Basra, lost his legs after his T-55 tank was hit by a rocket.<sup>323</sup> Three of his comrades were killed in the attack. He believes his life was spared because his torso was leaning out the roof hatch when the rocket hit the vehicle.<sup>324</sup>

Ali told Human Rights Watch that new prosthetics legs are rare in Iraq, so he has worn the same ones given to him by the government back in 1987. Ali considers himself lucky because he is able to pay for medical treatment while “poorer amputees have nothing and are hopeless.”<sup>325</sup>

Starting in 1991, the government of Saddam Hussein significantly reduced the benefits that Ali and other war amputees received. Ali has had to repair his prostheses himself or at a car repair shop. For most Iraqis, navigating through checkpoints in Baghdad is a time-consuming and frustrating process, but for Ali, the stakes are much higher. He said he is at risk every time he is searched because police sometimes mistake him for a suicide bomber when they discover the wires he has used to repair his prosthetics. “For a country that is so rich in resources, why are there so few services for disabled people, especially those injured serving Iraq in war?” Ali asked.<sup>326</sup>

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<sup>321</sup> Sameer N. Yacoub, “Double suicide bombing kills more than 20 in Iraq,” Associated Press, August 13, 2009, [http://www.google.com/hostednews/ap/article/ALeqM5hwK\\_CSpBxsNuVUEaDuOwmSSCiqGwD9A24LUoo](http://www.google.com/hostednews/ap/article/ALeqM5hwK_CSpBxsNuVUEaDuOwmSSCiqGwD9A24LUoo) (accessed September 11, 2010). Mujahid Mohammed, “Twenty-one killed in Iraq suicide bombing,” Agence France-Presse, August 13, 2009, <http://www.google.com/hostednews/afp/article/ALeqM5heyhKhE3cqsBzEzYfqbolyAArnGrQ> (accessed September 11, 2010).

<sup>322</sup> Yazidi villagers build sand barriers to guard against attacks,” Aswat al-Iraq, August 17, 2009, <http://en.aswataliraq.info/?p=117617> (accessed January 10, 2011).

<sup>323</sup> While all the persons with disabilities interviewed in this chapter have conflict-related disabilities, there are also thousands of Iraqis who are born with or acquire disabilities because of disease or non-war related injuries.

<sup>324</sup> Human Rights Watch interview with Falah Ali, Baghdad, April 5, 2010.

<sup>325</sup> Ibid.

<sup>326</sup> Ibid.

For Ali and other persons with disabilities, the lack of rehabilitation and other services can have serious consequences on their ability to enjoy other rights, such as education, employment, and family life, among others. When Ali tries to access government services, he has to stand in line and wait for prolonged periods with everyone else, which he finds difficult. Iraq's public buildings are also not designed to accommodate persons with disabilities.

There are no official figures on how many persons with disabilities live in Iraq, but estimates range from one to three million.<sup>327</sup> According to its Constitution, Iraq should safeguard the rights of persons with disabilities and “ensure their rehabilitation in order to reintegrate them into society.”<sup>328</sup> Iraq has taken some positive steps—the government is in the process of ratifying the Convention on the Rights of Persons with Disabilities (CRPD), and the Council of Representatives has before it a bill to establish a national body for the welfare of persons with disabilities. The government has assigned a proportion of government positions to persons with disabilities, and it has held conferences and workshops to raise awareness of the rights of persons with disabilities and to promote their integration into society.<sup>329</sup>

Despite these efforts, Iraq's government has not taken the necessary steps to ensure that persons with disabilities do not face discrimination and enjoy their rights on an equal basis with others in Iraq, as required under the CRPD. This applies to the right to education, employment, personal mobility, healthcare, and comprehensive rehabilitation services and programs, among other things.

According to interviews with persons with disabilities, the government needs to do more to ensure access to education and employment, provide healthcare and other services, and reintegrate them into society.<sup>330</sup> Without specific efforts on their behalf, people with disabilities are unlikely to benefit from mainstream education and employment opportunities. Economic self-sufficiency for people with disabilities is essential to their integration in the community, social independence, ability to access services such as healthcare, support themselves and their families, and to increase their self-confidence.

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<sup>327</sup> The Iraqi Alliance of Disability Organizations estimates three million persons with disabilities live in the country. Iraq's health ministry reportedly put the number at between one million and three million: Aseel Kami, “Up to 10 percent of Iraqis disabled by war, sanctions,” Reuters, January 21, 2010, <http://uk.reuters.com/article/idUKTRE6oK2VA20100121> (accessed September 11, 2010).

<sup>328</sup> Constitution of the Republic of Iraq, Article 32.

<sup>329</sup> “National report submitted in accordance with paragraph 15 (A) of the annex to Human Rights Council Resolution 5/1,” Government of Iraq submission to the Universal Periodic Review, January 18, 2010, A/HRC/WG.6/7/IRQ/, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/173/37/PDF/G0917337.pdf?OpenElement> (accessed December 22, 2010).

<sup>330</sup> Human Rights Watch interview with staff at the Iraqi Alliance of Disability Organizations, Baghdad, April, 16, 2010.

One war amputee, who lost both his legs during the Iran-Iraq war after he stepped on a landmine in the border area near Amara in 1988, relies on a worn-out 20-year-old wheelchair.<sup>331</sup> Over the years he has had to replace almost every part—he said the only remaining original part of the wheelchair is the frame. “I can buy a new poorly constructed Chinese model that is worse than what I have now. But I can’t afford a proper \$750 model on my \$180 [war veteran’s] pension,” he said. “Iraq is a very difficult place for disabled people—society and the government do not care about us, no one will hire a disabled person.”

Another war amputee had his legs amputated after he contracted gangrene as a result of injuries received during an Iranian mortar attack east of Basra in 1987.<sup>332</sup> He said that he is unable to find employment because of discrimination. He also continues to rely on his worn-out 20-year-old wheelchair and is unable to afford medical care. “In Saddam’s time, we had a Veteran Affairs Department that helped, but now no such office exists. Healthcare was free to us before but not anymore.”

In Baghdad, Human Rights Watch met with the staff of a local NGO, the Iraqi Alliance of Disability Organizations, and interviewed war amputees, who told us that persons with disabilities cannot often afford necessary specialized medical treatments or even wheelchairs and other special equipment.<sup>333</sup>

To compound these challenges, a lack of qualified medical personnel, inadequate facilities, and security problems continue to plague healthcare services in Iraq. The Health Ministry has 21 rehabilitation centers and 12 prosthetics workshops, and lacks doctors and technicians to open more.<sup>334</sup>

In the 1990s, the country had 34,000 physicians registered with the Iraqi Medical Association. By 2008, this number dropped by almost half to around 16,000, a trend the country has not reversed despite a 2008 government appeal for medical staff to return to the country.<sup>335</sup> Nurses are also scarce. While the standard nurse-to-doctor ratio in most countries is around three to one, in Iraq, according to government estimates, the Iraq ratio is almost one to one. Facilities

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<sup>331</sup> Human Rights Watch interview with a war amputee (name withheld), Baghdad, April, 16, 2010.

<sup>332</sup> Human Rights Watch interview with a war amputee (name withheld), Baghdad, April, 16, 2010.

<sup>333</sup> Human Rights Watch interview with staff at the Iraqi Alliance of Disability Organizations, Baghdad, April, 16, 2010.

<sup>334</sup> Aseel Kami, “Up to 10 percent of Iraqis disabled by war, sanctions,” Reuters, January 21, 2010, <http://uk.reuters.com/article/idUKTRE6oK2VA2o10o121> (accessed September 11, 2010).

<sup>335</sup> International Committee of the Red Cross “Iraq: Putting Healthcare System Back on its Feet,” July 28, 2010, <http://www.alertnet.org/thenews/fromthefield/220224/a5331e6e305ccc980od6f78cc16a1e3.htm> (accessed September 11, 2010).

already coping with poor electricity or water supplies frequently have to deal also with unreliable sewage or air-cooling systems and inadequate solid-waste disposal. Equipment is often old and poorly maintained, and sometimes not operated correctly.<sup>336</sup>

Professionals, including medical personnel, have been prime targets for abductions by insurgents and criminals. Between 2003 and 2008, official Iraqi sources reported that targeted violence killed more than 2,200 doctors and nurses.<sup>337</sup> Many more escaped threats by fleeing to neighboring countries.

### *Invisible Impacts of War*

Decades of repression and violence have traumatized people at every level of Iraqi society. Iraqi psychiatrists say mental disabilities are on the rise across the country.<sup>338</sup> Iraq's government has earmarked less than 1 per cent of the country's total healthcare budget to mental health, has failed to establish community mental health centers, has been unable to secure essential pharmaceuticals, and has not developed a viable mental healthcare monitoring system.<sup>339</sup> A 2007-2008 national mental health national survey carried out by the Iraq Ministry of Health in collaboration with the World Health Organization found that only a minority of people with mental disabilities received any treatment.<sup>340</sup> The survey results also showed that only a minority of patients who seek treatment for mental disabilities in Iraq receive treatment that meets even the most minimal standards of adequacy.

In every city Human Rights Watch visited, we met with Iraqis who had experienced trauma first-hand and were still struggling with its effects: a woman in Baghdad who tried to burn herself to death because of spousal abuse; a detainee in Al Rusafa prison who now suffers from insomnia and bedwetting as a result of torture; a Sabian leader in Basra who has

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<sup>336</sup> Ibid.

<sup>337</sup> International Committee of the Red Cross "Iraq: No Let Up in the Humanitarian Crisis," March 2008. [http://www.icrc.org/web/eng/siteeng.nsf/htmlall/iraq-report-170308/\\$file/ICRC-Iraq-report-0308-eng.pdf](http://www.icrc.org/web/eng/siteeng.nsf/htmlall/iraq-report-170308/$file/ICRC-Iraq-report-0308-eng.pdf) (accessed September 11, 2010).

<sup>338</sup> Natalia Antelava, "Iraq struggles with mental healthcare crisis," BBC, May 21, 2009, <http://news.bbc.co.uk/2/hi/8062563.stm> (accessed September 11, 2010). Mental disability, also referred to as psycho-social disability, relates to the interaction between psychological differences and social/cultural limits for behavior as well as the stigma that society attaches to persons with mental impairments. World Network of Users and Survivors of Psychiatry, Manual on Implementation of the Convention on the Rights of Persons with Disabilities, p. 9 <http://www.chrusp.org/home/resources> (accessed on January 5, 2011).

<sup>339</sup> Hamada Hamid and Anita Everett, "Developing Iraq's Mental Health Policy," Psychiatric Services., October 2007, 58(10):1355-7, <http://psychservices.psychiatryonline.org/cgi/reprint/58/10/1355.pdf> (accessed December 22, 2010).

<sup>340</sup> Alhasnawi S., Sadik S., Rasheed M., Baban A., Al-Alak M.M. et al. "The prevalence and correlates of DSM-IV disorders in the Iraq Mental Health Survey (IMHS)." *World Psychiatry* 8, 2009, 97-109, [http://www.wpanet.org/uploads/Latest\\_News/Other\\_News/iraq-mental-health-updated.pdf](http://www.wpanet.org/uploads/Latest_News/Other_News/iraq-mental-health-updated.pdf) (accessed December 22, 2010).

flashbacks years after he was kidnapped and tortured; a woman at an IDP camp in Baghdad who is still traumatized after assailants abducted her husband and son in front of her at a checkpoint years earlier, never to be seen again.

According to the UN World Health Organization (WHO), the fourth leading cause of morbidity among Iraqis older than five years is “mental disorders,” which ranked higher than infectious disease.<sup>341</sup>

According to Iraq’s psychiatric association, the country has only 100 psychiatrists to serve a population of about 30 million . Many people self-medicate, and prescription drug abuse is now the number one substance abuse problem in Iraq. Al-Rashad, the country’s largest government-funded mental health facility, has seen a 10 percent increase in patients this year, and has had to turn people away because of over-crowding.<sup>342</sup>

## **International Standards Protecting the Rights of Persons with Disabilities**

The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, to which Iraq acceded on August 15, 2007, requires states to provide assistance for the care and rehabilitation, and social and economic reintegration, of mine victims and for mine awareness programs.<sup>343</sup>

The Convention on the Rights of Persons with Disabilities (CRPD), which Iraq has pledged to ratify (and is completing domestic procedures for accession) makes explicit that the human rights enumerated in other major human rights documents apply with equal force and in particularly important ways to individuals with disabilities.<sup>344</sup> Several articles in the CRPD are particularly relevant in the Iraqi context. Article 11 of the CRPD requires that states shall take “all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.”<sup>345</sup>

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<sup>341</sup> WHO Eastern Mediterranean Regional Office, Division of Health System and Services Development, Health Policy and Planning Unit, “Health Systems Profile: Iraq,” 2005.

<sup>342</sup> Leila Fadel, “Mental Illness epidemic swamps Iraq facilities,” *Washington Post*, June 18, 2010. <http://news.mobile.msn.com/en-us/articles.aspx?afid=1&aid=37773904&pg1=1> (accessed September 11, 2010).

<sup>343</sup> Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, adopted September 18, 1997, entered into force, March 1, 1999. Article 6(3).

<sup>344</sup> Convention on the Rights of Persons with Disabilities (CRPD), adopted December 13, 2006, G.A. Res. 61/106, Annex I, U.N. GAOR, 61st Sess., Supp. (No. 49) at 65, U.N. Doc. A/61/49 (2006), entered into force May 3, 2008.

<sup>345</sup> CRPD, art. 11.

One of the core principles of the CRPD is accessibility. In implementing the CRPD, States are obligated to “enable persons with disabilities to live independently and participate fully in all aspects of life ...”<sup>346</sup> This includes measures to ensure that persons with disabilities have “access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas.”<sup>347</sup> The CRPD also includes specific provisions on the right to education and employment for persons with disabilities.<sup>348</sup>

Article 20 of the CRPD requires states parties to “take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities.”<sup>349</sup> This includes “facilitating access by persons with disabilities to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries, including by making them available at affordable cost.”<sup>350</sup>

The highest attainable standard of health is a fundamental human right enshrined in numerous international and regional human rights instruments, including the Universal Declaration of Human Rights, the ICESCR, the CRC, CEDAW, and the CRPD. The ICESCR specifies that everyone has a right “to the enjoyment of the highest attainable standard of physical and mental health,” and the CRPD clarifies that this right must be upheld “without discrimination on the basis of disability.”<sup>351</sup>

One of the core principles of international law regarding accessibility to health services is that of non-discrimination, especially for “the most vulnerable or marginalized sections of the population.”<sup>352</sup> The Committee on Economic, Social and Cultural Rights, which monitors states’ implementation of the ICESCR, has provided examples of what may constitute a failure of a government to fulfill its obligations with respect to the right to health. The examples include failing to adopt or implement a national health policy designed to ensure the right to health for everyone, insufficient expenditure or misallocation of available public

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<sup>346</sup> CRPD, art. 9.

<sup>347</sup> CRPD, art. 9.

<sup>348</sup> CRPD, arts. 24 and 27.

<sup>349</sup> CRPD, art. 20.

<sup>350</sup> Ibid.

<sup>351</sup> CRPD, art. 25.

<sup>352</sup> CESCR, General Comment No. 14, para 12(b).

resources which leads to the non-enjoyment of the right to health by individuals or groups, particularly the vulnerable or marginalized.<sup>353</sup>

CRPD provisions on rehabilitation are particularly important for amputees and other war-wounded in Iraq. Rehabilitation is the process of removing or reducing as far as possible the factors that limit a person with a disability so that he or she can attain the highest possible level of independence and quality of life. Interventions may include medical care, supply of assistive devices, physical or occupational therapy, psycho-social services, or other social support.<sup>354</sup> Article 26 obligates States to “organize, strengthen and extend comprehensive rehabilitation services and programmes, particularly in the areas of health, employment, education and social services.”<sup>355</sup>

## International Standards Protecting Minority Rights

Iraq made a declaration, upon gaining independence and joining the League of Nations in 1932, that it would protect the rights of minorities—the first non-European state to so declare. With the formation of the United Nations after World War II, the international community recognized the particular vulnerability of minorities around the world to human rights abuses. In December 1948 the UN General Assembly adopted the Convention on the Prevention and Punishment of the Crime of Genocide.<sup>356</sup> In 1971, Iraq ratified the International Covenant on Civil and Political Rights.<sup>357</sup> Article 26 of the Covenant prohibits discrimination on grounds of race, religion, and language, and article 27 states: “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.”

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<sup>353</sup> See UN Committee on Economic, Social and Cultural Rights, “Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights,” General Comment No. 14, The Right to the Highest Attainable Standard of Health, E/C.12/2000/4 (2000).

<sup>354</sup> Women’s Commission for Refugee Women and Children, “Disabilities Among Refugees and Conflict-Affected Populations,” June 2008.

<sup>355</sup> CRPD, art. 26.

<sup>356</sup> Genocide Convention, adopted by Resolution 260(III)A of the United Nations General Assembly, December 9, 1948, G.A. Res. 260 (III) A, entered into force January 12, 1951.

<sup>357</sup> International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, GA. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, ratified by Iraq on January 25, 1971.

Iraq assumed the obligation to protect minority rights by also ratifying the International Convention on the Elimination of All Forms of Racial Discrimination<sup>358</sup> and the Convention on the Rights of the Child.<sup>359</sup> The latter specifically requires the education of a child to be directed to the “development of ... his or her own cultural identity, language and values” and gives a child of a religious minority the right “to enjoy his or her own culture, [and] to profess and practise his or her own religion.”<sup>360</sup>

Additionally, the United Nations General Assembly (UNGA) passed declarations that articulate best practices and human rights standards for the protection of minorities. The UNGA Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981) protects the “freedom to have a religion ... and freedom ... to manifest his religion or belief in worship, observance, practice and teaching”, and prohibits “coercion which would impair [t]his freedom.”<sup>361</sup> Assembly for worship, observance of religious holidays, maintaining and erecting buildings for worship, acquiring items for use in religious rituals, religious teaching and appointment of religious leaders, fundraising for religion, and communication with coreligionists are activities that fall within the protection of freedom of religion.<sup>362</sup> According to the UNGA’s Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities (1993), states are obliged to take “measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs.”<sup>363</sup> The declaration also says that states must protect the identity of minorities within their respective territories by encouraging “conditions for the promotion of that identity” and measures allowing minority members to “participate fully in the economic progress and development in their country.”<sup>364</sup> It states that minorities have the right to establish and maintain their own associations. Minorities also have “the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority.”<sup>365</sup>

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<sup>358</sup> International Covenant on the Elimination of All Forms of Racial Discrimination (ICERD), adopted December 21, 1965, G.A. Res. 2106 (XX), annex, 20, U.N. GAOR Supp. (No. 14) at 47, U.N. Doc. A/6014 (1966), 660 U.N.T.S. 195, entered into force January 4, 1969, ratified by Iraq on January 14, 1970.

<sup>359</sup> Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167 U.N. Doc. A/44/49 (1989), entered into force September 2, 1980. Iraq acceded to the Convention on June 15, 1994.

<sup>360</sup> *Ibid.*, arts. 29 and 30.

<sup>361</sup> Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, G.A. res. 36/55, 36 U.N. GAOR Supp. (No. 51) at 171, U.N. Doc. A/36/684 (1981), art. 1.

<sup>362</sup> *Ibid.*, art. 6.

<sup>363</sup> Declaration of the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities, G.A. res. 47/135, annex, 47 U.N. GAOR Supp. (No. 49) at 210, U.N. Doc. A/47/49 (1993), art. 4.

<sup>364</sup> *Ibid.*, arts. 1 and 5.

<sup>365</sup> *Ibid.*, art. 2.

Minority rights protections are further incorporated into international law through regional instruments, such as the Council of Europe's Framework Convention for the Protection of National Minorities and the European Charter for Minority Languages, and the Arab Charter on Human Rights.<sup>366</sup> The Arab Charter, adopted by the Council of the League of Arab States in 2004, states that "minorities shall not be deprived of their right to enjoy their culture or to follow the teachings of their religions."<sup>367</sup> Further, the Arab Charter prohibits denying an individual's rights because of his or her "race, colour, sex, language, religion, political opinion, national or social origin, property, birth or other status and without any discrimination between men and women."<sup>368</sup>

## National Standards Protecting the Rights of Minorities and Persons with Disabilities

Iraq's constitution, in article 2, "guarantees the full religious right" and "freedom of religious belief and practice of all individuals" such as Christians, Yazidis, and Sabian Mandeans.<sup>369</sup> Article 3 explicitly recognizes that Iraq is a country of multiple nationalities, religions, and sects.<sup>370</sup> Article 4 guarantees the right to educate children in their mother tongue (such as Turkmen, Syriac, and Armenian).<sup>371</sup> According to article 14, all Iraqis are "equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion, or economic or social status."<sup>372</sup>

Iraq's constitution guarantees social and health security, as well as housing and special care and rehabilitation programs, to Iraqis in cases of old age, sickness, employment disability, homelessness, orphanhood, or unemployment.<sup>373</sup> Article 32 demands that Iraq safeguard the rights of persons with disabilities and "ensure their rehabilitation in order to reintegrate them into society."<sup>374</sup>

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<sup>366</sup> Framework Convention for the Protection of National Minorities, adopted February 1, 1995, ETS No. 157, entered into force February 1, 1998; European Charter for Regional or Minority Languages, adopted May 11, 1992, CETS No. 148, entered into force January 3, 1998; Revised Arab Charter on Human Rights, May 22, 2004, reprinted in 12 Int'l Hum. Rts. Rep. 893 (2005), entered into force March 15, 2008.

<sup>367</sup> Arab Charter, art. 25.

<sup>368</sup> Ibid., art. 2.

<sup>369</sup> Constitution of the Republic of Iraq, 2005, art. 2(2). The identity of Sabian Mandeans, Chaldean-Assyrian Christians and Yazidis, as well as Shabaks, is explained in Chapter III.

<sup>370</sup> Constitution of the Republic of Iraq, art. 3.

<sup>371</sup> Ibid., art. 4.

<sup>372</sup> Ibid., art. 14.

<sup>373</sup> Constitution of the Republic of Iraq, article 31(2).

<sup>374</sup> Constitution of the Republic of Iraq, Article 32.

## Recommendations

### To the Government of Iraq

#### *Concerning Women's Rights*

- Amend the penal code and all other legislation to remove any law that discriminates against women and allows mitigation on grounds of “honor” for violent crimes against women;
- Finalize and pass a law to combat human trafficking with an emphasis on trafficking women and girls for the purposes of sexual exploitation. Trafficked women should not be punished under this law, and should be referred to social welfare agencies for financial assistance as well as health and social services;
- Provide preventive and protection programs and facilities, including adequate shelters, for women at risk of violence or abuse; and
- Ensure that widows can access government services and aid by removing burdensome documentation requirements.

#### *Concerning Freedom of Expression*

- Suspend and then amend penal and civil code provisions and other legislation and regulations to remove or precisely define, in line with international standards of freedom of expression, any vaguely expressed content-based restrictions, and to remove excessive penalties on journalists and media outlets, including imprisonment, suspensions, excessive fines, and equipment confiscation, especially for minor infractions;
- Investigate and prosecute assaults by security forces and others against journalists, and direct all security forces to end the use of force to intimidate, harass, arrest, rough up, or prevent journalists from doing their work; and
- Direct government agencies to stop filing politically motivated lawsuits against journalists and their publications.

#### *Concerning Torture*

- Properly train all police, security forces, and criminal justice officials in human rights and establish effective monitoring and accountability mechanisms;

- Launch independent and impartial Investigations into all allegations of torture and ill-treatment, and institute disciplinary measures or criminal prosecution, as appropriate, against officials at all levels who are responsible for the abuse of detainees;
- Conduct prompt medical examinations of detainees who allege abuse in detention or during interrogation;
- Publicly condemn any use of torture or other mistreatment in pretrial detention, including during interrogation with the aim of eliciting confessions;
- Finalize ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and ratify the Optional Protocol; and
- Invite the Special Rapporteur on Torture to examine the situation in all of Iraq's detention facilities.

### *Concerning Marginalized Groups*

- In line with the United Nations Guiding Principles on Internal Displacement, provide protection and assistance to internally displaced persons, including shelter, food, water, sanitation, and medical services. Prioritize the needs of vulnerable groups such as minorities;
- Develop a coherent, comprehensive national strategy on refugees and internally displaced persons to facilitate their voluntary return, local integration in places of displacement, or relocation to other places in safety and dignity. This plan should also provide a mechanism for fair resolution of property disputes involving displacement, compensation for loss of property, and assistance to relocate and reintegrate squatters evicted from places where they are living illegally, as well as assistance for returnees to reintegrate in accordance with the UN Guiding Principles and international refugee law;
- Protect minorities at all levels of government, including regional and local administrations;
- Initiate independent and impartial investigations of all killings, beatings, and torture against minorities;
- Ensure access to education and employment opportunities for persons with disabilities;
- Establish or strengthen healthcare and other services for persons with disabilities, including rehabilitation and psycho-social support;
- Facilitate access for persons with disabilities to quality mobility aids and other assistive devices, including by making them available at affordable cost; and
- In line with the convention on the rights of persons with disabilities, consult with disabled peoples' organizations and experts with disabilities in designing and implementing programs and policies to make sure they are disability-inclusive.

## **To the Governments of the United States and the United Kingdom**

- Continue to investigate and prosecute crimes by US and UK forces, including those with command responsibility, against Iraqis;
- Assist with legal reform in Iraq in to ensure existing laws are amended to be consistent with Iraq's obligations under international human rights standards;
- Continue to provide financial and technical assistance to civil society organizations providing services to women and girls who have suffered sexual violence, trafficking, or forced marriage, or who fear reprisals from their families in the form of honor killings;
- Ensure that no one at risk of torture or other ill-treatment is transferred into Iraqi custody;
- Press the Government of Iraq to promptly investigate all allegations of torture and ill-treatment, and criminally prosecute officials who are responsible for the abuse of detainees;
- Monitor and assist the performance of criminal justice, police, security, and counterterrorism institutions and personnel in Iraq to ensure full compliance with international human rights standards;
- Continue to make refugee resettlement places available for refugees who are not able or willing to return to Iraq, particularly for people who are persecuted or threatened because of their actual or imputed association with the United States and other vulnerable groups; and
- In addition to targeted funding for programs for persons with disabilities, make sure that all funded programs are accessible to persons with disabilities.

## Acknowledgments

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## HUMAN RIGHTS WATCH

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## Annex

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November 12, 2010

His Excellency Nuri Al Maliki  
Prime Minister  
Republic of Iraq  
Baghdad

Your Excellency,

Human Rights Watch is an international human rights organization that conducts investigations into human rights violations in more than 90 countries globally. We have a long history documenting human rights abuses in Iraq, particularly under the government of Saddam Hussein.

We are currently preparing a survey report focused on various human rights violations that we investigated during a four-week fact-finding mission in April 2010, when a Human Rights Watch research team visited the cities of Baghdad, Basra, Tikrit, Najaf, Karbala, Amara, and Sulaimaniyya. We interviewed 180 Iraqis, including victims of human rights abuses as well as rights activists, representatives of non-governmental organizations, journalists, lawyers, political and religious leaders, and government and security officials.

Based on that research, we will shortly be releasing a report documenting our findings on violence against women and minorities, the plight of persons with disabilities and internally displaced persons, freedom of expression, and torture.

The purpose of this letter is to share with the government those findings and also recommendations, and also to provide the government with an opportunity to comment on our findings and our recommendations so that we may reflect the government's perspective when we release the report. For this purpose we hope that the government can respond by December 5, 2010. We would also welcome the opportunity to meet with you prior to the release of our report, now expected in late December, to discuss these important matters further.

Below we share our main findings and recommendations, broken down by issue.

## 1. Rights of Women and Girls

a. *Findings.* The deterioration of security since 2003, combined with a rise in tribal influence, religiously-inflected political extremism, and hard-line conservative political parties, have all had a deleterious effect on women and girls. An increase in violence against women, including “honor” crimes and domestic abuse, as well as forced and early marriages, have contributed to a loss of autonomy and mobility for women. Women and girls also face the prospect of physical harm at the hands of militias and extremists. Iraqi law in some cases protects perpetrators of violence against women. Iraq’s penal code considers “honorable motives” to be a mitigating factor in serious crimes, including murder. The code also gives husbands a “legal right” to discipline their wives. Despite the fact that women and girls are trafficked in and out of the country for sexual exploitation a long-awaited anti-trafficking bill is on hold. Outside of Kurdistan, there are no government-run women’s shelters.

### b. *Recommendations*

- Amend the penal code and all other legislation to remove any provision that discriminates against women and allows mitigation on grounds of “honor” for violent crimes against women;
- Finalize and pass a law to combat human trafficking, with an emphasis on trafficking women and girls for the purposes of sexual exploitation. Trafficked women, the victims, should not be punished under the law, and should be referred to social welfare agencies for financial assistance as well as health and social services; and
- Provide preventive and protection programs and facilities, including adequate shelters, for women and girls at risk of violence or abuse.

## 2. Freedom of Expression

a. *Findings.* While improvements in security since 2007 have reduced the murder rate of media workers, journalism remains a hazardous occupation. Political extremists and unknown assailants continue to kill media workers and bomb their bureaus. Increasingly, journalists find themselves harassed, intimidated, threatened, arrested, and physically assaulted by security forces attached to Iraqi and Kurdish government institutions and political parties. Senior politicians are quick to sue journalists and their publications for unflattering articles.

### b. *Recommendations*

- Suspend immediately and amend as soon as possible penal code provisions and other legislation and regulations to remove or precisely define, in line with international standards of freedom of expression, vaguely expressed content-based restrictions, and to remove excessive penalties on journalists and media outlets,

including imprisonment, suspensions, excessive fines and equipment confiscation, especially for minor infractions;

- Investigate and prosecute assaults by security forces and others against journalists, and direct all security forces to end violence and intimidation against journalists; and
- Direct government officials and agencies to stop filing politically motivated lawsuits against journalists and their publications.

### 3. Torture

a. *Findings.* Iraqi interrogators routinely abuse detainees as a means to obtain confessions. Interviews with dozens of detainees transferred from a secret detention facility outside Baghdad revealed the significant shortcomings of Iraq's criminal justice system. Interrogators sodomized and whipped detainees, burned them with cigarettes, and pulled out their fingernails and teeth. You, as prime minister, instead of ordering a public inquiry and prosecuting those responsible for the abuse, dismissed the findings as fictitious and suspended the government's prison inspection team that initially uncovered the abuse.

b. *Recommendations:*

- Publicly condemn any use of torture or other mistreatment in pretrial detention, including during interrogation with the aim of eliciting confessions;
- Launch independent and impartial investigations into all allegations of torture and ill-treatment, and institute disciplinary measures or criminal prosecution, as appropriate, against officials at all levels who are responsible for the abuse of detainees; and
- Conduct prompt independent medical examinations of detainees who allege abuse in detention or during interrogation.

### 4. Displaced persons

a. *Findings.* More than 1.5 million Iraqis fled their neighborhoods as sectarian violence tore up their communities in 2006 and 2007. Thousands of internally displaced persons now reside in squatter settlements without access to basic necessities such as clean water, electricity, and sanitation. As squatters, they constantly fear eviction. An over-stretched Ministry of Displacement has promised aid, but the displaced persons we interviewed had received nothing. Many of the displaced are widows with few job prospects. These women and their children find themselves caught in a desperate situation that has contributed to an increase in sex trafficking and forced prostitution. Religious and government institutions are sometimes complicit in the exploitation – in exchange for their charity or benefits, widows have been asked to engage in “pleasure marriages,” a previously banned traditional practice that is akin to prostitution.

*b. Recommendations*

- In line with the United Nations Guiding Principles on Internal Displacement, provide protection and assistance to internally displaced persons, including shelter, food, water, sanitation and medical services, prioritizing the needs of vulnerable groups; and
- Develop a coherent, fully-funded comprehensive national strategy on refugees and internally displaced persons to facilitate their voluntary return, local integration in places of displacement, or relocation to other places in safety and dignity. This plan should also provide a mechanism for fair resolution of property disputes involving displacement, compensation for loss of property, and assistance to relocate and reintegrate squatters evicted from places where they are living illegally, as well as assistance for returnees to reintegrate in accordance with the UN Guiding Principles and international refugee law; and
- The international community should continue to make refugee resettlement places available for refugees who are not able or willing to return to Iraq.

**5. Persons with Disabilities**

- a. *Findings.* Years of armed conflict have generated thousands of war amputees and other persons with disabilities. Stigmatized, unable to find work, get adequate medical care, or obtain new prosthesis and wheelchairs, persons with disabilities find themselves relegated to the margins of society. Persons with disabilities told us that the government is a long way from the Constitution's promise of "rehabilitating" and "reintegrating" them into society. Trauma from violence has also increased mental disabilities across the country but few psychiatrists are available to treat them and other means of support are not available, resulting in a rise in self-medicating and prescription drug abuse. Because the government has provided little support or assistance to people with disabilities, local NGOs have had to step in to fill the void but demand for their services far exceeds their capacity.

*b. Recommendations:*

- Take measures to fight stigma and discrimination, for example through media and public education programs about the rights of persons with disabilities;
- Establish or strengthen health care services, including rehabilitation and psycho-social support; and
- Facilitate access for persons with disabilities to quality mobility aids and other assistive devices, including by making them available at affordable cost.

## 6. Minorities

a. *Findings:* Extremist groups continue to attack minority communities, most recently on October 31 with an assault on a Baghdad church that claimed the lives of almost 50 worshipers and priests. Such attacks have led thousands from Iraq's indigenous communities to flee abroad since the invasion in 2003 with no plans to return. Sabian Mandaean face extinction as a people after 90 per cent of the small community have either fled Iraq or been killed since 2003. The government has failed to stop targeted attacks against any of its minority groups, including Chaldo-Assyrians, Yazidis, Shabaks, and Turkmen. It has also failed to conduct thorough and impartial investigations when attacks occur, and to bring those responsible to justice, adding to a climate of impunity.

b. *Recommendations:*

- Protect minorities at all levels of government, including regional and local administrations; and
- Initiate independent and impartial investigations of all killings, beatings, and torture against minorities.

We look forward to receiving your comments on the above issues, any additional comments you wish to provide, and information on any reforms the Iraqi government is considering.

We appreciate your consideration and review of this information request. As noted above, we will reflect among our findings all pertinent information the government provides to us by December 5, 2010. We also reiterate our interest in arranging a meeting to discuss these issues in person.

Thank you for your consideration.

Sincerely yours,



Joe Stork  
Deputy Director  
Middle East and North Africa Division

## At a Crossroads

### Human Rights in Iraq Eight Years after the US-Led Invasion

Almost eight years after US-led forces invaded Iraq, the country's commitment to meeting its human rights obligations is far from assured. In 2010, Human Rights Watch conducted research in seven cities across Iraq and found that, beyond the continuing violence and crimes associated with it, human rights abuses are commonplace. The rights of Iraq's most vulnerable citizens, especially women and detainees, are violated with impunity, and those who would expose official malfeasance or abuses by armed groups do so at enormous risk.

The rise in tribal customs and religiously-inflected political extremism since 2003 has had a deleterious effect on women's rights. Increasingly, women and girls are victimized in their own homes for a variety of perceived transgressions against family or community honor. Trafficking in women and girls in and out of the country for sexual exploitation is widespread.

Extremists and unknown assailants continue to kill journalists and bomb their offices. Increasingly, journalists find themselves harassed, intimidated, threatened, detained, and physically assaulted by security forces attached to government institutions or political parties. Iraqi interrogators routinely abuse detainees, regardless of sect, usually in order to coerce confessions. Thousands of internally displaced persons now reside in squatter settlements without access to basic necessities such as clean water, electricity and sanitation.

Armed groups proclaiming intolerant ideologies have continued their assaults on minority communities, decimating Iraq's indigenous populations, and forcing thousands to flee abroad with no plans to return. And years of armed conflict have resulted in thousands of war amputees who find themselves relegated to the margins of society, unable to find work, access adequate medical care, or obtain new prostheses and wheelchairs.

*In 2006, the day after his Shi'a neighbor was killed and two hours after he and his family were threatened with death for living in a Sunni neighborhood north of Baghdad, Abed Mahsan fled his house with whatever possessions he could carry. Since then, he has lived in a tent lined with plastic election posters to keep water out, and has moved numerous times within Baghdad. Because of his displacement, none of his six children is able to attend school. More than 1.5 million Iraqis fled their neighborhoods as sectarian violence tore up their communities in 2006 and 2007.*

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