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CARNAGE AND DESPAIR

IRAQ FIVE YEARS ON

**AMNESTY
INTERNATIONAL**



1. INTRODUCTION

Five years after the US-led invasion that toppled Saddam Hussain, Iraq is one of the most dangerous countries in the world. Hundreds of people are being killed every month in the pervasive violence, while countless lives are threatened every day by poverty, cuts to power and water supplies, food and medical shortages, and rising violence against women and girls. Sectarian hatred has torn apart families and neighbourhoods that once lived together in harmony.

Despite the heavy US and Iraqi military and police presence, law and order remain a distant prospect. The US-led Multinational Force (MNF) and the Iraqi government formed from political parties that gained from or emerged out of the 2003 invasion have failed to institute the rule of law, uphold human rights, bring peace and security, or end impunity.

Despite promises of speedy reconstruction after the invasion, economic recovery looks a similarly distant prospect. The reconstruction has been exceedingly slow, partly due to the violence but also because of poor planning, shortages of qualified and experienced personnel, widespread corruption, and controversial and damaging policies such as the dismantlement of the Iraqi army and the de-Ba'athification policy.¹

Much of the money available to those running Iraq has been spent on security, including private security firms. Little has gone to the millions of Iraqi children, women and men who are living in poverty. In fact, in December 2007 the Iraqi government cut the number of items covered by the food rationing system introduced in 1996 under the Oil-for-Food programme. Today, more than two in three Iraqis do not have access to safe drinking water, more than four in 10 live

on less than a dollar a day, half the population of working age is unemployed, and eight million people need emergency aid to survive.

Nor has much money been spent on services vital to Iraqis. As a result, the health and education systems have virtually collapsed, so people are dying unnecessarily for lack of medical care and illiteracy rates among children are soaring.

Despite claims that the security situation has improved in recent months, the human rights situation is disastrous. Armed groups, including those opposed to the Iraqi government and to the presence of the MNF, as well as Shi'a militia groups belonging to Shi'a political parties, continue to kidnap, torture and kill civilians.

In the past five years, tens of thousands of people have been killed, some in targeted assassinations, but the majority in bomb explosions or suicide attacks in crowded areas chosen to maximize civilian casualties. All sides have committed gross human rights violations, including war crimes and crimes against humanity. From early 2006, violence intensified and became increasingly sectarian, with Sunni and Shi'a armed groups targeting adherents of other faiths and driving members of "enemy" communities out of long mixed neighbourhoods.

As the sectarian violence became more acute, a deepening humanitarian catastrophe began to unfold. At least four million people have become displaced – nearly 15 per cent of Iraq's estimated total population of 27 million. According to the UN High Commissioner for Refugees (UNHCR), about two million people are living in Syria and Jordan,² while at

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least 2.2 million others are displaced inside Iraq and living in appalling conditions.³

So far, the international community has failed to address adequately Iraq's spiralling displacement crisis. It has failed to help host countries meet the basic needs of so many Iraqis – to shelter, health care and education – and to offer the possibility of resettlement to the most vulnerable among the refugees. Some states have put the lives of Iraqis at further risk by refusing to offer them sanctuary, cutting off their assistance or forcibly returning them to Iraq despite the risks that they face there.

Inside Iraq, it is not just the sectarian violence that is claiming lives. Iraqis are also being killed by MNF and Iraqi security forces – often as the result of excessive use of force, deliberate killings and indiscriminate or disproportionate attacks. Private foreign military and security contractors have also killed Iraqis and appear to have total impunity to do so.

Around 60,000 people are being detained by Iraqi security forces and the MNF. Most are being held without charge or trial. Torture and other ill-treatment are routine in prisons, detention centres and police stations controlled by Iraqi security forces. In recent months there have also been allegations of rape by members of the Iraqi forces. The death penalty is being used extensively since its reintroduction in 2004 and hundreds of people have been sentenced to death after grossly unfair trials.

With the virtual disintegration of the state and the rise of radical Islamist groups, women who do not wear Islamic dress are being threatened, abducted and

killed. Unlike before 2003, many Iraqi women now feel obliged, by the threat of attack or reprisals, to wear Islamic dress.

The Iraqi government has failed to introduce practical measures to deal with the gross and serious human rights violations perpetrated by its security forces. There appears to be no serious willingness to investigate properly the many incidents of abuses, including killings of civilians, torture and rape, and to bring those responsible to justice. The government has also been unable to reign in Shi'a militia groups, such as the Mahdi Army, or to rid the Interior Ministry of death squads. The fact that the government is divided along sectarian lines has serious repercussions on its effectiveness and bodes ill for the future.

In the Kurdistan region in northern Iraq, the situation is more stable and there has been much less violence.⁴ The region has prospered economically and has even seen growing foreign investment in certain sectors. Nevertheless, human rights are far from protected and respected. Peaceful political dissent is not tolerated. People are being arbitrarily arrested and detained for political opposition activities. Torture and other ill-treatment are frequently reported and prisoners are being sentenced to death. Women are apparently being killed in "honour crimes" in increasing numbers.

2. BACKGROUND

On 19 March 2003, US forces launched military strikes against Baghdad, beginning a sustained war by air and land by Coalition forces. In early April, US forces took control of Baghdad, ending the 25-year rule of Saddam Hussain who was captured in December 2003, and tried and executed in 2006. UK forces took control of the south.

On 1 May 2003, US President George W Bush declared the war over and a US diplomat, Paul Bremer, was appointed as US Administrator for Iraq and Head of the Coalition Provisional Authority (CPA). On 8 June 2004, the UN Security Council adopted Resolution 1546, which declared that Iraq's occupation would end on 30 June 2004. The Resolution stated that the US-led MNF would stay in Iraq until the end of 2005. Since then, the presence of the MNF has been extended on a yearly basis by the UN Security Council and the Iraqi government.

Since the end of June 2004, when sovereignty was transferred to the Iraqis, successive Iraqi administrations have been unable to stop the violence and bring about durable peace. In fact, intense violence has persisted and Iraqi civilians have continued to bear the brunt of a seemingly endless and complex armed conflict.

No one knows the exact number of civilian casualties in Iraq since the US-led invasion in March 2003. According to the latest and largest survey of civilian deaths in Iraq, published in early January 2008, 151,000 people were killed between March 2003 and June 2006. The survey was carried out by the World Health Organization (WHO) and Iraq's Health Ministry.⁵ The Iraqi government, led by Prime Minister Nuri al-Maliki, apparently accepts this estimate. Until the end

of 2007, figures published on civilian casualties had ranged from 601,027 deaths, reported by US researchers in 2006 in the medical *Lancet* publication, to 47,668 by the Iraq Body Count.⁶

According to the UN Assistance Mission for Iraq (UNAMI), 34,452 people were killed during 2006 and thousands of others were injured. Most of the killings were the result of sectarian violence, which increased sharply after 22 February 2006 when armed groups bombed al-'Askari mosque, a prominent Shi'a shrine, in the city of Samarra. No one was killed but the mosque and its golden dome were seriously damaged. In the immediate aftermath, Sunni and Shi'a religious leaders and mosques were attacked, and random mortar and bomb attacks claimed thousands of lives. Thereafter sectarian violence worsened. Thousands of civilians were forced out of their homes in mixed neighbourhoods, especially in Baghdad. Shi'a militia involved in the sectarian violence were said to be members of the Mahdi Army, followers of the prominent Shi'a religious figure Moqtada al-Sadr. His Sadrist Movement has 29 elected members in the Iraqi Council of Representatives (parliament).

At the beginning of 2007 many districts in Baghdad and many towns were no-go areas for government forces, with armed groups in almost total control. In January alone, according to Iraqi government estimates, 1,971 people died violently.⁷ This situation prompted President Bush to outline a new strategy for Iraq which involved sending more than 20,000 extra US troops to Iraq, a plan known as the "surge", and setting economic and political benchmarks. These included the holding of provincial elections in 2007, finalizing important laws, such as the oil law, and easing the de-Ba'athification policies. The US

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government committed US\$1.2 billion for rebuilding and development, especially the creation of jobs, and the Iraqi government committed US\$10 billion of its funds for reconstruction. The US troops were deployed mostly in and around Baghdad and al-Anbar province.

Despite the massive military deployment, the violence continued, albeit less intensively than in the previous years. By the end of June 2007, about 28,000 additional US troops had been deployed, bringing the total to more than 160,000.

Two factors have contributed to the slight improvement in the security situation in recent months. First, at the end of August 2007 Moqtada al-Sadr announced a six-month freeze in the activities of the Mahdi Army. He called on his offices to co-operate with the Iraqi security forces and exercise self-control. In February 2008, he extended the truce for a further six months. However, the truce did not stop members of the Mahdi Army fighting other Shi'a armed militia, in particular their arch rivals, the Badr Organization, in southern Iraq, especially in Basra in recent months. With the December 2007 withdrawal of British troops from central Basra to the airport, outside the city, and with the Iraqi government lacking capacity to assert control over the city, clashes between militia groups, who are vying for control, seem likely to increase.

Second, starting from the end of 2006 US military authorities in Iraq started to encourage the setting up of Awakening Councils (*Majales al-Sahwa*), armed militia that first appeared in al-Anbar governorate to fight against al-Qa'ida and drive it out of western Iraq. These militia were armed and trained by the MNF and Iraqi forces. Their members are said to be paid US\$300 a month, considerably more than what most

people earn. Their success in al-Anbar led to the mushrooming of these militia in many other areas. Reportedly, up to 76,000 people, the vast majority Sunni Muslim, have joined Awakening Councils. The US military authorities are said to be putting pressure on the Shi'a-led Iraqi government to incorporate these forces in the regular army and the police, but the government is reluctant to do so.

On the political front, little progress has been achieved and attempts at fostering national reconciliation among Iraq's diverse ethnic and religious communities have not been successful. On the contrary, both the Iraqi government and the Council of Representatives have been hampered by a boycott by several government ministers and many members of parliament who represent political parties opposed to the current government.

Key political benchmarks have yet to be realized. These include passing legislation such as a draft hydrocarbon law, which aims to share revenues from Iraq's huge oil reserves equitably between Iraqi regions; organizing provincial elections; and holding a referendum in oil-rich Kirkuk to determine the final status of the province. A Constitutional Committee, set up at the end of 2006 to review the Constitution and make recommendations on possible amendments, has yet to present its recommendations to the government because of disagreements between its members. It failed to meet two deadlines, but has been given until June 2008 to submit recommendations.

So far only one law, the Accountability and Justice Law, which paves the way for tens of thousands of low-ranking former Ba'ath party members to reclaim their jobs and pensions, has been ratified. The law was

3. KILLINGS BY ARMED GROUPS

passed in January 2008 after months of argument between members of parliament. An amnesty law that would release political detainees was passed by the Council of Representatives on 13 February 2008 after months of wrangling. The law, which does not cover detainees held by the MNF, will take effect only after the Presidential Council ratifies it.

The slow political progress is largely because the major political groups in parliament, representing largely the Shi'a, Sunni and Kurdish communities, have shown little willingness to compromise. This is despite the increasing involvement of UNAMI as a political mediator. UN Security Council Resolution 1770, passed on 10 August 2007, authorizes UNAMI to promote political talks between the country's ethnic and religious groups, and regional negotiations on issues relating to Iraq's border security, energy and the humanitarian crisis.

Economic conditions remain extraordinarily poor for most Iraqis. Many Iraqis are suffering as a result of lack of food, shelter, water and sanitation, education, health care and jobs. Unemployment was believed to be at around 50 per cent at the end of 2007. A July 2007 report by Oxfam states that 70 per cent of Iraqis lack access to safe drinking water and 43 per cent live on less than a dollar a day.⁸ It adds that eight million Iraqis, not far short of a third of the population, need emergency assistance. Children are worst hit. The proportion of children suffering from malnutrition rose from 19 per cent during the sanctions period (1991-2003) to 28 per cent in 2007.

Armed groups in Iraq have committed serious violations of international humanitarian law and grave human rights abuses, some of which amount to war crimes and crimes against humanity. These groups include:

- Sunni Islamist and nationalist groups fighting against the US-led forces and the Iraqi government and who operate mainly in central and north-western Iraq;
- Shi'a militia groups such as the Mahdi Army, followers of Moqtada al-Sadr, and the Badr Organization, which is linked to the Islamic Supreme Council of Iraq (ISCI);⁹
- Al-Qa'ida in Iraq, which is made up of radical Iraqi Sunni Islamists as well as foreign nationals, many of them from other countries in the Middle East and North Africa.

Many of the abuses have taken place in the context of the ongoing sectarian violence triggered by the February 2006 bombing of al-'Askari mosque. Sunni Muslims living in predominantly Shi'a districts and Shi'a Muslims living in predominantly Sunni neighbourhoods in Baghdad and other towns and cities have been forced by armed groups to leave their homes in a process akin to "ethnic cleansing".

Some of the armed groups, in particular al-Qa'ida, have also carried out numerous attacks, such as bombings and suicide attacks, in heavily crowded areas, including markets, checkpoints or in places where people queue to buy food or petrol. The intention has been to kill as many civilians as possible. In recent months, al-Qa'ida has reportedly recruited women as volunteer suicide bombers and is said to be recruiting children and training them in secret camps in Iraq.

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Many of those killed were abducted from their homes or in the streets by the armed groups. Days later their bodies were found in a street or had been taken to morgues by the police. The bodies invariably bore marks of torture, including the use of electric shocks and drills. Some Iraqi newspapers carry daily reports of the discovery of unidentified bodies, most mutilated, and daily incidents of killings by armed groups. Some people perceived to be wealthy, including children, have been kidnapped by armed gangs for ransom. Once ransoms have been paid, those held have generally been released.

Other civilians targeted have included members of religious and ethnic minorities, such as Yezidis, Christians, Mandaean-Sabeans and Palestinians;¹⁰ members of professional associations, such as medical doctors and judges; and human rights defenders, including journalists and lawyers. The following examples illustrate a pattern of targeted assassinations and mass attacks on civilians, including on people belonging to ethnic and religious minorities, in recent months.

On 4 February 2007, **KL**,¹¹ a 50-year-old Mandaean-Sabean goldsmith and father of six children, was shot dead in a photo studio by unknown men in Baghdad. His family was waiting in the back room of the studio while he was still being photographed. The family reportedly heard men entering the studio, then heard shots and later found KL and the photographer shot. KL, who died in hospital, had previously told his wife that he had received threats by phone. The photographer was also killed. After the killing, KL's family received anonymous calls warning them not to hold a wake for him. However, they went ahead with it but on 7 February, its second day, a Mandaean-Sabean

friend of KL was shot dead, causing the family to call off the wake. KL's family then fled from Iraq.

On 18 April 2007, at least 140 people were killed in the predominantly Shi'a neighbourhood of al-Sadiriya in Baghdad by a car bomb in the market.

On 12 May 2007, **Dr Adib Ibrahim al-Jalabi**, a Sunni medical doctor and leading figure in the Islamic Organization for Human Rights (Mosul), was assassinated by armed men, believed to be from al-Qa'ida, after leaving his clinic in Mosul.

On 3 June 2007, a Chaldean priest, **Fr Ragheed Ganni**, and three deacons were gunned down by unknown assailants in Mosul. They were just about to leave the parish when armed men riddled them with bullets before driving off in the priest's car.

On 7 July 2007, around 150 people were killed and more than 265 injured when a suicide car bomber targeted a busy market in the remote village of Amerli, a predominantly Shi'a Turkomen village in Salahuddin governorate, northern Iraq.

Mostafa Ahmad, a 27-year-old Palestinian taxi driver from the al-Baladiyat neighbourhood of Baghdad, was waiting at a petrol station near al-Baladiyat on 13 August 2007 when he was attacked by armed men believed to be from the Mahdi Army. He was abducted and the car was stolen. Two days later the abductors used his mobile phone to tell his family to collect his body from the morgue. On 16 August Mostafa Ahmad's sister and other female relatives went to the morgue to identify and collect the body. They were told that they must have authorization from the police. On 18 August they collected the body after obtaining the police authorization. A relative who saw the body told Amnesty

4. KILLINGS BY THE MULTINATIONAL FORCE

International that it had marks of torture, including drill holes on different parts of the body, and that the teeth had apparently been taken out by pliers. Mostafa Ahmad had also been shot six times in the head and upper body.

On 14 August 2007, more than 400 people, including many children, were killed and at least 300 injured when four suicide bombers blew up fuel tanks in the villages of al-Qahtaniya, al-Jazeera and Tal Uzair near the Syrian border and about 120km from Mosul. The attacks targeted members of the minority Yezidi religious sect.

On 1 February 2008, two suicide bomb attacks carried out by two women in separate incidents killed 99 people, many of them children, in Baghdad. The first attack took place in the popular al-Ghazel pet market in central Baghdad, killing 62 people and injuring at least 80.¹² The second attack was in southern Baghdad, also in a pet market. No one claimed responsibility for the attacks, but US and Iraqi military officials blamed al-Qa'ida and said that there was evidence that the two suicide bombers had had mental disabilities.¹³

Amnesty International condemns unreservedly direct attacks by armed groups in Iraq on civilians as well as indiscriminate attacks, abduction, hostage-taking, torture and other ill-treatment.¹⁴ Many of the acts perpetrated by armed groups in Iraq constitute war crimes and crimes against humanity. The organization has on numerous occasions called on armed groups to desist from targeting civilians, as required by international humanitarian law. The Iraqi government has a duty to bring those responsible for killing civilians and other abuses against civilians to justice in fair trials and without recourse to torture and the death penalty.

US forces have killed scores of civilians in recent months. On many occasions US troops have fired at unarmed civilians seen as a threat because they came too close to a convoy or patrol or approached checkpoints too quickly. As early as 2003, Amnesty International raised such cases with US authorities, but necessary changes to rules of engagement apparently were never made and the killings continue.

US military officials often blame armed groups, in particular al-Qa'ida, for causing civilian killings by US forces. They accuse the groups of deliberately launching attacks against Iraqi and MNF forces from inhabited civilian areas, so that civilians are likely to be killed or injured when the MNF returns fire. Until now the US government has not published any statistics about civilian casualties caused by US forces. The following cases are a few recent examples of such killings.

On 28 September 2007, US forces launched an air raid targeting a building in the predominantly Sunni neighbourhood of al-Saha in south-west Baghdad. Iraqi officials stated that seven men, two women and four children, who were sleeping in the building, were killed. A US military official told the French news agency AFP after the incident: "We regret when civilians are hurt or killed while coalition forces search to rid Iraq of terrorism."¹⁵

On 11 October 2007, a US air strike on a building near Lake Tharthar, about 120km north-west of Baghdad, killed nine children and six women. A US military official said the killings were "absolutely regrettable" and that the US military had launched an investigation. He added: "We do not target civilians... But when our forces are fired upon, as they routinely are, then they have no option but to return fire."¹⁶

5. KILLINGS BY IRAQI SECURITY FORCES

On 21 October 2007, heavy clashes between US forces and armed members of the Mahdi Army took place in al-Sadr City in Baghdad. US forces subsequently launched a raid using helicopters. Their target was reportedly a man suspected of abducting MNF soldiers. Iraqi police said that 15 civilians, including two small children, were killed and 52 were injured. A local resident told the Associated Press news agency that some of the casualties were people sleeping on roofs to seek relief from the heat and lack of electricity.¹⁷ A US military official said a committee, consisting of US and Iraqi officials, was set up to review the incident.

On 2 February 2008, nine civilians, including a child, were killed by US forces reportedly during an operation targeting members of al-Qa'ida in the town of Iskandariya, about 60km south of Baghdad. Three other civilians, including two children, were injured and transferred to a US military hospital for treatment. A statement e-mailed by the US military in Iraq to Reuters news agency on 4 February 2008 said: "We offer our condolences to the families of those who were killed in the incident and we mourn the loss of innocent civilian life."¹⁸ No other details were made available, but press reports stated that US helicopters mistakenly fired on a checkpoint.

Iraqi security forces, in particular special forces under the control of the Ministry of the Interior, are reported to have extrajudicially executed dozens of people. Some members of these forces have reportedly continued to maintain close links with Shi'a militia groups, in particular the Badr Organization.¹⁹ In fact, many members of these special forces were recruited from the militia. Allegations of Iraqi security forces' involvement in sectarian killings continue.

In October 2006, an entire police brigade was suspended pending investigations into its involvement in the abduction of 26 Sunni factory workers on 1 October. At least 10 of those abducted were later found dead.

On 27 March 2007, gunmen wearing police uniforms killed 70 Sunni Arabs in the mixed Sunni/Shi'a town of Tal-'Afar near Mosul. The killings were in revenge for an earlier suicide attack by a Sunni insurgent who blew up a truck in a busy Shi'a district in the town, killing dozens of civilians. Survivors reportedly said that the gunmen dragged men out of their homes, handcuffing and blindfolding them before shooting them dead. Two days after the incident the Iraqi government admitted that policemen were behind the killings. Thirteen policemen were said to have been briefly detained and then released.²⁰ It is not known if those responsible have been brought to justice.

6. KILLINGS BY PRIVATE MILITARY AND SECURITY GUARDS

Foreign armed guards employed by private military and security firms have killed dozens of civilians. Such firms have been immune from prosecution thanks to Order 17 issued in 2004 by Paul Bremer, former head of the CPA.

On 16 September 2007, 17 Iraqi civilians were killed and 27 injured when guards working for the Blackwater Corporation, a US security company, opened fire at a busy crossroads in the al-Mansour district of Baghdad while escorting a US State Department convoy. The company claimed that its men fired in self-defence while eye witnesses and the Iraqi government stated that the guards shot first. Following the incident both the Iraqi government and the US State Department separately announced that they had set up investigations into the incident. In November, US Federal Bureau of Investigation (FBI) investigators stated that the shooting of the Iraqis was unjustified. The company promised that any of its guards guilty of wrongdoing would be held to account.²¹

In October 2007, the Iraqi government introduced draft legislation that would revoke the immunity from prosecution granted to private military and security contractors, thus making them liable to prosecution under Iraqi law. The government also ordered the Blackwater Corporation to pay US\$8 million in compensation to each of the families of the 17 people killed. As of February 2008, no agreement had been concluded about payment. Families of several Iraqis killed or injured in the September 2007 incident have filed a lawsuit against Blackwater in Washington.

On 9 October 2007, two Iraqi women, **Marou Awanis**, aged 48, and **Geneva Jalal**, aged 30, were killed in

Karrada, Baghdad, when employees of the Australian-managed security company Unity Resources opened fire on their car. Two children in the back seats survived.²² The company apparently admitted the killing and apologized to the Iraqi authorities. One senior Interior Ministry official is reported to have said: "They [Unity Resources] have admitted what they have done... They have apologized and said they will do whatever the Interior Ministry asks them to do."²³ Both the Iraqi Ministry of the Interior and the company were said to have initiated investigations into the incident.

On 10 November 2007, a taxi driver was killed by guards hired by the US company DynCorp International to protect US diplomats. The incident happened in the al-'Atifya neighbourhood of Baghdad. The guards reportedly signalled for the taxi driver to pull away, but when he got near the convoy one of the guards opened fire on the car. The driver was shot in the chest and head. He died when he was being taken to hospital by the police. A US embassy official said at the time that DynCorp was working with the Iraqi Interior Ministry to investigate the shooting.²⁴

7. MILLIONS DISPLACED FROM THEIR HOMES

The sectarian violence in Iraq has forced millions of Iraqis to flee their homes, creating a displacement crisis that has become one of the world's worst humanitarian disasters in recent years. According to UNHCR, around 4.2 million people are now displaced. These include 2.2 million internally displaced and over 2 million refugees outside Iraq.²⁵ The vast majority of those forced to leave Iraq went to Syria (around 1.4 million) and Jordan (around half a million). Both countries have struggled to cope with the massive influx of refugees, which has put considerable strain on their economic resources and infrastructures, especially in the health and education sectors.²⁶ The two host countries have received very little of what is needed most – financial assistance – including from countries that had promised to help, for example at the April 2007 Geneva international conference on Iraqi refugees hosted by UNHCR.

After so little assistance came from the international community, the authorities in both Syria and Jordan introduced strict visa requirements on Iraqi nationals. A decree in Syria that took effect on 10 September 2007 barred Iraqi passport holders from entering the country except for business people and academics.²⁷ The same month the Jordanian government said it would impose visa requirements on Iraqis entering the country, but did not say when. In reality, however, the Jordanian authorities had already introduced strict requirements for Iraqis wishing to enter the country after Iraqi suicide bombers attacked hotels in Amman at the end of 2005. For example, Iraqi men aged between 18 and 45 are frequently barred from entering the country. These new restrictions have all but cut off the last escape routes for Iraqis needing refuge from the violence in their country.

Most Iraqis living in Syria and Jordan, but also in other countries in the region, are experiencing acute economic difficulties mainly because they are not allowed to work and are at risk of detention and deportation for overstaying their visas. In the last few months of 2007, an increasing number of Iraqis in Syria went back to Iraq because they had exhausted all their savings and their situation became desperate.²⁸ They were reportedly also encouraged by the slightly improved security situation in Iraq, in particular Baghdad. However, many of those who returned found that their homes were occupied and they became internally displaced. On 6 February 2008, UNHCR warned that Iraqis were once again leaving Iraq for Syria in greater numbers than they were returning.²⁹ According to UNHCR, in late January 2008 an average of 1,200 Iraqis fled to Syria every day compared to around 700 who returned.³⁰ UNHCR has publicly indicated that it does not believe that the time has come to promote, organize or encourage returns.

There are about 50,000 Iraqis in Lebanon and their situation is uncertain. Most are living there without legal status and are at serious risk of arrest and detention. According to UNHCR, in December 2007 at least 536 Iraqis were in detention mostly for entering the country illegally or for overstaying their visas. The majority of Iraqis freed from detention are said to be returning to Iraq as this was the only way they could secure their release.³¹

Living conditions for people displaced in many areas within Iraq have deteriorated considerably with shortages of food, clean water, shelter, fuel, electricity and adequate health care. Many children are not attending schools. Most governorates closed their borders to those fleeing from other provinces. The displacement has also exacerbated sectarian divisions.

Shi'as fleeing violence in central Iraq have tended to move to the predominantly Shi'a south, whereas Sunnis have generally tended to move from the south and Baghdad to the west, in particular al-Anbar, and to the north-west around Mosul. Many Christians from the south and central Iraq have moved to the north, including Mosul and Kurdistan region.

The international community has failed to respond adequately to the magnitude of the Iraqi displacement crisis in terms of providing financial, technical or in-kind assistance to the extent necessary, or of providing generous and expedited resettlement programmes for vulnerable Iraqi refugees to third countries. The increasingly desperate humanitarian situation of Iraqis displaced inside and outside their country has largely been ignored, including by states whose military involvement in Iraq has played a part in creating the situation from which millions of people have fled.

Governments have paid lip-service to the needs of the Iraqi displaced, but real recognition of their responsibility-sharing obligations and on-going commitment to support them has not emerged to anything like the extent necessary to address the crisis. On the contrary, most Western countries continue to keep their doors slammed shut in the face of Iraqi asylum-seekers. These states have failed to recognize the protection needs of Iraqis, cut off their assistance in an attempt to force them to leave and, in some cases, deported them to Iraq. To date, noble sounding promises made by many countries at the April 2007 Geneva Conference to share responsibility for the crisis have not been honoured.³²

No state is allowed to return anyone to a country where they would be at risk of serious human rights violations

(the obligation of *non-refoulement*). This is a customary norm of international law binding on all states. It implies not only an obligation not to expel individuals who are already in the territory of a state, but also not to refuse entry to such individuals seeking entry to the state. The principle of *non-refoulement* can also be found in treaties such as the UN Convention relating to the Status of Refugees and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture). For example, Article 3 of the Convention against Torture states that: "No State Party shall expel, return ('*refouler*') or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture."

8. DETENTION WITHOUT CHARGE OR TRIAL

Since the invasion of Iraq in March 2003, tens of thousands of people have been detained by the MNF and Iraqi forces. The majority of detainees held by the MNF are security internees who have been held without charge or trial and without the right to challenge their detention before a judicial body. According to the International Committee of the Red Cross (ICRC), around 60,000 people were held by the MNF and the Iraqi security forces as of November 2007.³³

In February 2008, the US military stated that the MNF was holding 23,900 people – 3,500 in Camp Cropper near Baghdad Airport and 20,400 in Camp Bucca near Basra in the south. This number includes 300 foreign nationals, mostly from Arab countries, and 620 children. The oldest detainee is said to be 80 and the youngest 10.³⁴ In January 2007, the UK military were holding 117 people in the south, but by December 2007 they had released the vast majority and were holding only five security internees.

The MNF says UN Security Council Resolution 1546, passed in June 2004, authorizes it to detain people in Iraq. The Resolution provides for “internment where this is necessary for imperative reasons of security”. In addition, internment policies are governed by CPA Memorandum No.3 (revised) of June 2004, which sets out the process of arrest and detention of criminal suspects as well as procedures relating to “security internees” held by the MNF after June 2004. The Memorandum provides that anyone who is interned for more than 72 hours is entitled to have the decision to intern them reviewed within seven days and thereafter at intervals of no more than six months.³⁵ These procedures deprive detainees of human rights guaranteed in international human rights norms. There is no time limit for the detention of security detainees,

who also have no right to challenge the lawfulness of their detention before a court.³⁶

Up to 35,000 detainees are held in prisons and detention centres under the control of the Iraqi authorities, where torture and other ill-treatment are widespread. Under Iraqi legislation, a detainee must be brought before an investigating judge within 24 hours of arrest.³⁷ In reality, however, some detainees are held for many months before they are brought before an investigating judge.

The majority of those currently held in Iraq are Sunni Muslims, from the pre-dominantly Sunni areas of Iraq, suspected of being insurgents or of supporting and helping insurgent groups. Many are held simply because they are Sunni Iraqis and happened to be in the wrong place. According to the US military, 80 per cent of those held by the MNF are Sunni Muslims.³⁸

Among those held by the MNF is **Mu'tassim al-'Ani**, aged 51 and married with five children, who was head of the pharmaceutical department at al-Yarmook teaching hospital in Baghdad. He was arrested at his home on 20 May 2007 by US soldiers following a raid on and search of the house. One of the soldiers told Mu'tassim al-'Ani's wife that they wanted to take him away for questioning and that he would be back soon. He was taken to Camp Cropper. His wife told Amnesty International that she does not know why he is still detained. A day after his arrest she went to ask about him in Camp Cropper. She was not allowed to see him and was given an appointment for early August 2007. When she returned in August she was told her husband had been transferred to Camp Bucca, near Basra, on 23 July. When she went to Camp Bucca the prison authorities told her she could not see him

because she did not have an appointment. They gave her one for 8 December. She visited him that day for the first time, more than six months after arrest. He told her that no one had told him why he was still detained and he did not have access to a lawyer. She told Amnesty International that from the date of her husband's arrest until she visited him, there was no contact between them. She said she sent him four letters through the ICRC, but he did not receive them.

Some detainees have been released without any explanation about why they were detained or why they were freed. Nor were they given an apology or any reparation for spending months in prison.

Other detainees remain held after nearly five years. They include Tariq 'Aziz, the former Minister of Foreign Affairs under Saddam Hussain, held in Camp Cropper since he surrendered on 24 April 2003. He has not been formally charged or tried, and is said to be suffering serious health problems.

According to the Iraqi government, up to 7,000 detainees were released during 2007. However, arrests of "suspects", sometimes on a large scale, were reported in the Iraqi press on a daily basis throughout the year. Those released had to sign a document stating that they would not threaten security and persuade a relative to sign as a guarantor for their good conduct.

On 13 February 2008, the Council of Representatives passed a law that apparently offers a general amnesty to thousands of detainees currently held. The law should come into effect after ratification by the Presidential Council. At the time of writing, Amnesty International does not have details of the law.

Amnesty International considers the MNF system of security internment in Iraq to be arbitrary – in violation of fundamental human rights. All detainees, including security internees, are protected by Article 9 of the International Covenant on Civil and Political Rights (ICCPR), ratified by both Iraq and the USA, which provides that no one should be arbitrarily detained and that deprivation of liberty must be based on grounds and procedures established by law. Detainees must also have access to a court empowered to rule without delay on the lawfulness of their detention and to order their release if the detention is found to be unlawful. These requirements apply to "anyone who is deprived of his liberty by arrest or detention" and therefore apply fully to those interned by the MNF.

9. TORTURE AND OTHER ILL-TREATMENT OF PRISONERS

Despite the US authorities' introduction of various measures to safeguard detainees following the shocking Abu Ghraib prison scandal, torture and other ill-treatment by members of the MNF continue to be reported, albeit on a lesser scale than before 2004. Former detainees held in Camp Bucca, where conditions are extremely harsh, have said that they were tortured and otherwise ill-treated by US guards. US guards apparently used stun guns, among other things, and detainees were exposed to long periods of extreme heat and cold.³⁹ An eye witness told Amnesty International that in November 2005 a US guard at Camp Bucca used a stun gun against two detainees while they were being transferred in a vehicle to a medical appointment within the detention facility, shocking one on the arm and the other on his abdomen.⁴⁰

In prisons, detention centres and police stations under the control of the Iraqi security forces, torture and other ill-treatment of detainees, including children, are widespread. Amnesty International has received numerous reports about detainees, especially those suspected of involvement in insurgency activities, being tortured by Iraqi security forces, particularly special forces belonging to the Interior Ministry. Up to 35,000 inmates are languishing in inhumane conditions in hugely overcrowded Iraqi-run prisons, police stations and detention camps, many without access to lawyers.

Amnesty International continues to urge the US military authorities in Iraq not to transfer any detainees to the custody of the Iraqi authorities for fear of torture. At the end of 2005, the former Deputy Commanding General, Major General Gardner, pledged that no detainees being held by the MNF would be transferred to the Iraqi authorities until the necessary safeguards were in place to guarantee detainees' safety in Iraqi custody.

On 30 May 2006, a joint Iraqi-MNF team inspected Site 4 detention centre in Baghdad, where 1,431 detainees were held under the control of the Interior Ministry. The inspection found that detainees had been systematically abused, in some cases amounting to torture, and were being held in unsafe, overcrowded and unhealthy conditions. In November 2006, the Interior Minister announced that arrest warrants for 57 employees, including a police general, had been issued in connection with the abuses. However, according to UNAMI, of the 57 personnel identified only one official was in custody at the end of March 2007.⁴¹

On 4 March 2007, British troops and Iraqi special forces stormed the headquarters of an Iraqi government intelligence agency in Basra after they had reportedly received information that the headquarters was being used for torture. The troops found about 30 prisoners, some reportedly showing signs of torture.⁴²

In 2007, former prisoners held in pre-trial detention facilities controlled by the Interior Ministry, including police stations, told UNAMI staff in Iraq that they had been tortured. Methods of torture included "routine beatings with hosepipes, cables and other implements... prolonged suspension from the limbs in contorted and painful positions for extended periods, sometimes resulting in dislocation of the joints; electric shocks to sensitive parts of the body; the breaking of limbs, forcing detainees to sit on sharp objects, causing serious injury..."⁴³

In October 2007, an Iraqi human rights group, the Prisoners' Association for Justice, stated that they had interviewed five children aged between 13 and 17 who said they had been tortured while held on suspicion of

10. DEATH PENALTY AND UNFAIR TRIALS

aiding insurgents and militia. The children “showed signs of torture all over the bodies. Three had marks of cigarettes burns over their legs and one couldn’t speak as the shock sessions affected his conversation [speech].”⁴⁴

Under the human rights treaties that Iraq has ratified, the Iraqi authorities are obliged to ensure that all people under their jurisdiction are protected from torture and other forms of ill-treatment. Article 7 of the ICCPR states: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment...” The Iraqi government is also obliged to investigate all allegations of torture by the security forces, bring the suspected perpetrators to justice, and provide full reparation for victims. Any evidence extracted under torture should not be used in proceedings against the detained.

Iraq is not a party to the UN Convention against Torture, one of the very few states in the region that has failed to ratify this treaty. On 9 December, the UN Special Representative for Iraq, Staffan de Mistura, urged the Iraqi government to ratify the Convention in 2008, saying this would send a strong message that democratic countries can “reach stability, fight terrorism” and respect human rights.⁴⁵ The Iraqi government invited the UN Special Rapporteur on torture to visit the country in early 2008. As of February 2008, the date of the visit has not been made public.

Even though Iraq is not a state party to the Convention against Torture, the absolute prohibition of torture and other ill-treatment is regarded as part of customary law, binding on all states, from which no derogation is allowed at any time, even in times of emergency or war. International humanitarian law, which Iraq is bound to observe, also contains provisions that expressly prohibit torture and other ill-treatment during both international and non-international armed conflicts.

The death penalty was reinstated by the Iraqi government on 8 August 2004 after it had been suspended by Paul Bremer, then US Administrator for Iraq, on 10 June 2003. The death penalty in Iraq now covers a wide range of offences, including premeditated murder, activities against the internal security of the state, attacks on means of transportation resulting in fatalities, attempting to overthrow the government by violent means, and damaging public property.⁴⁶

Since its reinstatement, hundreds of people have been sentenced to death and scores have been executed. In 2007 alone, Amnesty International recorded at least 199 death sentences, including two passed on women, and at least 33 executions. The true figure could be even higher since the media does not report death sentences systematically. In 2006, at least 65 men and women were executed.

The Iraqi government argued that reinstating capital punishment would curb the widespread violence in the country. The reality, however, is that violence has continued unabated and the death penalty has not been a deterrent. In March 2007, the Iraqi Human Rights Minister said before the UN Human Rights Council that “we are working at the present moment in order to pave the way to eliminate capital punishment in Iraq, after restricting it to the largest possible extent.”⁴⁷

The vast majority of death sentences so far have been passed by the Central Criminal Court of Iraq (CCCI) in Baghdad and in the governorates. Trials before the CCCI consistently fall short of international standards for fair trial. Defendants commonly complain that their “confessions” were extracted by torture and that they could not choose their own legal defence counsel.

Trials before the Supreme Iraqi Criminal Tribunal (SICT), which was set up to try officials from the former Ba'ath regime, also fell short of international standards for fair trial. Proceedings before the tribunal have been undermined by political interference, as well as the failure of the tribunal to ensure the safety of defence lawyers, witnesses and others. During the trial of Saddam Hussain, government interference led one judge to resign and blocked the appointment of another.

A number of lawyers, judges and prosecutors have been murdered by armed groups. For example, on 21 June 2006 **Khamis al-'Obeidi**, a lawyer on Saddam Hussain's defence team, was kidnapped and murdered near al-Adhamiya district of Baghdad by armed men believed to be from the Mahdi Army.

The unfairness of trials before the SICT and the inhuman nature of the death penalty were both illustrated by the trial and execution of former Iraqi President and three of his co-defendants. **Saddam Hussain** was executed on 30 December 2006. His trial was seriously flawed – for example, he was denied access to legal counsel for the first year after his arrest and the trial and appeal process was subject to repeated political interference. He and seven other former officials were tried for human rights violations in connection with the killing of 148 people from the largely Shi'a village of al-Dujail following an attempted assassination of Saddam Hussain in 1982. Saddam Hussain, his half-brother and former head of the intelligence service **Barzan Ibrahim al-Tikriti**, as well as **'Awad Hamad al-Bandar**, former head of the Revolutionary Court, were convicted of crimes against humanity and sentenced to death in November 2006. Their death sentences were upheld by the Appeals Chamber on 26 December 2006.

The entire appeal process was conducted in haste and failed to rectify any of the flaws of the trial. It appeared to have been little more than a rubber stamp. The Appeals Chamber instructed the SICT to reconsider the life sentence imposed on former Vice-President **Taha Yassin Ramadhan** because it considered it too lenient. Barzan Ibrahim al-Tikriti and 'Awad Hamad al-Bandar were executed on 15 January 2007, while Taha Yassin Ramadhan was executed on 20 March after his life sentence was changed to a death sentence by the SICT. Saddam Hussain's execution was filmed, reportedly by a guard using a mobile phone. Footage of Saddam Hussain's final moments was posted on the Internet: it showed the former President being taunted and insulted by guards as he was hustled to the gallows. The execution of Barzan Ibrahim al-Tikriti and 'Awad Hamad al-Bandar was also filmed and posted on the Internet. The clip showed Barzan Ibrahim al-Tikriti's severed head lying away from the rest of the body. The manner of these executions sparked widespread international condemnation.

Amnesty International opposes the death penalty in all circumstances as a violation of the right to life and as the ultimate cruel, inhuman and degrading punishment. The death penalty is not an effective deterrent against violence and crime as the continuing crisis in Iraq underlines. Amnesty International has on numerous occasions called on the Iraqi government to immediately establish a moratorium on executions with a view to abolishing the death penalty. On 18 December 2007, the UN General Assembly endorsed the call for a worldwide moratorium on executions. Iraq was one of 54 countries that voted against the ground-breaking resolution, which was supported by 104 countries.

11. VIOLENCE AGAINST WOMEN AND GIRLS

On 4 November 2007, **Iman Hussain**, headmistress of al-Mustaqbal School in Baghdad's Sayyidia district, was killed when gunmen entered the school and shot her. On the same day and in the same district, another woman, **Bushra 'Abd al-Hur**, headmistress of Um Qasr School, was shot in front of her students by armed men. She survived but sustained injuries to her leg. On 15 November 2007, **Su'ad Kukaz Wali**, a director of a secondary school for girls in Baghdad's district of al-Kadhimya, was killed when gunmen in a car shot at her while she was walking to the school.

Violence against women and girls has increased dramatically in the past five years. Many have been forced to leave their jobs or schools for fear of being killed; others have fled the country.

In most governorates, women are being threatened by armed groups that they will be targeted if they do not observe strict Islamic dress. Women and girls are also at risk of rape by armed groups and members of the Iraqi security forces. Domestic violence and "honour killings" are on the rise too. A WHO survey conducted in 2006/2007 in Iraq found that 21.2 per cent of Iraqi women had experienced physical violence. There were marked differences between Kurdistan and the rest of Iraq. In central and southern Iraq 22.7 per cent of women reported at least one form of physical abuse, whereas in Kurdistan the figure was 10.9 per cent.⁴⁸

The sectarian violence has forced some women to marry within their own sect. In some cases women have been forced by their relatives to divorce because their husband is from a different sect.

In Basra, scores of women were killed in 2007 by Shi'a militia groups vying for control of the city. According to

the head of the police force in Basra, Major-General 'Abdul-Jalil Khalaf, the police are often too scared to investigate the killings, and relatives are reluctant to report them for fear of a scandal or simply because they doubt that the police will investigate.⁴⁹

In mid-February 2007, a 40-year-old woman from Iraq's Turkomen minority, married with children, was said to have been raped by four Iraqi soldiers in Tal-'Afar near Mosul. A senior Iraqi military official stated that tribal leaders had submitted a complaint that a group of soldiers had entered the woman's house and raped her. He added that the four men had confessed to rape. The official stated that he had "referred the troops to the judiciary for prosecution."⁵⁰ Amnesty International does not have any information about whether or not those responsible have indeed been brought to justice. The climate of impunity that prevails in Iraq suggests that such announcements by Iraqi officials need to be treated with caution.

On or around 7 April 2007, **Du'a Khalil Aswad**, a 17-year-old Yezidi girl, was stoned to death in front of a large crowd for an "honour crime" in the town of Bashika near Mosul. She was killed by a group of eight or nine Yezidi men, including relatives, because they believed she had engaged in a relationship with a Sunni Muslim boy. Her death by stoning, lasting for 30 minutes, was recorded on video and then widely distributed, including via the Internet. The film shows that members of local security forces were present but failed to intervene.⁵¹ On 1 May, the Kurdistan Regional Government (KRG) publicly condemned the stoning. It pointed out that the "honour killing" of Du'a Khalil Aswad took place in the area administered by the Iraqi government, not the KRG, and called for her killers to be brought to justice. The Iraqi government said it had

12. IMPUNITY

launched an investigation into the stoning, but as of February 2008 no information has been made public about the outcome of any investigation.

Iraq is a state party to the UN Convention on the Elimination of All Forms of Discrimination against Women. Under the Convention, the Iraqi government has a duty to protect women from violations by agents of the state as well as by private actors such as armed groups. The Iraqi government also has a duty to amend any law that discriminates against women, such as provisions in the Iraqi Penal Code that allow lenient punishment for “honour killings”. Amnesty International has on many occasions urged the Iraqi government to provide more protection for women and girls, and to review current Iraqi legislation that discriminates against women.⁵²

In the past five years Iraqi security forces have committed gross human rights violations, including killings of civilians and torture and other ill-treatment. On many occasions, the government has announced investigations into specific cases, but to Amnesty International's knowledge the outcomes of such investigations, if indeed they have been carried out, have not been disclosed. This has sharpened concern that Iraqi security forces can and do commit grave human rights abuses with impunity.

For example, no findings were made public of investigations launched in 2005 into alleged human rights violations in an Interior Ministry detention centre in al-Jadiriya district of Baghdad. US military forces reportedly found at least 168 detainees in appalling conditions, many of whom had been tortured. The Iraqi government said that it would mount an investigation, but if it did, the findings have yet to be published.

In July 2006, a report published in a US newspaper stated that the Iraqi Ministry of the Interior had carried out investigations which had revealed more than 400 incidents of police misconduct. These included “the rape of female prisoners, the release of terrorism suspects in exchange for bribes, assassinations of police officers and participation in insurgents’ bombings”. According to the report, most of those involved in the incidents were not punished.⁵³

Members of the MNF have also committed gross human rights violations, including unlawful killings. In some cases, investigations were conducted and charges were brought against soldiers. Some US troops have been prosecuted for abuses committed in Iraq, although others have had charges against them dropped or reduced. In such cases, investigations were

conducted by the military and were not independent. In a number of cases, there have been attempts to cover up specific violations.

On 19 November 2005, 24 women, men and children were killed by US soldiers in Haditha, north-west of Baghdad. The massacre was in retaliation for the killing of a US soldier, Lance Corporal Miguel Terrazas, on the same day in Haditha by a roadside bomb. A day after the incident, a US military statement said: "A US marine and 15 civilians were killed yesterday from the blast of a roadside bomb in Haditha. Immediately following the bombing, gunmen attacked the convoy with small arms fire. Iraqi army soldiers and marines returned fire, killing eight insurgents and wounding another."⁵⁴

A day after the incident an Iraqi journalist filmed bodies of women and children reportedly shot in their homes. The film prompted an Iraqi human rights organization, Hammourabi, to investigate. Its findings were passed on to *Time* magazine in January 2006. The magazine sent the film to US military officials before it published its account on 19 March 2006. US military officials initiated an inquiry. As a result, the official version of the incident changed to being: "after the roadside bomb, the 15 civilians had been accidentally shot by marines during a gun fight with insurgents."⁵⁵ However, senior US commanders in Iraq began a criminal investigation led by the Naval Criminal Investigation Service.

Eye witnesses told a different story. A 12-year-old girl stated she was in one of three houses where troops came in and deliberately killed eight members of her family, including five siblings aged between two and 14.⁵⁶ In the second house, seven people were killed,

including a child. In the third house, four brothers were allegedly forced into a wardrobe before they were shot.

As a result of the investigations, charges were brought against eight US marines. Subsequently, charges against four of them were dismissed, leaving two facing charges of attempting to cover up or failing properly to investigate the deaths, and two others facing charges of manslaughter.⁵⁷ The four are due to be tried before a military court in the next few months.

In March 2007, court martial proceedings against seven UK servicemen stationed in Basra ended with their acquittal. The trial began in September 2006 in the UK and concerned allegations of torture and other ill-treatment of detainees in Iraq. In particular, the case concerned the death of Baha Mousa, a 26-year-old hotel receptionist and father of two. He sustained multiple injuries as a result of being ill-treated by UK soldiers both at the time of his arrest on 14 September 2003 at a hotel and during his detention at a British military base in Basra, where he died on 15 September. Amnesty International expressed grave concern about the court martial proceedings, including that various individuals who were suspected of being responsible for the violence against Baha Mousa were not charged or brought to trial. The investigation carried out into the death of Baha Mousa by the UK's Royal Military Police was flawed.⁵⁸

13. THE KURDISTAN REGION

The largely autonomous Kurdistan region in the north, which is under the control of the KRG,⁵⁹ has been more stable than the rest of Iraq and there have been fewer acts of violence. The region is the most prosperous in Iraq and the KRG has signed a number of investment contracts with foreign companies, including for oil exploration. Despite the relative stability and prosperity, the Kurdistan region remains vulnerable to pressure and even military intervention from neighbouring countries. Turkish government forces recently launched military attacks across the northern Iraqi border in pursuit of members of the armed opposition Kurdistan Workers Party (PKK).

Serious human rights violations, including arbitrary arrests, torture and the use of the death penalty, continue in the Kurdistan region. Political opponents of the Kurdish authorities are subject to arrest, and sometimes torture, by the Asayish, the KRG security forces. Two people were killed when members of Asayish opened fire on protesters in the towns of Darbandikhan and Kalar on 7 and 9 August 2006. Journalists are muzzled and often risk arrest and torture in their daily work. Scores of women have been killed in “honour crimes” and only a few of the culprits have been brought to justice.

Mohammad Siyassi Ashkani, a 35-year-old journalist from Sulaimaniya, was arrested on 24 January 2007 by Asayish members. He was held in the Asayish headquarters in Sulaimaniya without charge or trial for almost six months. He spent the first 55 days in solitary confinement before his family was allowed to visit him. He was then allowed weekly family visits, but never had access to a lawyer. He was released on 19 July 2007.

On 29 May 2007, **Heman Mohamed**, **Othman Abdel-Karim**, **Sherwan Ahmed** and **Qaraman Rasul** were executed in Erbil. They were convicted in June 2006 of participating in a bomb attack in Erbil a year earlier.

Three Turkish men, **Metir Demir**, **Mustafa Egilli** and **Hasip Yokus**, all members of the Turkey-based non-governmental Association for the Rights of Freedom of Thought and Education arrested in June 2006, were released on 12 September 2007 and returned to Turkey. They had been held without charge or trial. One of the three men told Amnesty International that they had been detained in the Asayish building in Erbil and without access to lawyers. Two of the men were tortured and were held in solitary confinement for six months. Methods of torture included beatings, use of electric shocks on different parts of the body and *falaqa* (beating on the soles of the feet). No investigation is known to have been carried out by the authorities into the alleged torture of the three men.

According to the KRG’s Human Rights Minister, ‘Aziz Mohammed, 27 women were killed in “honour killings” between August and November 2007. Ten were from Erbil, 11 from Dohuk and six from Sulaimaniya.⁶⁰ In October 2007, a report issued by UNAMI expressed grave concern at the rising incidence of “honour crimes” in the Kurdistan region. The report stated that 255 women had been killed in the first six months of 2007, including 195 by burning.⁶¹ In a statement issued on 1 May 2007, the KRG said that there had been 40 convictions for “honour killings” in the Kurdistan region since the Kurdish parliament amended the law in 2002 to remove a provision in the Iraqi Penal Code allowing lenient sentences for perpetrators of “honour crimes”. He added that at least 24 other cases were pending. Amnesty International wrote to the KRG asking for details of these cases, including the names of all those who have been tried for alleged “honour crimes” since the law was changed, how many were convicted and the sentences imposed in each case. No response has yet been received.

14. INTERNATIONAL LAW

The international legal framework governing the armed conflict in Iraq consists of rules and principles contained in treaties and customary international law. This law applies to all parties to the armed conflict. In Iraq, the current situation is classified as a non-international armed conflict, with parties to the conflict comprising the Iraqi government and various armed groups. Although the conflict is a non-international armed conflict, it is internationalized by the presence of the MNF. It is governed by Article 3 common to the four Geneva Conventions, which applies to “armed conflict not of an international nature” and is a rule of customary international law. It is also governed by the rules of customary international humanitarian law applicable in non-international armed conflicts.⁶² Finally, international human rights law applies to the conduct of Iraqi forces and the MNF.⁶³

The principle of non-discrimination runs throughout international law, including international humanitarian law and human rights law. Under customary international humanitarian law, “[a]dverse distinction in the application of international humanitarian law based on race, colour, sex, language, religion or belief, political or other opinion, national or social origin, wealth, birth or other status, or on any other similar criteria is prohibited.”⁶⁴ In accordance with Article 2(1) of the ICCPR,⁶⁵ the state must also respect and ensure human rights without such distinction.

Under international humanitarian law, parties to an armed conflict must at all times distinguish between non-combatants (including civilians, prisoners of war, the wounded and sick, and others) and combatants, and between civilian objects and military objectives. It is never permitted to target civilians, other non-combatants or civilian objects. This principle, known as the principle of distinction, is codified in the four Geneva Conventions and their two Additional Protocols.

The principle of distinction is also a rule of customary international humanitarian law, binding on all parties to armed conflicts, whether international or non-international.

International humanitarian law defines a civilian as any person who is not a member of the armed forces of a party to the conflict.⁶⁶ Members of the armed forces comprise all organized armed forces, groups and units that are under a command responsible to the party, including militia and volunteer corps forming part of such forces.⁶⁷ Common Article 3 extends protection to people taking no active part in the hostilities. The Article provides that “in all circumstances” such people “shall be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria”. This provision prohibits certain acts against these people “at any time and in any place whatsoever”, including: “(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; (b) taking of hostages; (c) outrages upon personal dignity, in particular humiliating and degrading treatment”.

Under customary international humanitarian law, responsibility for war crimes may arise for conduct engaged in during international and non-international armed conflicts. Conduct amounting to war crimes includes, but is not limited to, acts such as wilful killing; torture or inhuman treatment; taking of hostages; intentionally directing attacks against the civilian population; intentionally directing attacks against people involved in humanitarian assistance or peacekeeping; and indiscriminate attacks, which violate fundamental principles of international humanitarian law, including the principle of distinction between civilians and civilian objects on the one hand, and members of armed forces and military objectives on the other.

The Iraqi authorities and the MNF are obliged to respect the relevant human rights standards and to protect the human rights of all people in Iraq, irrespective of nationality. The prohibition against torture or cruel, inhuman or degrading treatment or punishment, contained in Article 7 of the ICCPR, is absolute under international law. In cases where detainees were allegedly tortured or otherwise ill-treated by the Iraqi security forces, the Iraqi authorities are obliged to investigate such claims, bring the suspected perpetrators to justice, and provide full reparation for victims.⁶⁸ Evidence extracted under torture may not be used in proceedings against the detained.⁶⁹

Under human rights law, no one shall be subjected to arbitrary arrest or detention or be deprived of their liberty except on such grounds and in accordance with such procedures as are established by law (Article 9(1) of the ICCPR). The ICCPR also provides that anyone who is arrested shall be informed, at the time of arrest, of the reasons for arrest and shall be promptly informed of any charges.

Article 9 provides that “[a]nyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement”.

15. CONCLUSION AND RECOMMENDATIONS

Five years on, Iraqis are living in fear and desperation. Despite a recent decrease in bloodshed, violence continues to claim hundreds of civilian lives every month. The human rights situation is bleak. All sides involved in the fighting have committed atrocities that amount to war crimes and crimes against humanity. The Iraqi government has failed to investigate gross human rights violations or bring those responsible to justice. The MNF has committed serious human rights violations.

The Iraqi government, the MNF and the international community must make a real commitment to protect and promote the full range of human rights for all Iraqis and others within Iraq, including the millions of people who have been forced to abandon their homes. While Amnesty International recognizes that both the Iraqi government and the MNF are facing armed groups who aim to deliberately kill large numbers of civilians, this must never be used as justification for their forces to perpetrate serious human rights violations with impunity.

AMNESTY INTERNATIONAL MAKES THE FOLLOWING RECOMMENDATIONS:

To the Iraqi government and the Multinational Force:

- Exercise due diligence and protect the human rights of everyone under their jurisdiction, in particular Iraqi and non-Iraqi civilians, including their rights to life, liberty and security of person.
- Set up prompt, independent and impartial investigations into human rights violations, including extrajudicial executions, torture and other

ill-treatment, by the Iraqi security forces, members of the MNF and private security guards. Bring to justice all those found responsible for committing such violations in fair trials and without recourse to the death penalty.

- Release or charge with recognizably criminal offences all those who are currently held without charge or trial in prisons and detention centres under the control of both the Iraqi and MNF forces.
- Declare immediately a moratorium on the death penalty.
- Uphold the rights of women and take effective steps to protect women and girls from violence.
- Ratify and observe the requirements of the Convention against Torture.
- Take immediate steps to improve security for all refugees and internally displaced people, and provide them with adequate humanitarian assistance, including ensuring children's access to education.

To armed groups:

- Immediately cease all attacks against civilians and other non-combatants, all indiscriminate and disproportionate attacks and all attacks carried out while pretending to be a civilian.
- Immediately end all deliberate killings of civilians and captured combatants, and end abductions, hostage-taking, torture and other ill-treatment.
- End immediately the harassment, death threats and violent attacks against women and girls, including when they are exercising their rights to freedom of expression and freedom of religion.

To the international community, in particular the governments of the USA, European Union and other states that have the resources and capacity:

- Provide financial, technical and in-kind assistance to the governments of Syria, Jordan and other countries in the region that have received large numbers of Iraqi refugees, as well as to UN agencies and international non-governmental organizations that are assisting Iraqi refugees and internally displaced people.
- Share the responsibility for Iraqi refugees by resettling some of those in Syria, Jordan and other countries in the region, giving priority to the most vulnerable in accordance with UNHCR guidelines on the resettlement of Iraqi refugees. This should go far beyond token numbers and should constitute a significant part of the solution to the current refugee crisis.
- Immediately stop all forcible returns to any part of Iraq. Any return of failed asylum-seekers should only take place when the situation in the whole of Iraq has stabilized and there are adequate conditions for a stable and durable peace.

To the governments of Syria, Jordan and other countries in the region:

- Allow unrestricted entry to people fleeing Iraq who are in need of international protection, exempting them from visa requirements.
- Do not forcibly return Iraqis at risk of human rights violations to Iraq in breach of international law.

ENDNOTES

1. In May 2003 the Head of the Coalition Provisional Authority, Paul Bremer, issued Order Number 1 on the “de-Ba’athification of the Iraqi Society”, which banned the former ruling Ba’ath Party and dismissed all senior members from their government posts, including in the education and health sectors. This law has now been replaced by the Accountability and Justice Law.
2. There are also up to 70,000 Iraqis in Egypt, around 50,000 in Lebanon and about 200,000 in the Gulf countries, according to UNHCR.
3. Of the 2.2 million internally displaced, 1,021,962 were displaced before 2003. UNHCR, Iraq Situation Update, 7 September 2007.
4. Despite the situation being somewhat more stable, Amnesty International still opposes the forcible return of Iraqis to the Kurdistan region based on: 1) the instability in Iraq and the potential for a civil war and violence spreading to the northern governorates, especially in light of the referendum on the status of Kirkuk later in 2008; and 2) the already strained resources of the three northern governorates and the increased strains any new arrivals would place on them.
5. *The Guardian*, Sarah Boseley, “151,000 civilians killed since Iraq Invasion”, 10 January 2008.
6. Ibid. The Iraq Body Count is an independent project which maintains and updates a database on violent civilian deaths in Iraq since the 2003 invasion. The project was set up by volunteers from the USA and UK. For more information, see their website: <http://www.iraqbodycount.org/>
7. Reuters, 1 February 2008.
8. Oxfam, “Rising to the humanitarian challenge in Iraq”, July 2007.
9. Moqtada al-Sadr’s movement and the ISCI are the largest Shi’a political and religious groups among Iraq’s Shi’a population and are influential in the government and parliament.
10. For detailed information on the targeting of Palestinians, see Amnesty International’s report, *Iraq: Human rights abuses against Palestinian refugees* (AI Index: MDE 14/030/2007), October 2007.
11. Name withheld.
12. Reuters, 1 February 2008.
13. Multi-National Force Press Briefing, 6 February 2008. http://www.mnf-iraq.com/index2.php?option_content&task=view&id=16863&p
14. See Amnesty International’s report, *Iraq: In cold blood – abuses by armed groups* (AI Index: MDE 14/009/2005), published on 25 July 2005.
15. AFP, 29 September 2007.
16. *The New York Times*, Paul von Zielbauer, “U.S. Investigates Civilian Toll in Airstrike, but Holds Insurgents Responsible”, 13 October 2007.
17. Associated Press, 22 October 2007.
18. Reuters, AFP, Associated Press, 4 February 2008.
19. Badr Organization, previously Badr Brigades, is a Shi’a militia associated with one of the largest Shi’a religious and political movements, the Supreme Iraqi Islamic Council, previously the Supreme Council for the Islamic Revolution in Iraq (SCIRI). Both had been based in Iran from the early 1980s until 2003 following the invasion of Iraq. The alleged head of Badr Organization is a member of the Iraqi parliament.
20. AFP, 29 March 2007.
21. *The New York Times*, David Johnston and John M. Broder, “F.B.I Says Guards Killed 14 Iraqis Without Cause”, 14 November 2007; *The Guardian*, Ewen MacAskill, “Blackwater promises action after FBI report”, 14 November 2007.
22. *Washington Post*, Joshua Partlow and Sudarsan Raghavan, “Guards Kill Two Women in Iraq”, 10 October 2007.
23. Ibid.
24. Times Online, Deborah Haynes, “DynCorp security guards shoot taxi driver dead in Baghdad”, 12 November 2007.
25. UNHCR, Iraq Situation Update, 7 September 2007.
26. See Amnesty International’s reports, *Iraq: The situation of Iraqi refugees in Syria* (AI Index: MDE 14/036/2007), July 2007; *Iraq: A deepening refugee crisis – Media Briefing* (AI Index: MDE 14/021/2007), April 2007.
27. Reuters, 3 September 2007.
28. According to the Iraqi Red Crescent Society, about 46,000 Iraqi refugees returned to Iraq from Syria between September and December 2007. In November 2007, UNHCR Syria published the results of research undertaken into reasons why Iraqis were returning to Iraq. Of some 110 Iraqi families UNHCR spoke to in Syria, the majority said they were returning because they were running out of money and/or resources, facing difficult living conditions, or because their visas had expired – not because of improved security. See UNHCR Briefing Notes, Iraq: UNHCR cautious about returns, 23 November.
29. AFP, 6 February 2008.
30. Ibid.
31. Statement by Jennifer Pagonis, UNHCR spokesperson, at a press briefing, 14 December 2007, Geneva.
32. See Amnesty International’s report, *Iraq: Millions in flight – the Iraqi refugee crisis* (AI Index: MDE 14/041/2007), September 2007.

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Cover photo: Abu Abdullah (*right*), stands in the debris of what used to be his shop, destroyed by a bomb in February 2007 in Baghdad. Two of his sons were killed in the explosion. © AP Photo/Khalid Mohammed.

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33. This was stated by Karl Matti, head of the Jordan-based Iraq delegation of the ICRC at a press conference. AFP, 13 November 2007.
34. AFP, 10 February 2008.
35. After June 2004 a body called the Combined Review and Release Board (CRRB) was set up, comprising two representatives each from the Iraqi ministries of justice, interior and human rights and three MNF officers. This body reviews the cases of internees and makes recommendations on whether they should be released or continue to be detained. However, the recommendations are not binding and it is the MNF's Deputy Commanding General for Detainee Operations who decides whether or not a detainee should be released after first consulting the Iraqi Justice Minister.
36. For more information on detention procedures, see Amnesty International's report, *Iraq: Beyond Abu Ghraib – detention and torture in Iraq* (AI Index: MDE 14/001/2006), March 2006.
37. Article 123 of the Code of Criminal Procedure, Law No. 23 of 1971, as amended.
38. AFP, 10 February 2008.
39. *The New York Times*, Michael Moss, "Jailed 2 Years, Iraqi Tells of Abuse by Americans", 18 February 2007.
40. Amnesty International, *Iraq: Beyond Abu Ghraib – detention and torture in Iraq*, p. 29.
41. UNAMI, Human Rights Report, 1 January-31 March 2007, p.23.
42. *The New York Times*, Kirk Semple, "Basra Raid Finds Dozens Detained by Iraq Spy Unit", 5 March 2007.
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44. IRIN (UN Office for the Coordination of Humanitarian Affairs), "Iraq: Child prisoners abused and tortured, say activists", 29 October 2007.
45. Reuters, 9 December 2007.
46. For more information on the use of the death penalty in Iraq and concerns regarding unfair trials, see Amnesty International's report, *Iraq: Unjust and unfair – The death penalty in Iraq* (AI Index: MDE 14/014/2007), April 2007.
47. Reuters, 14 March 2007.
48. World Health Organization, Iraq Family Health Survey 2006/7.
49. BBC, Mona Mahmoud and Mike Lanchin, "Basra militants targeting women", 15 November 2007.
50. BBC news online 22 February 2007.
51. Amnesty International, *Iraq: Amnesty International appalled by stoning to death of Yazidi girl and subsequent killings* (AI Index: MDE 14/027/2007), 27 April 2007.
52. See, for example, Amnesty International's report, *Iraq: Decades of suffering – Now women deserve better* (AI Index: MDE 14/001/2005), February 2005.
53. *Los Angeles Times*, Solomon Moore, "Police Abuses in Iraq Detailed", 9 July 2006.
54. BBC news, Martin Asser, "What happened at Haditha?", 21 December 2006.
55. Ibid.
56. Ibid.
57. AFP, 25 January 2008.
58. For more information on this case, see Amnesty International's statement, "United Kingdom Court Martial acquittals: many questions remain unanswered and further action required to ensure justice" (AI Index: EUR 45/005/2007), 15 March 2007.
59. In May 2006, the two largest political parties which had dominated Kurdistan politics for decades, the Kurdistan Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK), agreed to form the KRG, which is a unified government for the region. Previously, the KDP controlled western Kurdistan with Erbil as the capital and the PUK controlled the eastern part with Sulaimaniya as the capital.
60. AFP, 26 November 2007.
61. UN Assistance Mission for Iraq (UNAMI), Human Rights Report, 1 April-30 June 2007, pp.14-15.
62. For a discussion of international law applicable to armed groups in Iraq, see Amnesty International, *Iraq: In cold blood – abuses by armed groups* (AI Index: MDE 14/009/2005), July 2005.
63. The International Court of Justice has affirmed that human rights law remains operative in times of armed conflict. See "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory", Advisory Opinion of 9 July 2004, ICJ Reports 2004. See also the UN Human Rights Committee, General Comment 31 on the Nature of the General Legal Obligation Imposed on State Parties to the Covenant on Civil and Political Rights, UN Doc. CCPR/C/21/Rev.1/add. 13.
64. Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law*, 2 volumes: Volume I. Rules, Volume II. Practice (2 Parts), Cambridge University Press, 2005, Rule 100.
65. Iraq ratified the ICCPR in 1971 (it entered into force in 1976). The change of government in Iraq does not in any manner entail a termination or change to the applicable human rights law in the country. The Human Rights Committee, responsible for overseeing the implementation of the ICCPR, has stated that "rights enshrined in the Covenant belong to the people living in the territory of the State party. The Human Rights Committee has consistently taken the view, as evidenced by its long-standing practice, that once the people are accorded the protection of the rights under the Covenant, such protection devolves with territory and continues to belong to them, notwithstanding change in government of the State party..." See Human Rights Committee: General Comment No. 26: Continuity of obligations, 08 December 1997, CCPR/C/21/Rev.1/Add.8/Rev.1, para. 4.
66. Additional Protocol I, Article 50.
67. Additional Protocol I, Article 43.
68. ICCPR Article 3.
69. See Human Rights Committee, General Comment No. 20: Replaces general comment 7 concerning prohibition of torture and cruel treatment or punishment (Art. 7), 10 March 1992.

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