



## Human Rights Report

1 April – 30 June 2007

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## Introduction

The Human Rights Office (HRO) of the United Nations Assistance Mission for Iraq (UNAMI) engages in the promotion and protection of human rights and the rule of law in close collaboration with Iraqi governmental and non-governmental sectors, in accordance with UN Security Council Resolution 1770 (2007), paragraph 2 (c), which mandates UNAMI to “promote the protection of human rights and judicial and legal reform in order to strengthen the rule of law in Iraq.”<sup>1</sup> In order to fulfill this mandate, UNAMI HRO monitors the human rights situation in Iraq and assists, especially through capacity-building activities, in the rehabilitation and reconstruction of state and civil society institutions. It collaborates closely with national human rights activists and seeks to maintain direct contact with victims and witnesses of human rights violations.<sup>2</sup>

UNAMI’s regular human rights reports, published since July 2005, detail serious and widespread human rights violations in Iraq, and are intended to assist the Government of Iraq in ensuring protection of basic human rights and respect for the rule of law. Given prevailing security conditions and the nature of the violence engulfing many parts of the country, UNAMI recognizes the enormous difficulties facing the Iraqi Government in its efforts to restore law and order. Its law enforcement personnel are under relentless attack by insurgency groups, and both Sunni and Shi’a armed groups carry out direct attacks on civilians through suicide bombings, abductions and extrajudicial executions while making no distinction between civilians and combatants. Such systematic or widespread attacks against a civilian population are tantamount to crimes against humanity and violate the laws of war, and their perpetrators are subject to prosecution.

Iraq remains bound by both its international treaty obligations and its domestic legislation in taking measures to curb the violence. The International Covenant on Civil and Political Rights (ICCPR), in particular, is clear on the basic protections that must be afforded to persons and from which no derogation is permissible even in times of emergency.<sup>3</sup> UNAMI’s mandate includes assisting the Government of Iraq in fulfilling its human rights obligations, and remains willing to engage the authorities in a constructive dialogue in order to achieve these objectives. The ultimate aim – ensuring lasting stability and security – can only be realized through the protection of fundamental rights and respect for basic human dignity. UNAMI stands ready to support the Iraqi Government in that effort.

UNAMI’s reporting on the human rights situation in Iraq is based on information obtained through a variety of sources. These include victims of human rights violations, relatives of victims and eyewitnesses, non-governmental human rights groups, journalists, lawyers, doctors and government officials. UNAMI seeks to conduct face-to-face interviews with individuals representing minority groups, religious groups, organizations working on women’s issues, internally displaced persons and others. To the extent possible, given

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<sup>1</sup> SC Resolution 1770 was passed on 10 August 2007, replacing SC Resolution 1546 (2004).

<sup>2</sup> UNAMI HRO has a physical presence in Amman, Baghdad and Erbil, with over 30 staff members employed in total. UNAMI HRO in Basra closed when the human rights staff was withdrawn for security reasons in October 2006. Security conditions on the ground continue to severely restrict freedom of movement of UN staff in all regions except three governorates under the authority of the Kurdistan Regional Government, impairing both protection and promotion activity by UNAMI HRO.

<sup>3</sup> Iraq ratified the ICCPR in 1971, and all successive governments are bound by this treaty obligation.

security constraints, it also conducts field visits to relevant locations in order to assess information received on human rights violations. On matters relating to detentions and judicial procedure, UNAMI conducts its own visits to places of detention under the authority of the Government of Iraq and the Kurdistan Regional Government (KRG), interviewing both the inmates and detaining officials on issues including due process, treatment in custody and conditions of detention. It maintains an ongoing dialogue with members of the judiciary and officials representing the Higher Judicial Council, as well as defense counsel representing the accused. UNAMI regularly publishes data received from ministries involved in law enforcement, and from the ministries of Human Rights in Baghdad and Erbil, on the detainee and prisoner populations as well as on sentencing by the criminal courts. It also publishes data received from representatives of the Multinational Forces (MNF). The MNF authorities also provide information on individual cases that UNAMI raises with them on behalf of detainees' relatives.

The ongoing violence in Iraq and prevailing security conditions limits UNAMI's ability to directly assess incidents involving attacks on civilians and others by armed groups and governmental security forces. Where received, UNAMI publishes data compiled by the Ministry of Health and its related institutions on Baghdad on civilian deaths. Issues of concern are raised on a regular basis with relevant government officials, and any responses received are reflected in UNAMI's public reports. As a matter of policy, UNAMI does not disclose information given in confidence and does not indicate sources of information unless consent is granted. This includes not only victims of human rights abuses and eyewitnesses but also government officials who provide information on condition of anonymity for fear of reprisals. Many accounts relating to the human rights situation in Iraq are discounted where UNAMI is unable to verify the information through other sources or where the information is inconsistent with its own assessment of patterns of abuse. Where secondary sources are not available but circumstantial evidence built over time is highly consistent with UNAMI's knowledge and assessment of the situation, such information is published with a qualification in cases where UNAMI believes it to be in the public interest.

## **Summary**

1. The ongoing violence in Iraq poses enormous challenges to the Government of Iraq in its efforts, amid continuing political crises, to bring under control acts of violence motivated by sectarian considerations and criminal activity. As in the past, civilians bore the brunt of the violence, with casualties being reported on a daily basis in Baghdad and elsewhere. Both Iraqi law enforcement personnel and MNF forces also continued to suffer casualties as a result of attacks by insurgency groups. While a significant number of the casualties in the reporting period were concentrated in and around Baghdad, other cities including Mosul and Basra witnessed similar violent attacks. The situation in governorates such as Diyala remained dire, with devastating consequences for the civilian population both in terms of casualties and the displacement of the civilian population. The resurgence of insurgency attacks in the Kurdistan region also has devastating consequences for civilians and law enforcement personnel alike, following two attacks in the Erbil and Makhmour areas during this reporting period.

2. Daily life for the average Iraqi civilian remains extremely precarious. The violence remains in large part indiscriminate, targeting public places where large numbers of people

gather to inflict maximum casualties and foment fears of further descent into chaos and loss of any semblance of state control. The violence has affected all of Iraq's ethnic groups and communities, including minority groups. Targeted assassinations, abductions for ransom or other motives, and extrajudicial executions, continued to be reported on a regular basis. As in the past, professional groups remained a prime target of such attacks, among them media professionals and members of the legal profession, as highlighted in this report.

3. The level of casualties sustained as a result of attacks by Sunni insurgency groups, armed Shi'a militia and criminal gangs remained difficult to gauge, given the constraints imposed by the security situation. MNF officials involved in the implementation of the Baghdad Security Plan reported a drop in casualty figures in June, as well as greater success in reducing the number of car bomb attacks in the capital. UNAMI regrets that for this reporting period, it was again unable to persuade the Government of Iraq to release data on casualties compiled by the Ministry of Health and its other institutions. UNAMI continues to maintain that making such data public is in the public interest.

4. Efforts by the Government of Iraq to find long-term and durable solutions for the mass displacement of the Iraqi population caused by the ongoing violence remained inadequate in the face of an ever-deepening humanitarian crisis. Having been forced to abandon their homes, many are living in dire conditions without access to adequate food supplies and basic services, with children being particularly vulnerable to disease. While government officials publicly pledged to devote financial resources to address the most urgent needs faced by the displaced communities, both the amounts pledged and the measures adopted thereafter remained inadequate given the gravity of the situation. Many Iraqis continue to seek ways to flee the country, an increasingly risky and challenging exercise in the face of both deteriorating security and increasing restrictions on entry into neighboring countries. The United Nations High Commissioner for Refugees (UNHCR) estimated that some 2.2 million Iraqis are currently refugees abroad, around half of whom are in Syria. At this writing, the Government of Iraq was engaged in dialogue with several neighboring governments, notably those of Syria and Jordan, over the situation facing Iraqi nationals in the host countries with respect to entry and residency requirements as well as access to essential basic services.

5. UNAMI remains concerned about the effectiveness of judicial oversight mechanisms in place for suspects arrested in the context of the ongoing Baghdad Security Plan, which has caused a significant increase in the overall detainee population. While acknowledging the positive measures adopted by the judicial authorities and their international advisers aimed at ensuring access to investigative judges and timely review of cases, the pace of arrests has exceeded the authorities' ability to ensure adequate judicial oversight for the detainee population. It has also exceeded the authorities' ability to provide humane living conditions for detainees, resulting in serious overcrowding and poor hygiene at some locations. Of equal concern to UNAMI are continuing reports of the torture and ill-treatment of detainees held in particular at pre-trial detention facilities under the authority of the Ministry of Interior in Baghdad. Despite the efforts of Ministry of Human Rights through its regular inspection of detention facilities and the submission of recommendations to the relevant authorities, there is no discernible change in approach by the Government of Iraq towards the issue of detainee abuse and the importance of holding perpetrators criminally liable for such crimes.

6. UNAMI notes and welcomes several positive measures adopted by the MNF authorities in the second quarter of 2007 to both improve the administrative detention process and ensure a greater measure of due process rights for detainees in their custody. Additionally, towards the end of June the MNF launched a major rehabilitation program for both adult and juvenile inmates.<sup>4</sup> Nevertheless, some aspects of the detention practices followed by the MNF remain of concern and require review, including lack of adequate time and opportunity for counsel to prepare an effective defense, the absence of legal representation at administrative hearings, and the limited access to evidence granted to both defendants and their legal counsel. Additionally, while UNAMI has welcomed the access and cooperation extended by the MNF authorities to the International Committee of the Red Cross (ICRC), it regrets that to date the US authorities still do not see fit to allow public monitoring of MNF detention facilities by independent human rights monitors, including those of UNAMI.

7. The human rights situation in the Kurdistan region remains of concern in a number of areas, including continuing incidents involving violence against women, the abuse of detainees and the prolonged detention without charge or trial of hundreds of detainees held on suspicion of terror-related offences. UNAMI is encouraged, however, by several measures adopted by the KRG authorities in recent months in an effort to address some of these concerns, including the review of long-standing detention practices followed by the regional authorities' security forces. UNAMI hopes that such measures, if seriously followed up, would pave the way for greater accountability for government officials suspected or known to have abused their authority.

8. In response to its last Human Rights Report, published on 25 April, UNAMI received written comments from the Government of Iraq and the KRG. These responses, while strongly critical of UNAMI's assessment of the human rights situation in the country, were largely based on objections to the tone of the reporting rather than its substance. A number of the comments related to perceived omissions in the Human Rights Report, namely adequate references to positive achievements realized by the Government of Iraq and the KRG authorities in seeking to address the grave human rights situation. The Government of Iraq's response also referred to one instance where UNAMI did not reflect the most up-to-date information on the issue at hand,<sup>5</sup> and reiterated its willingness to provide information on request. It also stated that some issues highlighted in the report had been "exaggerated". UNAMI's findings, based on its monitoring and research activities, suggest that the human rights situation in Iraq remains grave.<sup>6</sup> The KRG authorities acknowledged some of the violations highlighted by UNAMI while pointing out some of the measures they had taken to address them. On the practice of indefinite internment of detainees by the MNF, UNAMI did not receive any comments from MNF officials involved in Detainee Operations, but both verbal and written responses were received from

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<sup>4</sup> Most of the measures adopted by the MNF in regard to rehabilitation programs fell outside this reporting period and will be addressed in UNAMI's next Human Rights Report.

<sup>5</sup> The Iraqi Government's letter dated 13 May, sent in the name of the Ministry of Human Rights, stated that, contrary to information published by UNAMI, the right of the Baha'i religious minority to obtain identification and residency documents was restored on 19 March. UNAMI acknowledges that it was not in possession of this information at the time of publication, and therefore had stated the following: "By late March, UNAMI was seeking confirmation of reports that the Iraqi authorities were preparing to regularize the legal status of the Baha'i community".

<sup>6</sup> This was, for example, in reference to UNAMI's reporting on human rights violations affecting the Palestinian community in Iraq.

the United States Embassy in Iraq.<sup>7</sup> The Embassy's letter addressed issues related to both MNF and Iraqi Government detentions, stating that UNAMI's report "demonstrated numerous inaccuracies and blurred distinctions" resulting in a "skewed and inaccurate picture". UNAMI has since responded fully to all points raised by US officials, some of which are highlighted in this report, and remains engaged with both the MNF and Iraqi authorities in order to follow up on its concerns.

9. UNAMI welcomes responses received from officials to its human rights activities, including its public reporting, and believes that constructive dialogue can only assist in the fulfillment of objectives in this field. UNAMI particularly appreciates a number of positive developments that have taken place since the issuance of its Human Rights Report on 25 April for the first quarter of 2007. The increased cooperation by Government of Iraq ministries with UNAMI human rights officers with regard to access to official data and to detention facilities to report on conditions and due process concerns, and the extension in May of an invitation by the Government of Iraq to the UN Special Rapporteur on torture to visit the country, are examples of such positive developments. The KRG authorities continue to grant similar access to detention facilities to UNAMI's human rights officers, and their appointment of a high-level ministerial committee to examine cases raised in UNAMI's recent Human Rights Report is both welcome and encouraging. The readiness of MNF officials to assist both in terms of access to information and in logistical support is appreciated. UNAMI also maintains an active program of promotional activity involving the training of personnel from several ministries involved in law enforcement, as well as staff of the Higher Judicial Council. These capacity-building programs are expanding as a result of requests received from the relevant ministries. UNAMI's aim is to encourage the Government of Iraq and all principal actors to develop more effective means of addressing the challenges raised by the human rights situation in the country.

10. On 23 September, UNAMI submitted the current Human Rights Report for comment to the Government of Iraq and the Kurdistan Regional Government, as well as extracts from the report pertaining to MNF practices to the US and UK Embassies in Baghdad.<sup>8</sup> UNAMI received the comments of the US Embassy, incorporating those of the MNF, on 3 October, and comments from the KRG authorities and the UK Embassy on 4 October.<sup>9</sup> No response was received from the Government of Iraq, but UNAMI would welcome such comments as part of its continuing dialogue on issues of mutual concern. In their responses, the KRG authorities focused on measures they had taken in addressing human rights concerns, some of which were already discussed in UNAMI's report. Others measures adopted fell outside the reporting period of this report or require further assessment prior to inclusion in UNAMI's next report. Several comments received from the US and on the issue of the killing of civilians during MNF military operations or by contractor employees are taken into account in this report. Other comments relating to MNF detention practices, which reflect diverging views to those of UNAMI regarding the nature of the conflict in Iraq and applicable law governing those detentions, are noted and

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<sup>7</sup> The letter from the US Embassy in Iraq, dated 10 May, was received on 5 June. UNAMI also received verbal comments from the Embassy of the United Kingdom in Iraq.

<sup>8</sup> Comments of a factual nature received and verified by UNAMI are reflected in this report, while other substantive comments will be reflected, as appropriate, in future reports.

<sup>9</sup> The KRG authorities' comments included those of the Presidency Diwan and officials representing the ministries of Justice, Interior, Labour and Social Affairs, and Women's Affairs.

addressed in this report.<sup>10</sup> The UK Embassy's comments to UNAMI relating to the status of contractor employees in Iraq are also taken into account in this report.

## **Protection of Human Rights**

### **Extra-judicial executions, targeted and indiscriminate killings**

11. Acts of violence involving car bombings and suicide attacks, intimidation, kidnapping and extrajudicial killings continued to be perpetrated in many parts of the country, disproportionately affecting the civilian population. While official spokespersons for the Baghdad Security Plan stated that successes had been achieved in the identification of elements within both Sunni insurgency and Shi'a armed groups, and in locating arms caches and seizure of weaponry, large-scale attacks perpetrated by these groups continued to target governmental institutions, members of the Iraqi Security Forces and MNF personnel, places of worship, and other public places such as restaurants, bus stations and market places.

12. On 12 April, an explosion at the Council of Representatives' premises in Baghdad's International Zone killed at least three people, including one parliamentarian representing the National Dialogue Front, Mohammed al-Awad. On 14 and 15 April, some two hundred people were reported to have died or sustained injuries in separate attacks in Karbala' and Baghdad's al-Jadiriyyah and al-Utaifiyya neighborhood. On 28 April, a massive car bomb explosion resulted in the killing of an estimated 58 civilians and wounding 110 others, including women and children, when a car bomb detonated near the Abbas Shrine in Karbala'. In northern Iraq, on 9 May, a suicide bomber detonated a truck laden with explosives near the KRG Ministry of Interior complex in Erbil, killing some 16 people and injuring 80 others. A second suicide attack in the north on 15 May killed an estimated 50 people near the Kurdistan Democratic Party (KDP) headquarters in Makhmour. On 31 May, a suicide attack targeting a police recruitment center in Falluja killed an estimated 30 people. On 13 June, the second bombing of the Shrines of Imam Ali al-Hadi and Imam Hassan al-Askary took place in Samarra. On 19 June, one of the largest insurgency attacks targeting the civilian population occurred near the Gailani mosque close to al-Khallani Square in Baghdad, when some 75 people were killed and 130 others were injured in a car bomb explosion.

13. UNAMI received information on a regular basis on killings among civilians from a variety of sources, including victims of human rights violations, their families, judicial officials, non-governmental organizations, as well as media reports. These sources provide only a partial picture of the level of violent deaths among the civilian population. Separately, the Ministry of Interior announced that across Iraq, the number of violent deaths among civilians for the month of June stood at 1,227. It was unclear on what basis this figure was compiled. During this reporting period, UNAMI sought on several occasions to obtain overall mortality figures from Iraqi official sources, notably the Ministry of Health and its related institutions. UNAMI also urged the reversal of the ban imposed in February 2007 by Government of Iraq representatives on the release of this data. By late June, UNAMI had not received responses to its requests and Ministry of Health officials were unable to officially release the mortality data without clearance from senior government officials.

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<sup>10</sup> See paragraphs 77-80 of this report.

14. The civilian population in Baghdad continued to be affected by clashes between armed groups, possibly vying for control of certain neighborhoods. On 19 May in the district of al-Saidiyah, residents witnessed several hours of fighting between the Mahdi Army and Jaysh Omar. According to eyewitness accounts, in the process some civilians were dragged out of their homes and shot dead. Throughout May and June, UNAMI also received information indicating a rise in the number of attacks and forced expulsion of members of the Christian community, in particular in Baghdad's al-Dora district. A number of families received threats, according to accounts received by UNAMI, urging them to leave their homes and their neighborhood on pain of death. Some families described how the so-called Mujahidin of al-Dora, in control of the area at the time, killed their relatives and left their bodies on the street as a warning. Residents stated they were afraid to retrieve the bodies for burial, waiting until an MNF or Iraqi police patrol picked them up.

15. Attacks against civilians and the police were perpetrated in Falluja, Karbala', Mosul, Tala'far, Ba'quba, al-Ramadi, al-Hilla, Kirkuk and elsewhere. According to information received by UNAMI, an estimated 900 families comprising some 5,000 individuals fled Diyala Governorate in May. They reportedly headed to Najaf, Karbala' and Basra after an increase in attacks by armed groups and a rise in sectarian violence in the governorate. The majority of those displaced were believed to be Shi'a families, who were either forcibly expelled from their homes or left out of fear for their lives.

16. In Mosul, large-scale bombings targeted Iraqi Security Forces personnel and representatives of the KDP. On 23 April, two car bombs targeting KDP offices killed some 33 people, including civilians and Peshmerga<sup>11</sup> fighters and injured an estimated 200 others. Minorities such as Christians, Yezidis and Shabaks also continued to be targeted, as did political figures, religious figures and professionals. In April, gunmen killed Talal al-Jalili, a Mosul University lecturer. In May, schoolteacher Isma'il Talib Ahmad and Najm al-Iraqi, dean of the Sports College of the University of Mosul, were shot dead in separate incidents. On 15 June, the Iraqi Minorities Council told UNAMI that in March and April pamphlets were distributed in villages populated with the minority Shabak community, which the Council attributed to elements within al-Qa'eda. The pamphlets reportedly threatened to kill the Shabak unless they left their homes and the area. Between April and May, approximately 20 members of the Shabak community were killed. It was unclear whether the perpetrators were armed elements linked to al-Qa'eda or local security forces. Numerous Christian families residing in the governorate fled to Dohuk and to villages on the outskirts of Mosul due to ongoing violence and out of fear for their lives.

17. UNAMI continued to receive reports of the alleged involvement of Iraqi security forces and military personnel in extra-judicial killings in several incidents in Baghdad. In one incident on 28 April, UNAMI received reports of the arrest of 31 men by individuals wearing Iraqi Army uniforms in al-Sifina neighborhood in the district of al-A'dhamiya, of whom five were reportedly found dead the following day in al-Kesra district. On 3 May, 16 people were reportedly arrested in the Hay al-'Amel neighborhood by personnel dressed in uniforms issued to the Ministry of Interior's Public Order Forces, according to local residents. All 16 men were believed to have been subsequently killed. The incident received some media coverage, and on 3 May Iraqi Government officials announced the

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<sup>11</sup> Kurdish armed forces of the Kurdistan Democratic Party, the Patriotic Union of Kurdistan and other Kurdish political groups.



appointment of a committee to investigate the incident. On 4 May, UNAMI received reports that Iraqi Security Forces personnel stormed the al-Dubbat area in the al-Jihad neighborhood, arresting and then shooting 14 civilians. The following day, three men working as guards at a mosque in Hay Al-Rissala were allegedly arrested and then executed by armed men with alleged links to the Iraqi Security Forces.

18. *UNAMI calls on insurgent groups and armed militia to cease all attacks against civilians and civilian objects, and all attacks that do not discriminate between combatants and civilians. Such groups should put an end to the abduction and hostage taking of civilians, and release all such civilians in their custody. Combatants from the MNF and Iraqi Security Forces should be treated humanely. UNAMI further urges the Government of Iraq to make every effort to implement policies aimed at achieving the proper vetting and training of its law enforcement personnel, and reiterates the importance of establishing effective monitoring and accountability mechanisms to ensure oversight of the conduct of security forces personnel.*

### **MNF military operations and the killing of civilians**

19. At the end of April, the MNF presence in Iraq increased as further deployments of US troops brought the total number to some 146,000. Most of these additional troops were deployed in support of the Baghdad Security Plan.

20. UNAMI recorded a number of incidents in which 88 civilians were reportedly killed during air strikes conducted by MNF forces.<sup>12</sup> They included the following: nine civilians killed in five villages in the al-Anbakiya area near Ba'quba on 11 March; two civilians killed in Dulu'iya in Salahuddin Governorate on 15 March; 16 civilians killed in Sadr City in Baghdad on 30 March; 27 civilians killed in Khaldiya, Ramadi, on 3 April; four civilians killed in Sadr City and four others west of Taji on 26 April; three civilians killed in Basra on 30 April; seven civilians killed east of Baghdad on 5 May; one civilian killed in Sadr City on 6 May; and eight civilians killed in Basra on 26 May. On 8 May, seven children were reportedly killed when helicopters attacked an elementary school in a village in Diyala Governorate near the Iranian border. Following this incident, a spokesperson for US forces in Iraq, Lieutenant-Colonel Christopher Garver, announced that the MNF authorities were conducting an investigation into the circumstances surrounding the death of the children. However, the findings of such investigations are not systematically publicized. On 28 June, UNAMI wrote to the MNF Chief of Staff, seeking further information on all these recorded incidents in which civilians were said to have been killed during air strikes.

21. Other incidents involving the alleged killing of civilians in the context of raid and search operations carried out by MNF ground forces were also recorded. Among them were the following: on 29 March, MNF soldiers raided the house of Zeyour Mohamed Khalil in Mosul, allegedly shooting four persons including a 14-year-old boy; on 2 April, six civilians were allegedly killed when MNF troops raided the homes of Bashar Mahfoudh

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<sup>12</sup> Some of the most fundamental rules of customary international humanitarian law oblige combatants to take precautionary measures to spare the civilian population and civilian objects, and in particular to ensure that attacks would not be excessive in relation to the concrete military advantage expected – the principle of proportionality. Customary international humanitarian law demands that, as much as possible, military objectives must not be located within areas densely populated by civilians. The presence of individual combatants among a great number of civilians does not alter the civilian character of an area.

and Walid al-Ahmadi in two areas outside Mosul, Hay al-Bakr and Hay al-Salam; on 12 April, a further three civilians were allegedly killed in al-Bojyat village in southern Haditha in a raid and search operation carried out by MNF soldiers; and on 6 June, MNF forces in Baghdad allegedly shot dead two Iraqi civilians, Sarmad Yassin Farhan and his father Yassin Farhan, in their home as the father tried to prevent the soldiers from apprehending his son. In a letter dated 11 May to the then MNF Chief of Staff, UNAMI requested information on the incidents of 29 March and 2 April. In the same letter, UNAMI also reiterated its call for an investigation into an MNF air strike on al-Eshaqi sub-district in Salahuddin Governorate on 8 December 2006, in which 37 civilians were reportedly killed.<sup>13</sup> No response had been received from the MNF by the end of June.

22. During the reporting period, several reports emerged of killings carried out by privately hired contractors with security-related functions in support of US government authorities. According to the *Washington Post*, for example, employees of Blackwater, a private security firm operating in Iraq under contract to the US State Department, shot an Iraqi whose vehicle had allegedly moved too close to their convoy in the vicinity of the Ministry of Interior in Baghdad on 24 May. In another incident, *The Independent* newspaper reported on 10 June that 19-year-old Yas Ali Mohammed Yassiri was shot dead in a taxi in the al-Masbah neighborhood in Baghdad's al-Karrada district by bodyguards of the US embassy spokesperson. The legal status of thousands of private contractors working in Iraq remains unclear. While not officially considered employees of the US government, Coalition Provisional Authority Order Number 17 of 2004 nevertheless grants them immunity from prosecution within the Iraqi judicial system "with respect to acts performed by them pursuant to the terms and conditions of a Contract or any sub-contract thereto".<sup>14</sup> While CPA Order 17 also enables the US Government to waive a contractor's immunity,<sup>15</sup> to UNAMI's knowledge it has not done so to date. Certain categories of contractor employees are subject to US military law under the Uniform Code of Military Justice (UCMJ), amended in January 2007 to broaden its scope to allow military jurisdiction over persons "serving with or accompanying an armed force in the field" during a "time of declared war or a contingency operation". Contractors who commit offences over which the US Government has extraterritorial jurisdiction can also be prosecuted in the US court system.<sup>16</sup> UNAMI shares ICRC's view that private military firms must respect international humanitarian law and that the increasing recourse to their services "risks eroding the fundamental distinction between civilians and combatants because these people may not appear clearly as quite one or the other".<sup>17</sup>

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<sup>13</sup> UNAMI Human Rights Report, November-December 2006, para. 120.

<sup>14</sup> CPA/ORD/27 June 2004/17 (Revised), Status of the Coalition Provisional Authority, MNF-Iraq, Certain Missions and Personnel in Iraq, Section 4(3). The Order also states: "Contractors shall not be subject to Iraqi laws or regulations in matters relating to the terms and conditions of their Contracts [...]" (Section 4(2)). CPA Order 17 was initially promulgated in June 2003 (Status of the Coalition, Foreign Liaison Missions, Their Personnel and Contractors), and revised on the eve of the dissolution of the CPA in June 2004. Contractors employed in Iraq by Coalition Sending States other than the US are also governed by CPA Order 17 with respect to their contractual relationships.

<sup>15</sup> *Ibid.*, Section 5(1).

<sup>16</sup> US legislation under which such prosecution can be brought includes the 1996 War Crimes Act, the 1994 federal anti-torture statute and the 2000 Military Extraterritorial Jurisdiction Act (MEJA). In this context, there have been no prosecutions to date under the War Crimes Act and one successful prosecution under MEJA. US Department of Defense contractors are covered under MEJA, but it is unclear whether contractors unconnected to Department of Defense operations abroad are also covered.

<sup>17</sup> <http://www.icrc.org/web/eng/siteeng0.nsf/html/private-military-companies-interview-271106> (last visited on 16 August 2007).

23. *UNAMI urges that all credible allegations of unlawful killings by MNF forces be thoroughly, promptly and impartially investigated, and appropriate action taken against military personnel found to have used excessive or indiscriminate force. The initiation of investigations into such incidents, as well as their findings, should be made public. UNAMI also urges the US authorities to investigate reports of deaths caused by privately hired contractors, and establish effective mechanisms for holding them accountable for where the circumstances surrounding the killings show no justifiable cause. The US Government should take steps to ensure that offenses committed in Iraq by all categories of US contractor employees are subject to prosecution under the law.*

### **The targeting of media and other professionals**

24. Journalists continued to be one of the most targeted groups in Iraq, with scores killed or maimed including for reasons related to their profession. At least eleven media workers were killed between April and July, most of them at close range during attacks on media houses or while on assignment. Among those killed was Russian freelance journalist Dimitry Chebotayev who was embedded with US forces in Diyala at the time of his death on 6 May.

25. The perpetrators of these crimes frequently remain unknown. Radio Free Iraq reporter Khama'al Muhsin was abducted in the Hay al-Jami'a district of Baghdad on 3 April, and her body recovered on 6 April. Uthman al-Mashhadani of Saudi Arabia's daily *al-Watan* newspaper was abducted on 4 April in the Shu'la district of Baghdad. He was found dead two days later, allegedly in an area under the control of the Mahdi Army.<sup>18</sup> His body reportedly bore injuries consistent with having been beaten, and the fingers of his right hand were broken. Some journalists were killed on the spot, mostly by unknown gunmen. Cameraman Ala'uddin Aziz and soundman Saif Laith Yusuf of ABC News were gunned down in Baghdad on 17 May, while Nazar Abdul-Wahid al-Radhi of the Aswat al-Iraq news agency and Radio Free Iraq was shot dead in Mosul on 30 May. Sahar Hussein Ali al-Haydari of the National Iraqi News Agency and Aswat al-Iraq was also killed in Mosul on 7 June. Another journalist working for Aswat al-Iraq, Aref Ali Flaih, was killed by a roadside bomb in al-Khalis on 11 June. Another victim was Flaih Wuday Mijthab of *as-Sabah* newspaper, whose body was located in Baghdad's Medico-Legal Institute on 17 June, four days after he was abducted. Two other media outlets, Baghdad TV, owned by the Iraqi Islamic Party, and Radio Dijla were both attacked. Baghdad TV was targeted by a suicide bomber on 5 April, killing its deputy director, Tha'er Ahmad Jaber, and injuring 12 employees. Radio Dijla came under missile and heavy machine gun fire on 3 May in broad daylight, killing one guard and causing temporary suspension of its broadcasting.

26. Several legal professionals were killed, kidnapped or otherwise targeted during the reporting period. Among the victims was Ismail al-Jiburi, a judge at the al-Ad'hamiya courthouse in Baghdad, who was shot dead on 6 June in the district. His body reportedly remained on the streets for several days thereafter. On the same day, the director of the Juveniles Corrections Center, Sa'ad Abdul-Majid, and his son were abducted by unknown gunmen in Baghdad; their fate and whereabouts remained unknown. Judges and lawyers routinely reported receiving threats, and several said their cars had been wired with explosives.

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<sup>18</sup> According to the Committee to Protect Journalists (CPJ).

## **Freedom of expression in the Region of Kurdistan**

27. In reaction to its focus on the targeting of journalists in the Kurdistan region in its last Human Rights Report, UNAMI received a response from KRG officials in May noting, among other things, that a total of 646 licenses for newspapers and other outlets had been issued by the Minister of Culture, including those operated by minority groups. UNAMI welcomes the KRG's policy of ensuring diversity of media outlets, but the cases it highlighted were those of individual journalists who came under pressure by the authorities after reporting on public interest issues, demonstrations and other matters. KRG officials did not respond to the cases raised by UNAMI involving the arrest and detention of journalists, nor referred to its decision to close down a radio station.<sup>19</sup> On 19 July, the Sulaimaniya Criminal Court acquitted journalist Muhammad Siyasi Ashkanayi, allegedly arrested on charges of espionage, for lack of evidence. During this reporting period, UNAMI noted several other incidents involving journalists. Nabaz Goran, a freelance journalist, alleged that while walking by a hotel in Erbil on 4 April, five armed men wearing military uniform abducted him. Goran stated that he was blindfolded and taken to an unknown location and beaten, had his cell phone and identity card seized and then left at a deserted location outside the city later that day. On 17 April, *Asayish* (Security) personnel in Sulaimaniya arrested Ahmed Mera, the editor-in-chief of *Levin* newspaper after he had published an analytical article on the future of the Patriotic Union of Kurdistan (PUK) after President Jalal Talabani's death. Mera was allegedly beaten and placed inside an isolation room during interrogations. On the same day, Srood Mukarram Fatih Mohamed, an employee of al-Sumariya Satellite Channel was arrested at Shawais Collective Camp by *Asayish Gishiti* (General Security) personnel. On 30 May, UNAMI urged the ministers of Interior and Justice to ensure that he be allowed access to a lawyer and his family, which had, until that moment, not been informed of his whereabouts.

28. *UNAMI urges the KRG authorities to respond to individual cases raised with them involving threats against or arrest of media professionals in the Kurdistan region, including those who had reported on public interest issues. The authorities should clarify the legal basis and reasons for such arrests, and any persons detained should be accorded their rights under the law. No person should be held unless charged with a cognizable offence and referred to court.*

## **Situation of minorities**

29. The situation of minority communities in Iraq deteriorated significantly since mid-April in many parts of the country. Representatives of several Christian churches reported a rise of sectarian attacks on Christian families in Baghdad's al-Dora district. By the end of June, the number of displaced Christian families from the Baghdad area reached 1,200, according to church sources. UNAMI interviewed a number of these families, who stated that armed groups identifying themselves as Mujahidin of al-Dora, the Omar Brigade, Nusrat al-Islam and Ansar al-Sunna claimed uncontested control over different parts of al-Dora district, while threatening, abducting, looting and killing residents at will. This situation affected all residents of al-Dora, and in particular minorities who were equally vulnerable to attacks by criminal gangs.

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<sup>19</sup> See UNAMI's Human Rights Report, January-March 2007, para. 37, regarding the closure of the Kurdistan Islamic Union's radio station in the town of 'Aqra.

30. In June, UNAMI interviewed twenty Christian displaced persons from al-Dora. All those interviewed said they had received death threats, while some had had one or several of their family members killed. They described how people were killed and their bodies left on the streets for several days before an MNF or Iraqi police patrol picked them up. One father of three stated his wife had been killed close to their home on 20 December 2006. Her body lay on the street for five days until an MNF patrol retrieved it. When he came to claim her body from al-Yarmouk hospital, he said that parts of her face and body had been eaten by dogs. He and his family abandoned their home and subsequently the district of al-Dora. Earlier, in April, churches in al-Dora received threats of attack if the crosses were not taken down. The priests paid heed and additionally canceled the celebration of Easter to avoid further attacks. In Mosul, attacks on churches and religious minorities also continued with the killing of Father Ragheed Aziz al-Kinani and three deacons from the Assyrian Church by four gunmen. The gunmen intercepted their car as they were leaving the Holy Ghost Church after completing evening prayers on 7 June.

31. During the reporting period, UNAMI continued to receive renewed claims of persecution and discrimination of Assyrians and Turkoman in Kirkuk and Mosul by armed groups. In response to these claims, the KRG Minister of Culture re-established the General Directorate for Assyrian and Turkoman Affairs, encompassing members of these two communities residing outside the KRG region. While this move is in principle welcomed by UNAMI, Arabs living in substantially homogeneous governorates, as well as other groups or individuals, such as migrant workers, refugees and stateless persons, may find themselves in situations similar to those of minorities. These groups must also be protected against discrimination and racial intolerance.

32. *Both the Iraqi Government and the KRG authorities should continue to make efforts to protect vulnerable communities, including religious and ethnic minorities. Urgent attention is required to address issues facing the Christian community in Baghdad in particular, including the allocation of additional resources to meet the needs of a growing number of displaced persons from among the community.*

### **Palestinian refugees**

33. Between April and June, the number of displaced Palestinians seeking protection at makeshift camps close to the border with Syria and in the no-man's-land between Iraq and Syria rose in response to ongoing violence and attacks against their community in Baghdad. At the end of June, those at the al-Tanf Camp reached 389, while in al-Walid camp their numbers rose from 656 at the end of March to 1,097 by the end of June. UNHCR provided food and medicines while continuing to face difficulties in securing third country approval for their resettlement.

34. Continuing raids on their compounds both by Iraqi Security Forces and armed militia in Baghdad remained a principal reason for heading to the border. In one incident on 29 April, some 40 members of the Ministry of Interior's Public Order Forces and other police officers raided the al-Baladiyat compound. While the damage was limited to the destruction of personal property and no arrests were made, several families fled the area in anticipation of future raids and possible arrests. On 6 May, another raid was carried out on al-Baladiyyat, purportedly by Mahdi Army members in search of four Palestinian men. According to information received by UNAMI, some of the families were threatened in the al-Tobchi area in Baghdad. Several incidents involving threats made directly to individuals

were also reported to UNAMI, as well as abductions for ransom. In one such case, a 45-year-old owner of a sweets shop in Baghdad was released after a sum of USD15,000 was allegedly paid to his abductors. The fate of another Palestinian man abducted with him remained unknown.

35. UNAMI continued to monitor the situation of Palestinians detained in the course of raids, mainly conducted by Ministry of Interior personnel. UNAMI received credible information indicating that the families of some of those detained – apparently without the production of arrest warrants – were routinely subjected to extortion by police officers in exchange for releases or against promises of better treatment in detention. Payments to police officers reportedly ranged from several hundred to several thousand US dollars. One of the Palestinian detainees interviewed by UNAMI stated that he had secured his own release after his wife paid a bribe of USD 3,000. Lawyers for a number of Palestinian detainees have also come under pressure and were threatened with being killed unless they withdrew from the cases. Several lawyers told UNAMI they were apprehensive about continuing to represent their clients out of fear for their own safety. One of them, Sai'd Mustafa, was found dead on 24 June, three days after his disappearance. According to information obtained by UNAMI, he had paid a visit to al-Rashad police station to collect documents pertaining to the release orders for several of his clients detained since mid-March following a raid on the al-Baladiyat compound. He went missing shortly after his visit to the police station and was killed soon thereafter.

36. Twelve Palestinians arrested on 13 and 14 March 2007 in the al-Baladiyat compound in Baghdad remained in Ministry of Interior custody and in incommunicado detention by the end of May, according to information received by UNAMI. Seven of them were released by 18 June, while the five others remained held at the headquarters of the Major Crimes Directorate in al-Hakimiyya. To UNAMI's knowledge, none has been charged with a cognizable offence or referred to court. UNAMI interviewed a number of released detainees, witnesses, lawyers and other legal professionals, who reported the routine abuse of detainees, such as electric shocks to sensitive parts of the body, forcing metal sticks down the mouth and throat, and the use of metal objects in rape or other sexual assault.

37. *UNAMI calls on the Iraqi authorities to grant detainees held in Ministry of Interior custody timely and regular access to relatives and legal counsel. Cases of suspected detainee abuse should be promptly and thoroughly investigated, and the circumstances surrounding the death of lawyer Sa'id Mustafa should be similarly investigated. The findings of such investigations should be made public and legal proceedings followed with respect to officials found to have perpetrated these crimes.*

### **Situation of women**

38. In the northern governorates of Duhok, Erbil and Sulaimaniya, UNAMI remained concerned about the continuing killing of women allegedly to protect "family honor". On 3 June, a spokesperson for the KRG Ministry of Human Rights announced that between March and May, incidents involving violence against women in the Kurdistan region had increased by 18%.<sup>20</sup> Official KRG statistics recorded 15 deaths caused by blunt objects, 87 deaths by burning and 16 deaths by shooting for the first quarter of 2007; for the second

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<sup>20</sup> *Hewler Post*, 3 June 2007.

quarter, there were 8 deaths caused by blunt objects, 108 deaths by burning and 21 deaths by shooting. A senior police official in Erbil told UNAMI that the majority of unnatural deaths among women in Erbil were “honor” killings and that at least one or two deaths were reported daily. According to senior officials at the Duhok Health Directorate, family disputes escalate to “honor” killing when the victim’s tribe or community learn about circumstances that allegedly violated the honor of the family. Most victims are shot at home or at remote locations away from public eyes.

39. In Nineveh Governorate, one of the most shocking and best documented public honor crimes took place on 7 April when a 17-year-old Yezedi woman, Du’aa Aswad Khalil, was beaten by a group of men and bludgeoned to death with cinderblocks in a square in Bahzan village in the district of Ba’shiqa. She was reportedly accused of having a relationship with a Muslim man, considered unacceptable in the Yezedi community. Days later, a mobile phone video-clip was posted on Internet websites, showing graphic and gruesome details of the killing. The incident triggered widespread condemnation and led to retaliatory and opportunistic violence by vigilante groups seeking to exploit the religious context of the incident.

40. In one incident on 23 April, gunmen at a fake checkpoint at al-Noor Quarter in Mosul stopped a bus carrying Yezedi and Christian textile workers from Mosul back to Ba’shiqa. They ordered the Christians to leave the bus, and drove the Yezedis to eastern Mosul where they were lined up against a wall and executed. Several media websites reported that after the killings, hundreds of Yezidis took to the streets of Ba’shiqa, attacking KDP offices in Khana Sor and Jazira towns in Mosul and burning Kurdish flags. Peshmerga troops shot and wounded three of the protesters. Shops were shuttered and many Muslims stayed in their homes, fearing reprisal attacks. Abdul-Karim Khalaf, a provincial police spokesman, said the Mosul executions were in response to the killing of Du’aa Khalil. Several days later in Erbil, gangs of men armed with knives reportedly called for the removal of Yezidi workers employed at a hotel, and threatened to harm or kill Yezedis found in the city.<sup>21</sup> On or about 2 May, gunmen were said to have killed two Yezedi men in Mosul.

41. On 1 May, the KRG Minister of Interior told UNAMI that at least 26 suspects in the Du’aa Khalil incident had been identified, including the victim’s uncle and cousin, and that five people had been arrested by Mosul police. Others wanted by the authorities were said to be at large. In early June, the Mosul authorities released three police officers accused of neglect in failing to prevent the killing. In a discussion with UNAMI on honor crimes on 18 June, the KRG Minister of Interior and a senior police official in Erbil reiterated their opposition to legislation currently in force which permits considerations of “honor” as a mitigating factor in sentencing, saying that all such killings in the Kurdistan region would be treated as first degree murder. Official KRG statistics released on 23 May showed that 27 persons in Erbil and 7 others in Sulaimaniya had been arrested and convicted for honor crimes, but without reference to when these prosecutions occurred. UNAMI welcomes the fact that those convicted of these offences were charged with premeditated murder under article 406 of the Iraqi Penal Code, but the sentences imposed were relatively lenient as compared to other murder cases monitored by UNAMI where either the death penalty or life imprisonment was imposed. Moreover, given the high incidence of reported honor

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<sup>21</sup> In its letter to UNAMI received on 4 October, the KRG Ministry of Region for Interior Affairs disputed the accuracy of this incident. UNAMI’s information regarding the incident is based on a variety of sources, including its own investigation into the event which was also reported by the local media at the time.

crimes, prosecutions and convictions remain infrequent, as indicated in a report from the Duhok authorities.<sup>22</sup> Between 2000 and 2007 in Duhok Governorate, nine persons were convicted, of whom five received sentences of 15 years' imprisonment. In one case, a man received a two-year sentence in 2007 for killing his wife, while the remainder received custodial sentences ranging between five and ten years for killing their female relatives. A senior health officer in Duhok told UNAMI that the judicial system has failed to protect women.

42. UNAMI urges the judiciary to send a clear signal to the community that the killing of women to "protect honor" will not be tolerated, and accordingly passing sentences commensurate with the gravity of these crimes. Unless the authorities demonstrate sufficient political will to address the perception that violence against women is justified in some cases, the killings are likely to continue. UNAMI noted and welcomed the Kurdistan Regional Assembly's decision in March 2007 to exclude honor crimes from the General Amnesty Law.<sup>23</sup> According to information received by UNAMI, following the unification of the two ministries of Justice in February 2007, a ministerial committee was established to review Iraqi laws and submit recommendations to the Kurdistan National Assembly. In 2002, the Kurdistan National Assembly had promulgated legislation authorizing the criminal courts to disregard Iraqi legislation which permits the imposition of reduced sentences for "honor" killings,<sup>24</sup> but it was not being consistently implemented in practice. On 17 June, the KRG Prime Minister established a committee comprising representatives of eight ministries to address all forms of violence against women. UNAMI welcomes recent efforts by the KRG to seriously address the issue of honor killings, which a number of government officials acknowledged as a grave violation of women's rights. UNAMI continues to press for the adoption of concrete measures to enable prompt and thorough investigations into such crimes and to hold those responsible accountable, and to work in close cooperation with the KRG authorities to establish preventive measures to reduce incidents of honor killings.

43. UNAMI remains concerned about victims of sexual violence. In the last human rights report, UNAMI concluded that reported rape cases have increased since 2003. According to a senior official at the KRG Ministry of Health, there are no facilities established by the Ministry to provide counseling or post-traumatic care, as rape victims are considered of "little value" and are likely to be killed by their families or "reconciled" with their rapists.

44. *UNAMI calls upon the KRG authorities to ensure that incidents involving violence against women, including "honor crimes", are promptly and thoroughly investigated. Perpetrators of these crimes should be brought to justice and the alleged motives behind them should not be considered as mitigating factors at trial. The authorities, through public statements and criminal prosecutions, should make clear to the community at large that these crimes will not be tolerated and will not go unpunished.*

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<sup>22</sup> The KRG authorities released the report to UNAMI on 23 May in response to UNAMI's Human Rights Report covering the period January-March 2007.

<sup>23</sup> Law 4 of 2007, "Amnesty Law for the Kurdistan Region", 10 March 2007.

<sup>24</sup> Law No. 14 of 2002, passed on 14 August 2002.



## **Status of People's Mojahedin Organisation of Iran (PMOI)**

45. At the end of June and early July, UNAMI visited Camp Ashraf in Diyala Governorate where some 3,300 members and leadership figures representing the PMOI reside. The objective of the visit was to hold discussions with PMOI representatives on issues regarding legal and humanitarian issues that the PMOI had previously raised with UNAMI. During its four-day visit, UNAMI also interviewed some 40 residents of Camp Ashraf. UNAMI continues to assess any risks faced by residents of Camp Ashraf of non-voluntary repatriation to their country of origin, and takes the view that the residents must not be deported, expelled or repatriated in violation of the principle of *non-refoulement* or displaced inside Iraq in violation of the relevant provisions of international humanitarian law. In June 2004, the residents of Camp Ashraf were determined by the then Coalition Forces to be protected by the provisions of the Fourth Geneva Convention covering alien civilians in a territory of conflict. They continue to receive security, logistical and other support from the MNF forces.

## **Displacement of the civilian population**

46. Large-scale displacement of Iraqi civilians continued due to the ongoing violence, including direct death threats, abductions or killings, in many parts of Iraq. UNHCR estimated that some 2.2 million Iraqis are currently refugees abroad, around half of whom are in Syria. At a press conference on 5 June, UNHCR said that in recent months Syria alone had been admitting a minimum of 30,000 Iraqis a month. As a reflection of the growing number of Iraqis seeking shelter in Jordan and Syria, both countries imposed increased entry restrictions. Syria, for example, requires Iraqis to renew their residency every three months, which requires them to leave and then re-enter the country, invariably via Iraq. Jordan, on the other hand, increasingly limits entry of Iraqis above the age of 40 or under the age of 20 to those who are holders of the newly issued G-series passports and have proof of sufficient financial support.

47. For many refugees, life outside Iraq brings other hardships as traditional support networks, such as extended families, are no longer available and few are able to secure employment. Some female Iraqi refugees in Syria were reported to have been forced into prostitution in order to support their families. A significant number of refugees ultimately return to Iraq due to their lack of financial capacity. Employment, financial support, education and residency renewal remain major concerns of Iraqi refugees. UNHCR continued to advocate for increased international support for the governments of neighboring countries that host a significant Iraqi refugee populations, and the establishment of a framework for regional cooperation and assistance to address the plight of displaced Iraqis as a matter of urgency.

48. Inside Iraq, the International Reconstruction Fund Facility for Iraq, Cluster F (Refugees, Internally Displaced Persons and Durable Solutions) estimates the number of internally displaced persons (IDPs) to be over one million, in addition to more than 1.2 million remaining displaced or transferred before 2006. Taking into account the many families that failed or were unable to register as IDPs with the Ministry of Migration and Displacement, the Iraqi Red Crescent Society or UN agencies through their local partners, the overall extent of displacement is likely to have been underestimated. Access to certain

areas in Iraq, including in Diyala and al-Anbar governorates, remained fraught with difficulty. Surveys and interviews by Cluster F partners indicated that shelter, food, water and health are urgent needs for most IDPs.

49. Housing remained an urgent priority for the majority of IDPs in all governorates. Nineteen percent of IDPs settled with their relatives or friends, and 58 percent of IDPs rented houses in areas populated by persons of similar ethnicity. Some IDPs have been able to find shelter in the Kurdistan region, although this too has been largely based on ethnic or financial determinates. Eight percent of IDPs live in public buildings and 15 percent of IDPs live in barracks, former military camps and camp-like settlements. Less than one percent of IDPs were living in tented camps at the time of writing, although this situation may change in the future as local authorities increasingly indicate their preference to establish camps to relieve the pressure endured by host communities. Camps tend to be located in areas at a distance from basic services and are vulnerable to attacks. Some of these camps were visited by UNHCR and the International Organization for Migration (IOM) together with their local partners. In April, the Iraqi Red Crescent Society announced that it had set up a camp in Mosul with capacity for some 350 families from Tala'far (which has since been closed), and a further seven camps during May in Baghdad for 266 families from Diyala Governorate. In early June the Iraqi Red Crescent Society also announced plans to establish a camp for Kurdish IDPs from Mosul at Khazar, in north east Ninewah. UNHCR and UNAMI continued to express concern at the developing trend for camps in Iraq, and to advocate adherence to UNHCR guidelines for internal displacement best practices which counsel the establishment of camps as an absolute last resort.

50. According to the UN multi-agency IDP Working Group (Cluster F), IDPs reported facing difficulties in accessing food despite the existence and functioning of the Public Distribution System (PDS). The World Food Program (WFP) estimated that, on average, 47 percent of IDP families did not have access to their rations from the PDS, since they were not registered in the PDS system at their new location. Upon registration, they faced shortages or a significant delay in the transfer of ration cards. The delays were exacerbated by the current security situation and increasing sectarian violence. An IOM survey showed that 54 percent of IDPs who were not receiving their PDS rations gave deteriorating security as the principal reason for the delays, while another 14 percent cited administrative problems in the transfer of their PDS cards to their new location as well as a lack of required documentation. Some governorates insist that IDPs return to their place of origin in order to get the documentation allowing them to transfer their PDS ration cards (something that is often not possible because of insecurity) while other simply refuse to make a transfer.

51. Access to health care was also reported by many IDPs to be inadequate, given that attempts to provide additional facilities has not kept pace with the rate of internal displacement, and that significant numbers of professionals in the medical sector have fled Iraq since 2003 as a result of direct death threats and assassinations. IDPs were also reported to be failing to make use of available health services such as vaccination campaigns, which exposes them to the infectious diseases and particularly affects children and pregnant women.

52. UNAMI and the Government of Iraq strengthened their engagement on the development and augmentation of government-led humanitarian coordination, policy, planning and overall response to the humanitarian needs of displaced persons, host

communities and vulnerable populations. Dialogue and workshops focused on strengthening Government of Iraq collection and management of information, and advocacy for all Iraqis to have improved and equal access to basic services. In parallel, the Government of Iraq endorsed the UN Strategic Framework for Humanitarian Action in Iraq of April 2007 which sets out planned implementation and coordination modalities with the Government of Iraq and partners. In April, the Office for the Coordination of Humanitarian Affairs (OCHA) began establishing an inter-agency humanitarian operations plan to further articulate how the UN intends to support the Government of Iraq to meet priority humanitarian and protection needs. In parallel, UN agencies such as UNHCR and the United Nations Children's Fund (UNICEF), as well as the IOM, launched an emergency humanitarian assistance appeal focusing largely on IDPs.

53. UNAMI initiated and guided capacity building programmes for those government ministries that coordinate humanitarian assistance or provide basic services. To further facilitate beneficiary access to basic services UNHCR expanded the presence of its legal information centers (LAICs) across Iraq. UNAMI also entered into discussions with the Ministry of Trade to provide capacity building services for the Public Distribution System, given that vulnerable Iraqis, particularly IDPs, are heavily dependent on the PDS for food.

54. At the policy level, UNAMI worked closely with the Ministry of Displacement and Migration in the development of a National Policy Framework for Internally Displaced Persons. In the Kurdistan region, UNAMI and UNHCR continued to lobby the KRG authorities to establish a governmental entity with responsibility for IDPs, given that the Ministry of Displacement and Migration is not mandated to cover the three northern governorates. The KRG has made some progress in this regard, in that a Directorate for Displacement and Migration has been established in the KRG Ministry for Extra Regional Affairs. However, considerable resources and institutional support are still required to ensure that the Directorate is technically and substantively able to deal with IDP and refugee protection in accordance with international norms and standards.

55. During the next quarter it is foreseen that UNAMI and its partners will need to expand the provision of assistance to displaced persons and host communities as the number of displaced and conflict affected persons continues to rise unabated. Where possible, UNAMI will also need to pursue activities to support local integration as a durable solution in areas where this is viable and where displaced persons have voluntarily chosen this option. It will also work with the Government of Iraq to facilitate the free movement of IDPs and their access to basic services. Finally UNAMI and the UN Country Team will continue to support the Government of Iraq in its drafting of a National Policy Framework on Internally Displaced Persons which will provide a clear policy framework for all assistance to IDPs.

56. UNAMI will maintain its support to the Ministry of Displacement and Migration in coordinating the Government of Iraq's response to the situation of IDPs, both in assisting the Ministry in defining its strategies as well as supporting its humanitarian response to specific groups. However, for a response to the IDPs' situation to be effective, it is important that the Ministry of Displacement and Migration be institutionally and operationally capable of fulfilling its mandated protection and assistance to persons of concern. Government of Iraq resources will have to be made available to ensure that basic emergency needs of IDPs are met in a timely manner and access to these services guaranteed.

## Rule of Law

### Detentions and internment

57. At the end of June, according to data provided to UNAMI by the authorities in Baghdad and Erbil, the total number of detainees, security internees and sentenced prisoners across Iraq stood at 44,325.<sup>25</sup> The Ministry of Human Rights in Baghdad provided all data on inmates except those relating to the KRG region, which UNAMI received from the Ministry of Human Rights in Erbil. The number of detainees held by the KRG authorities does not, however, include suspects held in the custody of the *Asayish* forces. *Asayish* officials, in line with past practice, continued to decline releasing such data, including to the KRG Minister of Human Rights.<sup>26</sup>

| Detaining Authority                     | April         | May           | June          |
|---|---------------|---------------|---------------|
| MNF                                     | 19,139        | 18,402        | 21,107        |
| MOJ <sup>27</sup>                       | 11,140        | 11,576        | 12,031        |
| MOI                                     | 5,043         | 5,184         | 5,110         |
| MOD <sup>28</sup>                       | 2,166         | 1,704         | 3,319         |
| MOLSA                                   | 652           | 652           | 652           |
| <b>Total excluding KRG</b>              | <b>38,140</b> | <b>37,518</b> | <b>42,219</b> |
| <b>Total in KRG region<sup>29</sup></b> | <b>2,234</b>  | <b>2,296</b>  | <b>2,106</b>  |
| <b>Total across Iraq</b>                | <b>40,374</b> | <b>39,814</b> | <b>44,325</b> |

### Detentions under Government of Iraq authority

58. The number of detainees in Government of Iraq custody increased substantially during the reporting period, rising from 17,565 at the end of March to 21,112 at the end of June. This was in large part attributable to arrests carried out in the context of the Baghdad Security Plan. Some 5,590 suspects have been arrested between mid-February and mid-July 2007, according to the Commander of the Baghdad Security Plan, Lieutenant General Abboud Qanbar. Of the total, 1,124 were subsequently released.<sup>30</sup> UNAMI continued to monitor implementation of the Baghdad Security Plan, with particular focus on the extent

<sup>25</sup> At the end of March 2007, the total number of detainees held across Iraq stood at 37,641, according to Ministry of Human Rights figures. The breakdown per detaining authority was as follows: MNF (17,898); Ministry of Justice (9,965); Ministry of Interior (5,573); Ministry of Defense (1,525), Ministry of Labour and Social Affairs (502); and the Kurdistan Regional Government (2,178).

<sup>26</sup> In an announcement in June, the KRG Minister of Human Rights stated that he had not received statistics on detainee numbers from *Asayish* officials.

<sup>27</sup> The Ministry of Justice data includes inmates held in Fort Suse, a facility located on the outskirts of Sulaimaniya in the region of Kurdistan but under the authority of the Ministry of Justice in Baghdad.

<sup>28</sup> The Ministry of Defence data does not cover facilities under the authority of the 1<sup>st</sup>, 7<sup>th</sup> and 8<sup>th</sup> Divisions of the Iraqi Armed Forces, for which the number of detainees was not available at the time of writing.

<sup>29</sup> UNAMI's Human Rights Report covering the January-March 2007 period, published on 25 April, also did not incorporate data on the number of detainees held in *Asayish* custody, since it was not made available.

<sup>30</sup> Announced at a press conference held on 24 July in Baghdad. Lieutenant General Abboud Qanbar, Commander of the Baghdad Security Plan, stated that of the 5,590 suspects arrested, 4,400 were held at locations in al-Karkh, and 1,190 at other locations in al-Rusafa.

of judicial oversight in respect of detainees, their treatment and conditions of detention. In this regard, the Ministries of Justice and Defense extended their cooperation to UNAMI, including the facilitation of access to detention facilities and prisons and access to related data. During the reporting period, UNAMI conducted five visits (one of which was a repeat visit) to four detention facilities or prisons in Baghdad: the Women's Prison in al-Kadhimiyya and al-Rusafa Complex under Ministry of Justice authority; and al-Kadhimiyya Male facility (6<sup>th</sup> Division, 1<sup>st</sup> Brigade) and Camp Honor (6<sup>th</sup> Division, 5<sup>th</sup> Brigade) under Ministry of Defense authority. UNAMI did not conduct any visits to detention facilities under Ministry of Interior jurisdiction, and was still seeking to formalize an agreement with ministry officials in this regard by the end of June.

59. The continuing expansion of the detainee population underscored the urgent need to put in place effective mechanisms for the proper handling of inmates, including registration and a tracking mechanism to record transfers between facilities and the legal status of detainees, as well as timely granting of due process. Several weeks into the launch of the Baghdad Security Plan in mid-February, two key concerns have been overcrowded cells and delays in the processing of cases through the judicial system. Both problems were recognized by officials at the Ministries of Justice and Defense with whom UNAMI spoke, as well as by the judicial authorities. The increase in available space to accommodate the surge in the number of suspects arrested did not materialize as planned, resulting in severely overcrowded conditions at Ministry of Defense locations designated as initial holding facilities. Overcrowding was further compounded by a very high retention rate upon initial referral to investigative judges - on average over 90% of suspects having their detention period renewed on first review, according to both Iraqi officials and US advisers. This in turn exacerbated already dire sanitation and hygiene conditions, with some facilities ill-equipped to cope with the medical needs of their inmates. By late June, temporary accommodation was in the process of construction at the Ministry of Justice Complex in al-Rusafa to compensate for the shortfall in refurbished facilities at other locations in Baghdad and elsewhere.

60. The absence of timely processing of detainees' cases through the judicial system remained a serious concern. The overwhelming majority of detainees interviewed by UNAMI at the various facilities raised the issue of non-resolution of their cases as the key problem. Prolonged delays in initial referral to a judicial official – up to two months in many cases – and lack of information about what would happen next, where and when they would be transferred and how long they would be held, constituted the most common complaints. UNAMI understands that the intention at the start of the Baghdad Security Plan was to hold suspects at Ministry of Defense facilities for shorter periods, and then transfer them to Ministry of Justice facilities once their cases had been examined by an investigative judge. In practice, however, some detainees remained for up to four months at Ministry of Defense facilities, with prolonged delays prior to transfer. Ministry of Defense officials attributed some of the delays in the transfers to reluctance or inability to receive these detainees on the part of the Iraqi Correctional Service, in part due to capacity problems at the al-Rusafa Complex. At al-Rusafa, officials confirmed to UNAMI that there was currently a lack of capacity to absorb the number of detainees awaiting transfer, but added that an additional problem was that most detainees were being transferred into their custody without the accompanying investigation files. This resulted in further delays in the resolution of cases as investigative judges based at al-Rusafa authorized further extensions of the suspects' detention without the benefit of information on ongoing criminal investigations. In response, Ministry of Defense officials told UNAMI that it was rather a

case of Ministry of Justice officials declining to receive investigation files of the detainees being transferred. They stated that this was typically the case with regard to detainees suspected of having committed crimes in the al-Karkh sector of Baghdad, over whom judges based in the al-Rusafa sector had no jurisdiction. Since the al-Rusafa Complex remains the principal referral center for detainees being processed under the Baghdad Security Plan, other arrangements need to be put in place to address these prolonged delays.

61. At this writing, UNAMI was in the process of taking up these matters with the relevant judicial authorities. Significant efforts have been made by both the judicial authorities and their international advisers since the launch of the Baghdad Security Plan to ensure a speedier review of cases, including through regular visits to facilities by mobile teams of investigative judges, judicial investigators and prosecutors. The logistical role played by the MNF in enabling these visits amid tight security, and the assistance provided by MNF advisers on site, have been equally crucial. Since February, the Higher Judicial Council authorized the creation of six teams of investigative judges and prosecutors, to review detainees held at the following locations: al-Kadhimiyya, al-Mahmoudiyya, Abu Ghraib, al-Rustumiyya, al-Muthanna and al-Rusafa. According to data provided by the Higher Judicial Council, between 25 February and 19 April, investigative judges reviewed 3,177 cases of detainees held under the Baghdad Security Plan, of whom 360 were ordered released and 97 minors were transferred to the Juveniles' Prison. The Higher Judicial Council has also urged the Ministry of Interior to increase the number of its investigative officers in order to speed up criminal investigations, and provided training to 49 Ministry of Interior judicial investigators. During a visit to the al-Rusafa Complex on 17 May, UNAMI also noted that the Central Criminal Court of Iraq (CCCI) courthouse within the complex, covering the eastern sector of Baghdad, had begun functioning. UNAMI understands that four other courthouses at other locations in Iraq are in the process of being rehabilitated, in addition to the most recent courthouse located in the al-Sha'ab district of Baghdad.

62. Given the continuing rise in the number of suspects arrested under the Baghdad Security Plan, however, the judicial authorities remain hard pressed to review cases within an acceptable timeframe. More crucially, the quality of the judicial process followed in these cases also needs to be addressed as a matter of urgency. In addition to regular visits conducted by the Ministry of Human Rights, the Human Rights Department of the Inspector General's Office at the Ministry of Defense has also been active in monitoring the situation of detainees held at these facilities through regular visits and the submission of recommendations for improvements, representing a positive development. Nevertheless, given the size of the detainee population and the complex nature of the criminal investigations conducted against the backdrop of the deteriorating security situation, a substantial improvement is required to prevent gross miscarriages of justice. Based on interviews with detainees and discussions with Iraqi officials and their advisers, UNAMI's assessment is that arrest sweeps conducted under the Baghdad Security Plan are often less targeted than is typically portrayed by the authorities, and that a significant number of suspects are apprehended because they were in the wrong place at the wrong time following a security incident. The approach appears to be to arrest those in the vicinity at the time, with the "sorting" carried out subsequently. However, until they are transferred to Ministry of Justice jurisdiction, many detainees held under the Baghdad Security Plan are denied access to legal counsel and to family visits during their initial period of detention, which typically lasts several months. While releases of suspects do occur within the first

two to three days following arrest, they are the exception rather than the norm. One Ministry of Defense official acknowledged to UNAMI that unless suspects are released within that period, then they are likely to remain “stuck in the system” and have to wait for several more months and may not eventually be released.

63. Detainees held in Ministry of Defense facilities under the Baghdad Security Plan are moreover not represented by legal counsel when they come before the investigative judge for the first time, making the legality of these hearings questionable. The mobile teams of judicial personnel visiting these facilities do not include court-appointed counsel. Detainees interviewed by UNAMI frequently stated that they appeared before the investigative judge for a matter of minutes only and in the presence of either the officer charged with the criminal investigation or a detaining official. There was therefore little opportunity for self-defense, either due to lack of knowledge of their rights under the law or out of fear of repercussions. Detainees also typically stated that they were forced to sign or fingerprint statements before the investigating officer while blindfolded (and sometimes while handcuffed), and on which they were subsequently questioned by the investigative judge. Military officials at one location visited by UNAMI attributed the denial of access to legal counsel and family visits to security considerations related both to ongoing criminal investigations into terror offences and to lack of manpower required to manage large numbers of visitors in the context of an unsafe environment. UNAMI welcomes continuing efforts by the Higher Judicial Council both to increase the number of mobile teams of judicial personnel visiting facilities designated under the Baghdad Security Plan, as well as to ensure that defense counsel is present during the investigative hearings.

64. UNAMI remained gravely concerned at continuing reports of the widespread and routine torture or ill-treatment of detainees, particularly those being held in pre-trial detention facilities under Ministry of Interior facilities, including police stations. Several such cases were documented during the reporting period, where UNAMI was able to interview and examine victims of physical abuse shortly following their release or following their conviction and transfer to a Ministry of Justice prison. A number of those interviewed by UNAMI still bore injuries which were consistent with the type of torture alleged. In addition to routine beatings with hosepipes, cables and other implements, the methods cited included 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 and heightening the risk of infection; and severe burns to parts of the body through the application of heated implements. Some of these abuses are documented through photographic evidence.

65. Officials of both the Ministries of Justice and Defense told UNAMI that as a matter of practice all detainees coming into their custody who display physical injuries are photographed and given a preliminary medical examination. A report on each case is prepared and sent to the relevant minister for further investigation and action. UNAMI was given access to several files containing such preliminary reports, together with the medical report and photographs of the injuries. With regard to the outcome, detaining officials representing both Ministries said they had had no feedback or update on these cases and could not confirm what action, if any, had been taken. The cases included those of several women and young girls, one of them a juvenile, interviewed by UNAMI during a visit to the Women’s Prison in al-Kadhimiyya. They had alleged being beaten, raped or otherwise sexually abused while held at police stations prior to being transferred to the prison. For the

Ministry of Interior, UNAMI was told by the Office of the Inspector General that investigations into several cases of abuse of detainees by police officers had led to prosecutions and convictions. UNAMI requested details of these cases but had not received them by the end of June.

66. The Ministry of Human Rights maintained its regular visits to places of detention under the authority of the Iraqi Government, submitting reports of its findings and related recommendations to the relevant ministry and the judicial authorities and to the Prime Minister's Office. UNAMI is not in a position to assess the effectiveness of these activities since the Ministry does not make public either its findings or any concrete measures adopted thereafter. In its letter to UNAMI dated 13 May, the Ministry of Human Rights states that five different committees have been set up at various times to follow up on human rights issues, including detention issues, but there was no reference to what activities or achievements had been realized by these bodies. UNAMI also notes that the joint prison inspections, led by the Ministry of Human Rights and including several other ministries, stalled during this reporting period. Since the resumption of these joint inspections in January 2007,<sup>31</sup> two visits were conducted in the first quarter of 2007 but none during the second quarter. They resumed once more during the third quarter.

67. *UNAMI calls on the Iraqi Government and the judicial authorities to adopt additional measures to ensure prompt access for suspects held in pre-trial detention, including those held under the Baghdad Security Plan. While initial referral to an investigative judge is crucial, subsequent access to judicial officials on a regular basis is also critical to enable speedy resolution of cases. The ministries of Defense and Justice should address as a matter of urgency jurisdictional issues that have arisen in the process of transferring detainees held under the Baghdad Security Plan between ministries, in order to avoid undue delays in the processing of cases. The judicial authorities should give consideration to including court-appointed counsel nominated by the Iraqi Bar Association in the mobile teams of judicial personnel currently visiting Ministry of Defense facilities to review the cases of suspects held under the Baghdad Security Plan. UNAMI reiterates its call to the Government of Iraq to address seriously the issue of abuse of detainees. Ministry of Interior and other personnel known or suspected of having tortured or ill-treated detainees in their custody should not enjoy immunity from prosecution. Credible allegations of detainee abuse should be promptly and thoroughly investigated and the perpetrators brought to justice. UNAMI encourages the Ministry of Human Rights to publicly report on its activities on a regular basis. The documentation of human rights developments and interventions is important in itself, but when made public, also serves as a protection tool.*

#### **Detentions under Multinational Force authority**

68. In its last Human Rights Report, published in April, UNAMI expressed concern about some aspects of the MNF's detention practices, namely the internment of suspects for prolonged periods without judicial review of their cases. UNAMI also expressed concern that the administrative review procedures followed with regard to security internees do not fulfill the requirement to grant detainees due process in accordance with internationally recognized norms.

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<sup>31</sup> See UNAMI's Human Rights Report for the first quarter of 2007, para. 70.



69. In its response which UNAMI received on 5 June,<sup>32</sup> the US Embassy in Iraq stated, *inter alia*: that the administrative review process followed by the MNF is “a robust process with multiple checks and balances” based on procedures contained in the Fourth Geneva Convention; that UNAMI incorrectly stated that security internees are denied access to counsel for the first 60 days of internment, and that “MNF-I typically does have a 30 day window before which visitors are allowed, with exceptions made for an attorney”; that the MNF “maintains detainee assistance centers at its theater detention facilities to answer questions of legal status” which are available to all detainees, in addition to the MNF’s capability of referring detainees to the Iraqi Bar Association where they can obtain an attorney. The US Embassy also criticized UNAMI for lack of reference in its Human Rights Report to the access granted by the MNF to the International Committee of the Red Cross (ICRC) which, they pointed out, taken together with other omissions, “demonstrates a skew that undermines its credibility”.

70. On 8 June, UNAMI proposed a meeting with US officials to discuss its concerns, but such a meeting had not taken place by the end of this reporting period. UNAMI subsequently sent a detailed response in writing, addressing the points raised and proposing further discussions.

71. UNAMI notes that the references in its last Human Rights Report to MNF detentions were not intended to cover all aspects of its concerns regarding detainee operations, or to be a comprehensive assessment of MNF practices in this regard. The access granted to the ICRC is a positive and a welcomed aspect of these practices.

72. In UNAMI’s view, the administrative review process followed by the MNF through the Combined Review and Release Board (CRRB) requires improvement to meet basic due process requirements. Over time, the procedures in force have resulted in prolonged detention without trial, with many security internees held for several years with minimal access to the evidence against them and without their defense counsel having access to such evidence. While the current review process is based on procedures contained in the Fourth Geneva Convention, UNAMI notes that, irrespective of the legal qualification of the conflict,<sup>33</sup> both in situations of international and internal armed conflict

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<sup>32</sup> The US Embassy’s letter to UNAMI was dated 10 May but was received on 5 June.

<sup>33</sup> UNAMI recalls the ICRC’s determination that the legal situation changed following the adoption of UN Security Council resolution 1546 and the transfer of power from the Coalition Provisional Authority to the Interim Iraqi Government on 28 June 2004. In a statement issued on 5 August 2004, the ICRC stated that “... As stated in the resolution, the presence and the military operations of the Multinational Forces in Iraq are based on the consent of the Interim Government of Iraq. The ICRC therefore no longer considers the situation in Iraq to be that of an international armed conflict between the US-led coalition and the state of Iraq and covered by the Geneva Conventions of 1949 in their entirety. The current hostilities in Iraq between armed fighters on one hand opposing the Multinational Force (MNF-I) and/or the newly established authorities on the other, amount to a non-international armed conflict.” With regard to persons deprived of their liberty, “Persons arrested prior to 28 June who have been handed over to Iraqi authorities and continue to be detained in connection with the ongoing non-international armed conflict are protected by Article 3 common to the Geneva Conventions, and customary rules applicable to non-international armed conflicts; other applicable international law and relevant Iraqi law would apply to them as well. The same rules apply to persons arrested since 28 June 2004 by Iraqi authorities or the MNF-I in connection with the ongoing non-international armed conflict.” The statement adds: “Regardless of their status, charges against any detainee or internee are to be properly investigated. They can be prosecuted and, if proven guilty, sentenced. Whatever the crimes committed, they have the right to a fair trial, including the right to defend themselves and to be assisted by a lawyer.” ICRC, “Iraq post 28 June 2004: protecting persons deprived of freedom remains a priority”, 5 August, 2004 (<http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/63kkj8?opendocument>).

the Geneva Conventions are not of exclusive application to persons deprived of their liberty in connection with the conflict. Alongside common article 3 to the four Geneva Conventions and customary international law, international human rights law also applies. Accordingly, detainees during an internal armed conflict must be treated in accordance with international human rights law. As such, persons who are deprived of their liberty are entitled to be informed of the reasons for their arrest; to be brought promptly before a judge if held on a criminal charge, and to challenge the lawfulness of their detention.<sup>34</sup>

73. UNAMI acknowledges and welcomes efforts being made by the MNF authorities to improve the administrative review process as well as other aspects of detentions under their authority, and remains engaged in discussion with the relevant officials over these issues. One significant and positive change introduced in May was to permit security internees to attend administrative hearings to represent themselves when their cases come up for review. Since early 2007 they had only had the possibility of making written submissions to the CRRB. A major area of concern remains the extent of detainees' access to defense counsel. UNAMI recognizes the presence of US legal advisers on site at MNF detention facilities, whose services are available to all detainees. However, such services do not fulfill due process requirements, and the MNF authorities initiated discussions with the Iraqi Bar Association over means of expediting the resolution of detainees' cases. The proposal discussed was the establishment of a register of lawyers available to act on behalf of detainees. The register had not been set up at the time of publication of UNAMI's last Human Rights Report in April but, according to the Iraqi Bar Association, it was established and became operational in early May. It currently comprises fifty lawyers, some of whom have since been contacted by detainees' families. UNAMI is examining how this referral mechanism is operating. The extent to which defense counsel is given access by the MNF to evidence against their clients is as yet unclear. Many of those detained are held on the basis of classified intelligence rather than criminal evidence, some of which is also withheld from the Iraqi members of the CRRB. Fairness requires giving counsel not only access to their clients but also adequate time and opportunity to mount an effective defense.

74. Efforts are also required to reduce delays in securing access to defense counsel generally, and to facilitate their visits to detention facilities. Counsel is normally retained through family members. Regulations currently in force grant family members visitation rights 30 days following initial internment of detainees in MNF custody, which in turn impacts on their ability to access counsel promptly. While exceptions may be made for attorneys who wish to visit detainees within the 30-day period, UNAMI's information, based on interviews with former detainees and defense counsel, indicates that in practice prolonged delays remain the norm. UNAMI has requested data from the US Embassy regarding the number of security internees who have been able to retain defense counsel and obtain access to them within two months of internment. The MNF's Detainee Visitation Rules and Guidelines, publicly issued in July 2005, should be similarly updated

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<sup>34</sup> It is well established that States parties to the International Covenant on Civil and Political Rights may in no circumstances violate peremptory norms of international law. Even during a declared state of emergency that threatens the life of a nation, non-derogable "principles of legality and the rule of law require that fundamental requirements of fair trial must be respected during a state of emergency. Only a court of law may try and convict a person for a criminal offence. The presumption of innocence must be respected. In order to protect non-derogable rights, the right to take proceedings before a court to enable the court to decide without delay on the lawfulness of detention, must not be diminished by a State party's decision to derogate from the Covenant" (UN Human Rights Committee, General Comment 29, para 16).

to reflect changes in policy, including any reductions in the period following initial internment during which internees are denied visitation rights.<sup>35</sup>

75. At a press conference held at the Ministry of Justice on 12 May, the Head of Public Prosecution at the Higher Judicial Council announced the establishment of a joint Iraqi-US committee to examine the cases of thousands of detainees held in MNF custody in Camp Bucca without charge and without referral to the Iraqi judicial system. Ghadanfar Humud al-Jassem stated that a series of meetings were held with US officials to discuss ways forward. He also announced that the Chief Justice, Medhat al-Mahmoud, had established judicial investigative committees to address the problems of the growing detainee population in the custody of all parties, to include the Ministries of Interior, Defense and Justice and the MNF. The stated objective was to ensure the release of any detainee held without criminal evidence and the referral of others to the courts. UNAMI is monitoring developments in this regard.

76. In its letter to UNAMI received on 3 October commenting on this section of the report, the US Embassy asserted that security detentions in Iraq are covered “under a Chapter VII and law of war framework”. Specifically, the US Embassy challenged the notion that human rights law applies to security detentions under MNF authority in Iraq, based in part on a differing interpretation of the nature of the conflict in Iraq. It also disputed the extra-territorial application of the ICCPR.

77. There is no separation between human rights and international humanitarian law in Security Council Resolutions adopted under Chapter VII. In fact, the leading resolutions on Iraq, such as Resolution 1546 of June 2004, cite in the preamble: “Affirming the importance of the rule of law, national reconciliation, respect for human rights including the rights of women, fundamental freedoms, and democracy”. This arguably applies to all forces operating in Iraq. The letter from the Government of Iraq attached to SC res. 1723 also states that “The forces that make up MNF will remain committed to acting consistently with their obligations and rights under international law, including the law of armed conflict.” International law includes human rights law.

78. UNAMI recalls the view expressed by the Human Rights Committee, the expert body established under the ICCPR to monitor the compliance with the treaty in General Comment 31: “While, in respect of certain Covenant rights, more specific rules of international humanitarian law may be specially relevant for the purposes of the interpretation of Covenant rights, both spheres of law are complementary, not mutually exclusive.”<sup>36</sup> UNAMI’s view is that where provisions of international humanitarian law apply, human rights law may also inform their interpretation or complement them. For instance, the fundamental guarantees of judicial process in times of non-international armed conflict assume clearer content from the more detailed rules of human rights law

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<sup>35</sup> The July 2005 Detainee Visitation Rules and Guidelines, available on the MNF website ([http://www.mnf-iraq.com/index.php?option=com\\_content&task=view&id=3753&Itemid=21](http://www.mnf-iraq.com/index.php?option=com_content&task=view&id=3753&Itemid=21), last visited on 16 August 2007), state: “While detainees are not eligible for visitation during their first 60 days of internment, once they complete their first 60 days, they are authorized four visitations per month, or one per week. Those wishing to visit detainees at these facilities must abide by the following rules and guidelines...”, which refer to both visiting relatives and lawyers.

<sup>36</sup> Para 11.

that are codified in the Covenant and other human rights instruments, and their interpretation by courts and international monitoring bodies.<sup>37</sup>

79. Articles 9 and 14 of the ICCPR require prompt hearing after arrest or detention “before a judge or other officer authorized by law,” upholding right to fair trial and to petition court for review of legal basis of detention, and specifying basic judicial guarantees.<sup>38</sup> As a result, the relevant provisions of the Covenant provide clarity and detail to the more general protection contained in Common Article 3 to govern issues related to detention, including the judicial guarantees afforded, the competence, independence and impartiality of the tribunal, the permissible duration of proceedings, and the scope of review by a court or tribunal.

80. With regard to the extra-territorial application of human rights law, in particular the ICCPR, UNAMI recalls the view of the Human Rights Committee in its General Comment 31, that a State Party “must respect and ensure the rights laid down in the Covenant to anyone within the power or effective control of that State Party, even if not situated within the territory of the State Party.” The Committee continued: “This principle also applies to those within the power or effective control of the forces of a State Party acting outside its territory, regardless of the circumstances in which such power or effective control was obtained, such as forces constituting a national contingent of a State Party assigned to an international peacekeeping or peace-enforcement operation.”

81. *With regard to detainees held in MNF custody, UNAMI urges that consideration be given to implementing basic due process guarantees enshrined in international human rights law, notably the International Covenant on Civil and Political Rights (ICCPR), to which the US is a State party. The issue of prompt and regular access to defense counsel at all stages of the proceedings requires urgent attention, particularly given the gravity of the offences in question, the severity of the sentencing, and the rising number of defendants under sentence of death. At a minimum, consideration should also be given to permitting defense counsel to represent their clients during the administrative review process, and to grant detainees the right to challenge the lawfulness of their detention.*

### **Detentions under Kurdistan Regional Government authority**

82. Between April and June, UNAMI visited eight detention facilities in the region of Kurdistan, including a Women and Juvenile facility, *Asayish* detention facilities, penitentiaries and a temporary holding centre (*Tasfirat*) in Erbil, Sulaimaniya and Duhok.

83. The vast majority of inmates held in *Asayish* detention facilities are pre-trial detainees. UNAMI urged the authorities to grant them due process, including timely access to defense counsel. It also urged the continued review of the legal status of all detainees awaiting trial as a means of resolving outstanding cases and decreasing the large detainee population. UNAMI welcomed the cooperation received from the KRG Minister of Interior

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<sup>37</sup> See Geneva Convention Relative to the Treatment of Prisoners of War, art. 3 [Common Article 3], setting out in generally phrased language the minimum guarantees to be respected in armed conflict, including “judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples”.

<sup>38</sup> Article 9(4) of ICCPR require states to ensure that “[a]nyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.”

in processing several individual cases raised with him, which resulted in the release of one detainee, the referral of another to an investigative judge after 18 months in pre-trial detention, and the transfer of two mentally ill detainees to hospital. During one of its visits, UNAMI also found one juvenile detained without charge for nineteen months since the age of fifteen, and urged *Asayish Gishti* officials in Erbil to transfer him to a juvenile facility. Based on analysis of prisoner data and information provided by prison administration and staff, UNAMI made recommendations to the KRG authorities by reference to applicable minimum international standards enshrined in instruments such as the UN Standard Minimum Rules for the Treatment of Prisoners and the UN Body of Principles for the Protection of All Persons under Any form of Detention or Imprisonment.

84. On 11 June, President Barzani granted early release to some 20 convicted prisoners in Erbil, with more expected to be released pursuant to the General Amnesty Law.<sup>39</sup> The Law does not apply to terror-related offences or to suspects held in administrative detention. The KRG authorities also announced the establishment of a committee comprising President Barzani's chief of staff, the ministers of Justice, Human Rights, Interior and representatives of the Kurdistan National Assembly (KNA) to review cases not covered by the General Amnesty Law involving terror-related offences, which would submit its recommendations to President Barzani. In June, 49 detainees held in the custody of *Asayish* Sulaimaniya on suspicion of affiliation with Islamist groups and possession of narcotics were released as part of an ongoing review process. *Asayish* officials told UNAMI that some of those released had "completed their terms of detention", while others were released due to insufficient evidence. On 20 June, the Director of *Asayish* Sulaimaniya told UNAMI that a further 100 detainees would be released in the coming weeks. UNAMI welcomed these measures as a positive development towards addressing the issue of prolonged detention without trial.

85. During the reporting period, UNAMI continued to document cases involving the infringement of suspects' pre-trial guarantees, in particular detainees held in *Asayish* custody. Although *Asayish* officials routinely maintained that detainees were brought before an investigating judge within 48 hours of arrest, more than 90% of detainees to whom UNAMI spoke denied that this was the practice.<sup>40</sup> An *Asayish Gishti* official in Erbil told UNAMI that detainees arrested on suspicion of having committed offences under the Anti-Terror Law for the Kurdistan region might not be produced in court within the period stipulated by law, pending completion of investigations which he added would in most cases entail identifying all alleged members of terror networks.

86. In addition to terror suspects arrested by the KRG authorities on suspicion of involvement in crimes committed in the Kurdistan region, UNAMI continued to monitor the cases of other suspects arrested in, or transferred from, other governorates. Most of the detainees in this category were Iraqi Arabs arrested in Mosul or Kirkuk and then transferred to KRG custody. The criminal courts in the Kurdistan region do not have jurisdiction over cases involving transfers from other governorates in Iraq where the alleged crimes were committed. However, judicial officials in Duhok and Sulaimaniya told UNAMI that the reason for their transfer to the KRG region in the first instance was due to the "ineffective" judicial system in the rest of the country. Further, that the KRG authorities

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<sup>39</sup> Law 4 of 2007, Amnesty Law for the Kurdistan Region, passed on 10 March 2007 and ratified by President Barzani on 18 March 2007.

<sup>40</sup> UNAMI analyzed the legal status of a sample of more than 100 detainees held at *Asayish* facilities in the governorates of Erbil, Duhok and Sulaimaniya.

were “entitled” to arrest those who had committed acts of violence against Kurdish elements in Mosul and Kirkuk. Others in this category, according to *Asayish* officials, included some 60-70 suspects arrested by Iraqi security personnel and MNF forces following the 2003 conflict and transferred to the Kurdistan region for preliminary investigation.

87. In the vast majority of these cases, the detainees remained held in pre-trial detention for prolonged periods, some for over three years. KRG officials continued to maintain that most of the detainees in this category were apprehended on suspicion of acts of terrorism prior to the promulgation of the Anti-Terror Law in June 2006, which has no retroactive application.<sup>41</sup> Consequently, their cases have not been referred to the criminal courts. The KRG Minister of Justice acknowledged this problem, which he said he was addressing together with a number of *Asayish* officials, with a view to expediting the resolution of these cases. In Duhok, a senior judge told UNAMI that current legislation permits detention for up to two months and in exceptional cases, up to eight months, but the legal basis for this was unclear. Moreover, UNAMI has interviewed detainees who had been held for periods exceeding eight months “pending investigations”, without being referred to court and without access to legal counsel. Out of a detainee population of 214 held in the custody of the *Asayish* authorities in Sulaimaniya, UNAMI interviewed 60 of them on 20 June. Over half stated that they had not been brought before a judge following their arrest, while several others alleged that they continued to be held despite court orders authorizing their release. Of those interviewed, over 50% were detained for alleged affiliation to Islamist groups. While the length of time they had spent in pre-trial detention averaged 2.8 months, 11 of them had been held for between 4-5 years. Fifty-two detainees of the 214 detainees were arrested outside the Kurdistan region.

88. Between April and June, UNAMI continued to receive consistent allegations of ill-treatment or torture in detention, particularly during interrogation, as well as denial of access to legal counsel at both the investigative stage and at trial. While UNAMI understands that the General Director of *Asayish Gishtî* in Erbil, Ismat Argushi, has instructed that investigators not to employ coercive methods with detainees, its findings suggest that such instructions were not being implemented in practice. Forty-eight out of 66 detainees and prisoners interviewed during the reporting period alleged torture by officials. UNAMI has consistently raised with judicial officials the apparent absence of judicial oversight in pre-trial detention cases. Judges told UNAMI that unless an accused is brought before them, the court has no jurisdiction to supervise their detention. Judicial officers and investigators also denied knowledge of abuse of detainees during interrogation, but one judge admitted that some detainees appeared before them bearing injuries consistent with physical abuse. According to a judicial officer in Duhok, even when a suspect alleged torture by *Asayish* personnel, a transfer from their custody is unlikely, while others with whom UNAMI held discussions insisted that they would reject confessions if they suspected them to be “unreliable”. Another judge in Erbil acknowledged that coercive interrogation techniques were still practiced by *Asayish* investigators, and that investigation techniques should undergo a complete review, with commanding officers being willing to dismiss offending officers. According to a judicial source in Duhok, in the last seven years only one *Asayish* officer was charged for alleged mistreatment and was subsequently acquitted. UNAMI believes that the failure to intervene by officials mandated to provide judicial oversight contributes to the pervasiveness of abuse of authority by law enforcement

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<sup>41</sup> Law 3 of 2006, passed by the Kurdistan National Assembly on 16 June, 2006.

personnel. In his speech before the Congress of Kurdistan Judges Conference on 12 June, the KRG Prime Minister emphasized the importance of the independence of the judiciary and respect for the rule of law, adding that “no person has any right to interfere with the courts... [and] political parties and the government must not be allowed to interfere either...”<sup>42</sup> UNAMI welcomes these statements, but until the KRG authorities adopt measures aimed at introducing accountability for abuse of authority and demonstrate a willingness to institute criminal proceedings against suspected offenders, few improvements in the overall human rights situation can be achieved.

89. Some KRG officials with whom UNAMI raised its concerns regarding detainee abuse dismissed claims of torture and forced confessions as “common” among criminals. UNAMI believes that the dismissal of such claims without further inquiry may preclude investigations into warranted claims. On 23 May, UNAMI urged the KRG authorities to conduct an inquiry into allegations by four prisoners sentenced to death that they were tortured during interrogation to extract confessions from them. Upon being interviewed by UNAMI, the four prisoners also stated their willingness to testify to the alleged torture and death in custody of a fifth detainee, Fahmi Ismail Abu Bakr, following his arrest in July 2005 by *Asayish Gishti* personnel. UNAMI urged the KRG President, the Prime Minister and the Minister of Justice to authorize an inquiry into his alleged death under torture. The KRG authorities did not respond to this request, and on 29 May executed the four prisoners (see below).

90. During its visits to a number of detention facilities, UNAMI noted that those under *Asayish* authority in Duhok, Erbil and Sulaimaniya remained seriously overcrowded, aggravating discomfort and health of detainees in the summer. At *Asayish Gishti* in Erbil, there were 158 detainees in five cells, with approximately 25 detainees in one cell measuring 5x8 meters and about 50 detainees in a larger cell. In *Asayish Gishti* in Sulaimaniya, 75 detainees were squeezed into one cell measuring 5x8 meters, leaving little room for sleeping or stretching. The large detainee population prevents regular exercise because some facilities lack the minimum number of guards to secure all detainees. At the Duhok *Asayish* facility, detainees were cramped in poorly ventilated rooms in the basement of a former school and were permitted 30 minutes of exercise a week. Local authorities and detaining officials have acknowledged the problem of overcrowding. UNAMI discussed these conditions with *Asayish Gishti* officials in Erbil and Sulaimaniya, who said that plans were in place to transfer the detainees to a better facility by June, but this had not taken place at the end of this reporting period.

91. UNAMI also noted similar problems of overcrowding and lack of recreational facilities at Ministry of Interior prisons, including the *Tasfirat* facility and al-Mahatta Central Prison in Erbil. At the latter facility, for example, UNAMI found some 80 inmates in one cell with a normal capacity for 25 persons. Prison directors and the Minister of Interior acknowledged the overcrowded conditions but have yet to implement plans to transfer prisoners to a new prison in Duhok, which they said would comprise 92 cells, each measuring 6x8 meters and accommodating 8-10 inmates. UNAMI also noted the absence of adequate medical care in most facilities, some of which had no wards for sick inmates. At the Duhok *Asayish* facility, some detainees were suffering from skin diseases and others held with them expressed fear of infection due to overcrowding. UNAMI has also

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<sup>42</sup> English translation of the “Speech of the Prime Minister at the Congress of the Kurdistan Judges”, provided to UNAMI by the KRG authorities.

discussed with the Ministry of Health and Minister of Interior regarding transfer of mentally ill prisoners and detainees to hospitals.

92. *UNAMI reiterates its call to the KRG authorities for a thorough and prompt review of cases of detainees held for prolonged period without charge or trial by the Asayish forces. The review should be conducted by independent judicial officials and should exclude law enforcement personnel involved in the interrogation and detention of the suspects. The terms of reference and the findings of such a review should be made public, as should data on the number of detainees held in Asayish custody. Detainees should be promptly released unless they are to be charged with a cognizable offence and referred to trial. No person should be held on suspicion of having committed crimes that did not constitute offences under the law at the time of their commission. The authorities should ensure timely referral of detainees to investigative judges in accordance with Iraqi criminal procedure. Allegations of torture should be promptly and thoroughly investigated, and criminal proceedings taken against officials found to have abused detainees in their custody. Every effort should be made to ensure that juvenile detainees are held at separate locations, and additional resources devoted to address the issue of overcrowding at detention facilities.*

### **Trial procedures and the death penalty**

93. According to data provided to UNAMI by the Higher Judicial Council, the CCCI passed 78 death sentence in 2004, 107 sentences in 2005, 234 in 2006 and 121 in the period 1 January - 1 May 2007. Of these, 107 sentences were carried out after being upheld on appeal by the Court of Cassation by the end of April 2007.<sup>43</sup> Over time UNAMI has documented serious pre-trial irregularities and trials that consistently fell short of international standards for fair trial, which is of particular concern for defendants facing capital punishment. UNAMI's detailed concerns with respect to pre-trial and trial procedures before the criminal courts, including the CCCI, were highlighted in its last Human Rights Report covering the first quarter of 2007. UNAMI continues to engage representatives of the Iraqi judiciary and other officials in an effort to make improvements that would afford defendants a fair hearing.

94. During this reporting period one woman, Lamia Adnan Khudayyir, was sentenced to death for abduction.<sup>44</sup> Her appeal was still pending at this writing. During its visit to al-Kadhimiyya Women's Prison on 24 May, UNAMI interviewed several of the women on death row on the legal proceedings followed in their cases. Their statements in this regard were consistent with UNAMI's findings with regard to the poor quality of pre-trial and trial proceedings before Iraq's criminal courts. Samar Sa'ad Abdul-Majid and Wasan Taleb Muhammad, whose death sentences for aggravated murder were upheld on appeal by the Court of Cassation on 26 February, remained held by the end of June. The death sentence of a third woman also convicted for aggravated murder, Zainab Fadhil Abbas, was overturned on appeal and on 26 February she was re-sentenced to five years' imprisonment. In another case, Fatima Ashour, remained held pending a re-trial ordered by the Court of Cassation on 11 December 2006, reportedly on the basis that her confession during interrogation had been extracted under duress. She had been convicted and sentenced to death for the murder of her husband. UNAMI had no further information on

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<sup>43</sup> These figures do not include death sentences passed by the Iraqi High Tribunal.

<sup>44</sup> The date of sentencing in this case was not available at this writing.



the outcome of the appeal hearing in the case of Liqa' Qumar 'Abed Jassem, another woman sentenced to death on abduction charges. None of the death sentences upheld had been carried out by the end of June.

95. In the Kurdistan region, UNAMI remained concerned that convicted persons, particularly those facing the death penalty, are not accorded due process and fair trial rights. A moratorium on capital punishment imposed by the Coalition Provisional Authority in 2003<sup>45</sup> was lifted by the Kurdistan National Assembly in 2006<sup>46</sup> following a number of terrorist attacks in the Kurdistan region since 2003. From a group of forty-eight detainees and prisoners interviewed during the reporting period, thirty-seven claimed that they had no timely access to legal counsel or little opportunity to properly instruct their lawyers.<sup>47</sup> With regard to appeals, UNAMI raised its concerns regarding trial irregularities with the KRG Minister of Justice in June, stressing that unfair trial practices would not be reflected in the records unless judges and investigators were willing to document them. The Minister of Justice agreed to issue a memorandum to all courts aimed at ensuring that persons convicted of capital and other serious offences are guaranteed legal counsel who must be afforded adequate opportunity to raise their complaints on appeal.

96. Four prisoners under sentence of death at al-Mahatta Central Prison in Erbil were executed on 29 May. Heman Mohamed, Qaraman Rasul, Othman Abdul-Karim and Sherwan Ahmed, were convicted in June 2006 of taking part in a bomb attack in Erbil in June 2005.<sup>48</sup> Their appeals were dismissed in December 2006 and the Minister of Justice approved the date of their execution on 6 May 2007. On 23 May, UNAMI appealed to the KRG authorities for a stay of execution pending the conduct of an inquiry into their cases, including allegations that their confessions had been extracted under torture. The KRG authorities carried out the executions without responding to UNAMI's request. After several reminders, President Barzani's Office responded in a letter dated 27 June, stating that all four prisoners were convicted on reliable and adequate evidence. The letter also stated that President Barzani had on several occasions commuted death sentences to life imprisonment, that the KRG authorities had begun implementing the General Amnesty Law to pardon prisoners, and that the trials of the four executed prisoners were fair as they had been represented by counsel and had had their conviction reviewed on appeal.

97. *UNAMI calls on the Iraqi and Kurdistan judicial authorities to review procedures currently being followed before the criminal courts and adopt measures consistent with minimum standards for fair trial. Urgent measures are required to ensure basic rights for defendants, including timely and adequate access to defense counsel, as well as continuity of representation by counsel at all stages of the proceedings. Given the serious shortcomings of proceedings both at the pre-trial and trial stages, the Iraqi and KRG authorities should refrain from implementing the death penalty. Further, allegations by female detainees on death row concerning abuse and procedural irregularities at trial should be promptly and thoroughly investigated and a stay on execution imposed in the interim.*

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<sup>45</sup> Law 22 of 2003, published in the Iraqi Official Gazette, No. 3878 on 17 August 2003, pursuant to CPA Order 7/2003 and amending Section 3 of the Iraqi Code of Criminal Procedure (Law 111 of 1969).

<sup>46</sup> Law 6 of 2006, published in the Kurdistan Gazette, No. 64 on 1 March 2006, re-instating the death penalty in accordance with Section 3 of Iraq's Code of Criminal Procedure.

<sup>47</sup> The 37 inmates included 18 sentenced prisoners, of whom 13 had been convicted of capital offences.

<sup>48</sup> In accordance with Law 8 of 1992, article 2.

## **Iraqi High Tribunal**

98. The trial of six defendants before the Iraqi High Tribunal (IHT) in connection with the 1988 Anfal campaign against the Kurdish population in northern Iraq was concluded on 10 June, lasting some ten months. The verdicts and sentencing were delivered on 24 June. Three defendants were sentenced to death: Ali Hassan al-Majid, Secretary-General of the Northern Bureau of the Ba'ath Party from March 1987 to April 1989; Sultan Ahmad Hashem al-Ta'i, former commander of the Iraqi Army's First Corps, former Chief of Staff of the Iraqi Armed Forces and Minister of Defense in the period 1995-2003; and Hussein Rashid al-Tikriti, the Iraqi Armed Forces' Deputy Chief of Staff for Operations during the Anfal campaign. Two other defendants were sentenced to life imprisonment: Sabir Abdul-Aziz al-Douri, former General Director of Iraq's Military Intelligence Service, and Farhan Mutlaq al-Jibouri, former director of the Military Intelligence Service. Charges against the sixth defendant, Tahir Tawfiq al-'Ani, former Governor of Mosul and Secretary of the Northern Affairs Committee, were dismissed for lack of evidence.<sup>49</sup>

99. The defendants were variously charged with genocide, crimes against humanity and war crimes in connection with the Anfal campaign. The IHT's Chief Prosecutor stated that Iraqi forces had repeatedly used chemical weapons during the campaign, resulting in the death of some 182,000 civilians and causing the forced displacement of hundreds of thousands of others. During the trial, the prosecution introduced just under 5,000 documents in the referral dossiers, and 65 complainants presented their testimony to the court over 23 sessions. During the defense phase, five witnesses appeared before the court over two sessions, four of whom were character witnesses.

100. International observers and monitors of the trial, notably the International Center for Transitional Justice (ICTJ) and Human Rights Watch (HRW) noted a number of concerns regarding the fairness of the proceedings. These included, *inter alia*: vague and poorly constructed charging instruments prejudicial to the defendants' basic right to defend themselves; the introduction in court of previously undisclosed documentary evidence by the prosecution; the presiding judge's refusal to facilitate the attendance of defense witnesses, including by allowing testimony by any means other than live testimony before the court; limitations placed on defense counsel's capacity to cross-examine complainants and defendants; and the reluctance of the court to permit examinations of the broader context of the Iran-Iraq war. At the end this reporting period in late June, the Anfal case was before the Cassation Chamber of the IHT.

## **Promotion activities of UNAMI**

101. In its ongoing efforts to address immense training gaps in Iraq, UNAMI collaborated with other UN agencies in planning and implementing capacity building activities, in particular in the rule of law sector. Within the framework of its 2006-2007 Human Rights Project, UNAMI held a number of meetings and consultations with Iraqi ministries and other governmental institutions, as well as with Iraqi civil society organizations, during the reporting period.

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<sup>49</sup> The seventh defendant in the Anfal case, former President Saddam Hussein, was executed on 30 December 2006 in connection with the earlier Dujail trial in which he was sentenced to death. All legal proceedings against him were dropped in accordance with Iraq's Code of Criminal Procedure.

### **Support to the governmental sector**

102. In April UNAMI, in partnership with UNOPS and the New York-based International Center for Transitional Justice (ICTJ), held the first in a series of seminars on transitional justice issues in Iraq. The three-day seminar, held between 21 and 23 April in Jordan, focused on the ongoing process of de-Ba'athification in Iraq, its timing coinciding with impending debate on draft legislation on de-Ba'athification in the Council of Representatives. The seminar gathered twenty principal figures representing the Iraqi Government, the Council of Representatives, the De-Ba'athification Commission and other state institutions. ICTJ, UNAMI and leading experts delivered presentations on vetting; presented comparative models of vetting derived from international experience, and provided detailed information on the present de-Ba'athification Commission. The presentations aimed at concretely conceptualizing vetting procedures and institutions, introducing participants to the basic concepts of vetting and transitional justice and distinguishing vetting procedures from other transitional justice mechanisms; familiarizing participants to the due process, rule of law, and human rights requirements of vetting as well as presenting lessons learned from other countries' post-conflict vetting experiences. The overall objective of the seminar was to provide key policy makers in Iraq with tools and knowledge to assist them devising a strategy to address transitional justice issues as part of the process towards national reconciliation.

103. In June, UNAMI launched another series of workshops for Iraqi officials on human rights and obligations under international human rights law. In cooperation with the Tunis-based Arab Institute for Human Rights (AIHR) and UNOPS, UNAMI organized a training course on basic human rights principles for 30 Iraqi Government and KRG officials, members of the Council of Representatives' Human Rights Committee and personnel of the Higher Judicial Council. The workshop, held in Jordan from 8-12 June, focused on human rights principles and international standards with respect to civil and political rights, women's and children's rights, refugee rights and others. Part of the workshop was also devoted to discussion of international protection mechanisms, including those within the UN, and on Iraq's treaty obligations. The overall objective was to assist in strengthening capacity among officials involved in human rights work within the relevant ministries and other state institutions.

### **Support to the non-governmental sector**

104. UNAMI and its implementing partner UNOPS continued to encourage and support human rights related activities through small grants to a number of Iraqi civil society organizations. Within the framework of its Human Rights Project, UNAMI supported a series of specialized human rights seminars and workshops held across the country, organized and implemented by twelve Iraqi NGOs. Each of the NGOs worked within its own community and area of engagement, targeting community leaders, governmental and religious leaders, human rights activists and others. These activities highlighted issues pertaining to the rights of people with special needs, minority rights, women's rights, children's rights, freedom of expression and the right to education, among others. The value of the grants ranged between USD 5,000 and 50,000.

## **Support to the Rule of Law Sector**

105. On 23 April, as part of its continuing efforts to coordinate activities between government ministries and the international donor community in the rule of law sector, UNAMI co-chaired a meeting that examined needs identified by the Ministry of Human Rights. Proposals put forward by the Ministry included the establishment of an Iraqi cultural institute for human rights, and a center for missing and disappeared persons and victims of terrorism. The Ministry also identified areas where training and capacity building for its staff were required. Among these areas was the drawing up of a national strategy for human rights protection in Iraq, and assistance to the Government of Iraq in meeting its reporting obligations under the terms of international treaties to which Iraq is a State party. During the meeting, the Ministry of Human Rights briefed representatives of the international donor community on its branch activities in 14 governorates and requested further assistance and training for its staff in those governorates. On 6 June, UNAMI hosted a similar meeting for the Ministry of Justice and donor community representatives, focusing on the Ministry's short term needs and longer term strategy. The Ministry's representatives announced the formation of a new committee charged with developing a longer-term strategy, which remained under discussion at the end of this reporting period.

## **Activities in the Region of Kurdistan**

106. During the reporting period, the draft Publications Law for the KRG region remained under discussion. On 19 April and 3-4 June, UNAMI held two seminars and a workshop for media workers focusing on freedom of expression principles. The discussion was aimed at assisting in the drafting of a Code of Ethics as one of the means of self-regulation and facilitating debate on draft laws prepared by local academics and the Journalists Syndicate. Participants were critical of various aspects of the draft laws and of the KRG authorities, citing absence of public consultations before the draft law was approved for parliamentary debate. The Minister of Culture, Falakuddin Kaka'i informed the participants that the KRG would not impose the law on journalists without their support and that there would be opportunity for further debate and consultations. UNAMI remains committed to facilitating effective consultations to ensure that the Publications Law conforms to international standards in relation to protection of freedom of expression.

107. In cooperation with UNHCR, IRD Legal Aid and Information Centers and civil society organizations, UNAMI organized a workshop, "*Integrating a Human Rights Approach in Legal Service Provision for IDPs in the KRG Region*" between 25-26 April. Participants included government officials, lawyers, social workers and information officers from the Legal and Information Centers (LAICs). The program focused on the integration of international human rights principles and the Guiding Principles on IDPs into legal service provision and information for IDPs, and on improving coordination between the LAICs and the relevant KRG departments on protection issues. Among the recommendations presented by the participants were data collection on IDP profiles, regular coordination meetings between government institutions and civil society, the creation of a parliamentary committee on IDPs, and the adoption of policies (including through legislation) aimed at facilitating IDPs' access to social services and other issues. Participants also agreed to hold regular meetings to develop a position paper to be presented to the Kurdistan National Assembly.

